

REVISED ORDINANCES OF THE YUKON TERRITORY 1958

Being a revision of the Consolidated Ordinances of the Yukon Territory, 1914, with the subsequent Public General Ordinances consolidated to the 31st day of December, 1958.

Published and Proclaimed to come into operation on the 31st day of December, 1958, by Order of the Commissioner of the Yukon Territory pursuant to Chapter 2 of the Ordinances of 1958 (2nd Session).



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CHAPTER 2

AN ORDINANCE RESPECTING THE REVISED ORDINANCES OF THE YUKON TERRITORY, 1958.

(Assented to October 22, 1958)

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

1. In this Ordinance, "Revised Ordinances" means the Revised Ordinances of the Yukon Territory, 1958, designated as such by section 2. "Revised Ordinances" defined.

2. (1) Subject to this Ordinance, the Ordinances contained in Schedule A and the several sections and parts thereof, being comprised within chapters numbered consecutively 1 to 112, shall be and are hereby declared to be law by the designation "Revised Ordinances of the Yukon Territory, 1958", to all intents and purposes as though the Ordinances therein contained and the several sections and parts thereof were expressly embodied in and enacted by this Ordinance. Confirmation of Revised Ordinances of the Yukon Territory, 1958.

(2) The Revised Ordinances shall come into operation and have effect as law as hereinbefore provided, on, from and after the 31st day of March, 1959 or such earlier day as may be fixed by order of the Commissioner. Coming into force.

3. Subject as hereinafter provided, on, from and after the coming into operation of the Revised Ordinances, the Ordinances and portions of Ordinances set out in Schedule B are repealed to the extent mentioned in the fourth column of that Schedule. Repeal of Ordinances.

4. The repeal of the Ordinances and portions of Ordinances set out in Schedule B, as provided in section 3, does not revive any Ordinance or provision of law repealed by any of them, nor does the repeal prevent the effect of any saving clause in any of those Ordinances or portions of Ordinances, or of the application of any of those Ordinances or portions of Ordinances, or of any Ordinance or provision of law formerly in force, to any transaction, matter or thing anterior to the repeal to which they would otherwise apply. Effect of repeal.

5. The repeal of the Ordinances and portions of Ordinances set out in Schedule B, as provided in section 3, does not defeat, disturb, invalidate or affect Idem.

(a) any penalty, forfeiture or liability, civil or criminal, incurred prior to the time of the repeal, or any proceeding for enforcing it, had, done, completed or pending at the time of the repeal; Penalties, etc.

- Indictments, etc. (b) any indictment, information, conviction, order, sentence or prosecution had, done, completed or pending at the time of the repeal;
- Actions, etc. (c) any action, suit, judgment, decree, certificate, execution, distress, process, order, rule or any proceeding, matter or thing whatsoever respecting it, had, pending, existing or in force at the time of the repeal;
- Acts, deeds, rights, etc. (d) any act, deed, right, title, interest, grant, assurance, descent, will, registry, filing, by-law, rule, order-in-council, proclamation, regulation, order, contract, lien, charge, status, capacity, immunity, matter or thing had, done, made, acquired, established or existing at the time of the repeal;
- Offices, etc. (e) any office, appointment, commission, salary, remuneration, allowance, security or duty, or any matter or thing appertaining thereto at the time of the repeal; or
- Other matters. (f) any other matter or thing whatsoever had, done, completed, existing or pending at the time of the repeal; and the same shall remain and continue as if the repeal had not taken place, and, so far as necessary, may and shall be continued, prosecuted, enforced and proceeded with under the Revised Ordinances and the other Ordinances and laws in force in the Territory, and, subject to the provisions of the several Ordinances and laws, as if the repeal had not taken place.

Revised Ordinances not to operate as new laws.

6. (1) The Revised Ordinances shall not be held to operate as new laws, but shall be construed and have effect as a consolidation and as declaratory of the law as contained in the Ordinances and portions of Ordinances so repealed, and for which the Revised Ordinances are substituted.

Operation to be effective as if passed when repealed enactments came into force and effect.

(2) The various provisions of the Revised Ordinances corresponding to, and substituted for, the provisions of the Ordinances and portions of Ordinances so repealed shall, where they are the same in effect as the Ordinances and portions of Ordinances so repealed, be held to operate retrospectively as well as prospectively and to have been enacted or to have become effective upon the days respectively upon which the Ordinances and portions of Ordinances so repealed came into effect or from which they were stated to be effective, as the case may be.

Construction where Revised Ordinances differ from repealed enactments.

(3) If, upon any point, the provisions of the Revised Ordinances are not in effect the same as those of the repealed Ordinances and portions of Ordinances for which they are substituted, then as respects all transactions, matters and things subsequent to the coming into operation of the Revised Ordinances, the provisions contained in the Revised Ordinances shall prevail, but as respects all transactions, matters and things anterior to that time, the provisions of the repealed Ordinances and portions of Ordinances shall prevail.

Construction of reference to provisions in repealed Ordinances.

7. A reference in any Ordinance enacted prior to the coming into operation of the Revised Ordinances and remaining in force after that time, or in any instrument or document, to any Ordinance or portion of any Ordinance so repealed shall, from and

after the coming into operation of the Revised Ordinances, be held as regards any transaction, matter or thing subsequent to that time to be a reference to the enactments in the Revised Ordinances having the same effect as the Ordinance or portion thereof so repealed.

8. The inclusion of any Ordinance in Schedule B shall not be construed as a declaration that the Ordinance or any portion of it was or was not in force immediately prior to the coming into operation of the Revised Ordinances.

Effect of inclusion of Ordinance in Schedule.

9. Copies of the Revised Ordinances purporting to be printed by the Queen's Printer of Canada shall be received as evidence of such Revised Ordinances in all courts and places whatsoever, without further proof of any kind.

Copies of Ordinances printed by Queen's Printer as evidence.

10. Except as otherwise provided in this Ordinance, the rules of construction and interpretation set forth in the *Interpretation Ordinance*, chapter 58 of the Revised Ordinances of the Yukon Territory, 1958, apply to the Revised Ordinances and to this Ordinance.

Interpretation of R.O. Y.T. 1958 and this Ordinance.

11. Any Ordinance comprised in the Revised Ordinances may be cited or referred to in any Ordinance or proceedings either by its title as an Ordinance or its short title as indicated therein, or by its title as an Ordinance or its short title as indicated therein together with the expression "chapter.... of the Revised Ordinances of the Yukon Territory, 1958".

Citation of Revised Ordinances.

12. A copy of this Ordinance may be printed and bound in the volume published by the Queen's Printer of Canada and containing the Revised Ordinances, in addition to being printed, bound and published with the Ordinances enacted at the session of the Council during which this Ordinance is enacted.

Publication of this Ordinance.

13. The Commissioner may cause to be printed and bound in the volume containing the Revised Ordinances, an appendix containing

Publication of appendix.

- (a) a list of Ordinances and portions of Ordinances not repealed and not consolidated;
- (b) an office consolidation of the *Yukon Act*, chapter 53 of the Statutes of Canada, 1952-53, consolidated to the 1st day of October, 1958; and
- (c) any Orders in Council or regulations made under the authority of the *Yukon Act*.

SCHEDULE A
REVISED ORDINANCES
OF THE
YUKON TERRITORY,
1958

CHAPTER 1.

AN ORDINANCE RESPECTING THE
ADOPTION OF CHILDREN.

SHORT TITLE.

1. This Ordinance may be cited as the *Adoption Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance, "unmarried minor" means a child who has never been married and is under the age of twenty-one years. Definition of "unmarried minor".

ADOPTION.

3. (1) A husband and wife each of whom is over the age of twenty-five years may apply jointly to a judge for leave to adopt an unmarried minor as their child. By husband and wife.

(2) A widow or widower over the age of twenty-five years may apply to a judge for leave to adopt an unmarried minor as his or her child if such unmarried minor was living in the home of the applicant preceding the date of death of the husband or wife of the applicant, as the case may be, but if the unmarried minor was not living in the home of the applicant prior to the death of the husband or wife of the applicant, then the applicant may only apply for leave to adopt an unmarried minor of the same sex as the applicant and who has attained the age of at least eight years and has been maintained for at least two years in the applicant's home as a member thereof. By widow or widower.

(3) A single person over the age of twenty-five years may apply to a judge for leave to adopt an unmarried minor as his or her child if the unmarried minor is of the same sex as the applicant and has attained the age of at least eight years, and has been maintained for at least two years in the applicant's home as a member thereof. Single person.

(4) A judge may, where by reason of blood relationship or other special circumstances he considers it to be in the best interests of the unmarried minor sought to be adopted, permit an application for adoption to be made in any case not otherwise provided for in this Ordinance. Other cases.

4. (1) Every application under section 3 shall be in writing and shall contain Form of application.

- (a) the name, age and sex of the applicant;
- (b) the religious affiliation of the applicant;

- (c) the average yearly income of the applicant for the preceding five years;
- (d) the reason for making the application;
- (e) the name, age, sex and religious affiliation of the unmarried minor; and
- (f) a statement that the applicant has lived in the Territory for a period of one year immediately preceding the date of the application.

Health Certificate.

(2) A health certificate from a duly qualified medical practitioner stating that he has examined the physical and mental condition of the applicant and is of opinion that the applicant is not a mental defective and is not suffering from mental illness nor from a communicable disease shall accompany the application.

Proof of marriage or death.

(3) The application shall be accompanied by proof of marriage where the applicants are husband and wife or by proof of the death of the deceased spouse where the applicant is a widow or widower.

Consent of child.

5. Where the unmarried minor sought to be adopted has attained the age of twelve years or more, his consent in writing shall accompany the application.

Consent of parents, etc.

6. (1) An application for the adoption of an unmarried minor shall be accompanied by the consent in writing of

- (a) each of his parents or the surviving parent;
- (b) where he has neither living parents nor parents who can consent, his guardian or other person, if any, having lawful custody of him;
- (c) the parent by adoption if he has been previously adopted; or
- (d) the mother only, if the child was born out of wedlock, notwithstanding that she may be under the age of twenty-one years.

Consenting person not debarred.

(2) A person whose consent is required under subsection (1) is not thereby debarred from being the applicant for adoption.

Where consent not required.

7. The consent of an unmarried minor under section 5 or of any of the persons named in section 6 is not required where

- (a) such person has been certified or found to be a mentally defective or mentally ill person;
- (b) the parents or guardian of the unmarried minor, as the case may be, are deceased or have deserted him;
- (c) the unmarried minor has been in the home of the applicant for more than seven years and his parents or guardian have not in that time maintained him; or
- (d) the judge for reasons that appear to him sufficient dispenses with such consent.

8. (1) Upon receipt of the application the judge shall cause an inquiry to be made into the suitability of the applicant and the history of the unmarried minor and, if satisfied, may make an order for the adoption of the unmarried minor. Order for adoption.

(2) An order under subsection (1) has the effect of Effect.

(a) divesting the natural parent, guardian or person in whose custody the unmarried minor has been, of all legal rights in respect of him and freeing such person from all legal obligations and duties as to the maintenance of the unmarried minor;

(b) making the unmarried minor, for the purposes of the custody of the person and rights of obedience, to all intents and purposes the child of the adopting parent; and

(c) giving the unmarried minor the same right to any claim for nurture, maintenance and education upon his adopting parent as he would have had were the adopting parent his natural parent.

(3) In and by the adoption order the judge may in his discretion give to the adopted child the surname of his adopting parent and change his Christian name or names, giving the child such Christian name or names as the adopting parent may desire, and in such event the child is thenceforth entitled to be known by the surname of the adopting parent and the Christian name or names so given. Name.

(4) The fact that the child was born out of wedlock shall in no case appear upon the adoption order. Born out of wedlock.

(5) No appeal lies from the adoption order made by a judge or from his decision to refuse the granting of an adoption order but, upon application made at any time by any person aggrieved by such order or by such refusal, a judge has power to review the matter and to hear new evidence and to give any judgment and make any order that ought to have been made and to make such further or other order as the case may require. Appeal and review.

(6) Two certified copies of each adoption order shall be sent to the Registrar of Vital Statistics for the Territory. Copies to be sent to Registrar.

9. In considering an application for adoption or upon reviewing an adoption order, a judge may require the attendance of the applicant and of any other person thought to have knowledge of any pertinent fact and the production of all relevant documents. Attendance at hearing.

10. No adoption order shall be made unless the religion of the child is the same as that of the applicant or one of the applicants or unless the person whose consent is required under sections 5 and 6 has requested otherwise in writing. Religion.

11. No adoption order shall be made where the applicant has received or agreed to receive or any person has given or agreed to give any payment or other consideration for the adoption. Receipt of consideration.

Chap. 1.

Adoption.

Right of succession to property.

12. (1) A person who has been adopted under this Ordinance has the same rights of succession to property from or through his adopting parent as though born to such parent in lawful wedlock on the date of the order of adoption.

Succession of deceased adopted child.

(2) Where a person who has been adopted under this Ordinance dies intestate, his property shall be distributed in the same manner as though born to his adopting parent in lawful wedlock.

Retention of right to inherit from natural parents.

(3) Where a person is adopted he does not lose his right to inherit from his natural parents or kindred.

Use of word "child".

13. The word "child" or its equivalent in any instrument includes an adopted child unless the contrary plainly appears by the terms of the instrument.

Person adopted elsewhere.

14. A person who has been adopted in accordance with the laws of any of the provinces of Canada is, upon proof of the adoption, entitled to the same rights of succession to property as he would have had if he had been adopted under this Ordinance.

Effect on previous adoption.

15. Where an unmarried minor has been previously adopted, a subsequent adoption shall determine all the legal consequences of the former order of adoption except in so far as any interest in the property may have vested in such unmarried minor.

REGULATIONS.

Regulations.

- 16.** The Commissioner may make regulations
- (a) for the recording of all orders of adoption made under this Ordinance subject to the *Vital Statistics Ordinance*;
 - (b) respecting the procedure to be followed upon an application for an order of adoption;
 - (c) fixing the fees, costs, charges and expenses payable on proceedings under this Ordinance and for dispensing with the payment of such fees, costs, charges and expenses where owing to lack of means or any other reason a judge deems such action advisable;
 - (d) for the appointment of local or other assistants to judges in the investigation of applications for adoption;
 - (e) prescribing the forms to be used in carrying out the provisions of this Ordinance; and
 - (f) generally for better carrying out the provisions of this Ordinance.

CHAPTER 2.

AN ORDINANCE RESPECTING AGISTERS AND KEEPERS OF LIVERY, BOARDING AND SALES STABLES.

SHORT TITLE.

1. This Ordinance may be cited as the *Agisters and Livery Stable Keepers Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance, Definitions.

(a) "agister" means a person other than a livery, boarding or sales stable keeper who, for a money consideration or its equivalent, feeds, grazes, stables, boards or cares for animals; "Agister."

(b) "boarding stable keeper" means a person who, for a money consideration or its equivalent, stables, boards or cares for animals; "Boarding stable keeper."

(c) "livery stable keeper" means a 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 vehicles, and whether accompanied by an employee of the livery stable keeper or not; and "Livery stable keeper."

(d) "sales stable keeper" means a person who stables, boards or cares for animals 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. "Sales stable keeper."

3. Every agister, livery stable, boarding stable or sales stable keeper has a lien on the animals and articles hereinafter in this section mentioned for the value or price of food, care, attendance or accommodation furnished for such animals or articles 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 feeding, grazing, stabling, boarding or caring for such animal. Liens on animals and effects.

4. (1) Every agister, livery stable, boarding stable or sales stable keeper who has exercised a right of detention under this Ordinance shall keep in his possession and be responsible for the proper care of any animal or article detained by him for the full period of such detention, unless they are sooner released. Animals and effects detained and sold.

(2) Where the owner does not reclaim the animals and articles detained under this Ordinance by paying the indebtedness in respect thereof within one month from the day they were so detained, the person detaining them may sell or cause them to be sold by public auction on giving two weeks' notice of sale by advertisement in the newspaper published nearest to the place where the animals and articles are detained, or, if more newspapers than one are published in the same locality, then in any one of such newspapers, and by posting notices of the intended sale in the nearest post office and in the stable or, in the case of an agister, at the place where the animals and articles are detained, stating, if known,

- (a) the names of the owner and the person who brought the animals or articles to the stable or other premises;
- (b) the amount of indebtedness and charges for detention;
- (c) a description of the animals and articles; and
- (d) the name of the seller.

Application of proceeds of sale.

5. The proceeds derived from the sale shall be applied first in paying the expenses incurred by the detention, advertising and sale, then the debt for which the detention was made, and the surplus, if any, shall on application be paid to the person entitled thereto.

Balance of proceeds of sale.

6. In case the owner does not apply for the same within one month from the day of sale, the 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 the owner does not appear or claim the amount so kept it shall be paid into and form part of the Yukon Consolidated Revenue Fund.

Copy of this Ordinance to be posted up.

7. Every livery stable, boarding stable and sales stable keeper shall have a copy of this Ordinance hung or posted in a conspicuous place in every stable kept by him and in default of compliance with this section he is not entitled to the benefit of this Ordinance.

Stables to be cleansed and disinfected.

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 every stable kept by him 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.

Penalty.

9. Every person who contravenes or fails to comply with section 8 of this Ordinance is guilty of an offence and liable on summary conviction to a fine of not more than ten dollars for the first offence and not more than twenty-five dollars for each subsequent offence.

CHAPTER 3.

AN ORDINANCE TO PROVIDE FOR THE IMPOSITION AND COLLECTION OF A TAX ON PERSONS ATTENDING PLACES OF AMUSEMENT.

SHORT TITLE.

1. This Ordinance may be cited as the Amusement Tax Ordinance. Short Title.

INTERPRETATION.

- 2. In this Ordinance, (a) "performance" includes entertainment and dance; (b) "place of amusement" includes (i) a theatre, motion picture theatre, open air theatre, amusement-hall, concert-hall, auditorium, music-hall, circus, menagerie, racecourse, baseball park, athletic park, amusement park, skating rink, dancing hall, dancing pavilion, (ii) a hotel, restaurant or cafe in which facilities are supplied for and used by the public for dancing, (iii) any other place where a performance is given and a fee is charged or collected, and (iv) such other places as may be declared to be places of amusement by the Commissioner, and published in the Yukon Gazette; and (c) "tax" means the tax imposed by this Ordinance. Definitions. "Performance." "Place of amusement." "Tax."

AMUSEMENT TAX.

3. (1) A person who attends a performance at a place of amusement shall, upon being admitted thereto, pay a tax equal to ten per cent of the price of admission. Tax payable.

(2) A person who attends a performance at a place of amusement and is admitted thereto by season ticket, pass, or complimentary ticket shall, upon being admitted thereto, pay the tax as fixed in respect of the regular price of admission. Tax where season ticket, pass, etc.

(3) Where no entrance fee is charged, or where a nominal fee only is charged for admission to a place of amusement and in lieu of or in addition to the entrance fee a table or cover charge is collected, a person who attends a performance at such a place of amusement shall pay a tax equal to ten per cent of all entrance fees, table and cover charge collected. Tax where no entrance fee.

Who to collect tax.

4. (1) A person who sponsors a performance shall collect the tax.

Commission for collecting tax.

(2) Out of the Yukon Consolidated Revenue Fund, the Commissioner may pay a commission fixed by the Commissioner to any person who collects the tax.

Exemptions from tax.

5. (1) Except as provided in this section, no tax shall be collected at any of the following performances or places of amusement:

- (a) a fair or exhibition held by a society or association incorporated under an Ordinance where the receipts from entrance fees charged or collected in respect of the fair or exhibition, after payment of the necessary expenses of the fair or exhibition, are used exclusively for the purpose of the society or association;
- (b) amateur athletics or games;
- (c) lectures of an educational nature;
- (d) chatauquas and musical performances at which the performers and artists are residents of the Territory;
- (e) exhibitions of paintings and works of art; and
- (f) skating rinks, roller skating rinks, covered hockey rinks, ice carnivals and parks or fields used for athletics, baseball, football or other outdoor games.

Exception where place of amusement within fair.

(2) Where, as a part of or in connection with a fair or exhibition mentioned in paragraph (a) of subsection (1), a place of amusement is operated or a performance given in respect of which an entrance fee is collected or charged separately from the fee charged for general admission to the fair or exhibition, a tax shall be collected.

Exception where race meeting within fair.

(3) Where a race meeting is held upon a race course operated as a part of or in connection with a fair or exhibition of a kind mentioned in paragraph (a) of subsection (1), a tax shall be collected.

Exception where performer for gain.

(4) Paragraphs (b), (c), (d) and (f) of subsection (1) do not apply to a performance in which one of the performers performs in such performance for a livelihood or for gain or remuneration.

Exemption permits.

6. (1) The Commissioner or any person authorized by him in writing to do so may, by permit in writing, exempt from this Ordinance any performance, the proceeds of which enure to the benefit of charitable or patriotic institutions, societies or organizations and no part of the net proceeds enures to the benefit of any private stockholder or individual.

Form.

Power of Commissioner.

(2) Permits under this section shall be in such form and subject to such terms and conditions as the Commissioner directs.

7. The Commissioner may,

- (a) increase the tax payable at any class of places of amusement to an amount not exceeding twenty-five cents on each admission; and
- (b) exclude any class of amusement from the operation of this ordinance.

8. The Territorial Treasurer is charged with the enforcement of this Ordinance and he shall comply with any directions given by the Commissioner.

Territorial Treasurer to enforce Ordinance.

9. Every person authorized by the Commissioner may enter any place of amusement to ascertain if this Ordinance is complied with.

Powers of inspection.

10. The Commissioner may make regulations for carrying out the purposes and provisions of this Ordinance, and may, without limiting the generality of the foregoing, make regulations

Regulations.

- (a) declaring places of amusement in addition to those mentioned in section 2, and defining any place of amusement mentioned in that section;
- (b) providing that the tax be collected by means of tickets supplied or approved by the Commissioner and prescribing the form of the tickets;
- (c) requiring the owner of a place of amusement or the person conducting or managing a performance to display notices showing the price of admission thereto, the tax payable, and the form and manner of displaying the notices;
- (d) prescribing the records and reports to be made or kept by an owner of a place of amusement, and their auditing and inspection; and
- (e) prescribing the times and manners of the accounting for, depositing and payment over by a person of any tax collected by him.

11. (1) Where a licensee of a motion picture theatre collects tax in respect of persons attending a performance at such theatre and fails to account for, or pay over the tax in the time and manner prescribed by the regulations, the Commissioner or a person authorized by him, may suspend the licence of the licensee.

Suspension of licence of motion picture licensee for failure to pay tax, etc.

(2) On payment in full by the licensee of the tax collected, without deduction for commission, the Commissioner or a person authorized by him may revoke the suspension of the licence and reinstate the rights of the licensee thereunder.

Revocation of suspension.

12. A person who violates any provision of this Ordinance or the regulations is guilty of an offence and liable upon summary conviction to a fine or not more than two hundred dollars.

Offence and penalty.

CHAPTER 4.

AN ORDINANCE TO PROVIDE FOR ANNUAL VACATIONS WITH PAY FOR EMPLOYEES.

SHORT TITLE.

Short Title. 1. This Ordinance may be cited as the *Annual Vacations Ordinance*.

INTERPRETATION.

- Definitions. 2. In this Ordinance,
- "Employee." (a) "employee" means a person who is in receipt of or entitled to any remuneration for labour or services performed for another;
- "Employer." (b) "employer" means any person, firm or corporation employing one or more employees, and includes every agent, manager, representative, contractor, subcontractor or principal and every other person who
- (i) has control or direction of one or more employees, or
 - (ii) is responsible, directly or indirectly, in whole or in part, for the payment of wages to, or the receipt of wages by, one or more employees;
- "Holiday." (c) "holiday" means any day for which an employee is entitled under any law, custom or agreement or under his contract of service to be paid wages without being present at work;
- "Total wage." (d) "total wage", in respect of any period of employment of an employee, means all remuneration which the employee is paid or is entitled to be paid by his employer, whether or not payment is actually made during that period of employment, in respect of the labour or service which he performs for his employer during that period of employment and includes
- (i) sums deducted from the said remuneration for any purpose whatever;
 - (ii) remuneration which the employee is paid or is entitled to be paid by his employer whether or not payment is actually made during that period of employment, in respect of any annual vacation or holiday that his employer permits him to take during that period of employment; and
 - (iii) the cash value of any board or lodging provided by his employer during that period of employment, being
 - (A) the amount that is actually deducted from the wages of the employee by his employer for that board or lodging under the authority of any contract or agreement, or

- (B) if no such contract or agreement exists, four dollars per week for board and one dollar and fifty cents per week for lodging, but does not include any bonus, incentive pay, overtime pay or shift differential; and
- (e) "vacation wage" in respect of any period of employment of an employee, means one twenty-sixth of the employee's total wage for that period of employment. "Vacation wage."

APPLICATION.

- 3. This Ordinance does not apply to Application.
 - (a) employees employed in any undertaking in which only members of the employer's family are employed; and
 - (b) employees employed in domestic service in a private residence.

ENTITLEMENT.

4. Every employee is entitled after each year of his employment with any employer to an annual vacation of two weeks. Employee entitled to vacation.

5. Where an employee is entitled to an annual vacation under section 4, the employer Vacation periods.

- (a) may permit the employee to take such annual vacation in one period of two weeks or in two periods of one week, and
- (b) shall permit the employee to take the entire annual vacation to which he is entitled within ten months after the date on which he becomes entitled to it.

6. (1) Every employee who is permitted by his employer to take an annual vacation under section 5 shall be paid by his employer in respect of that annual vacation his vacation wage for the year immediately preceding the date on which he becomes entitled to that annual vacation as provided in this section. Vacation wage.

(2) Where an employee is permitted by his employer to take his annual vacation in one period of two weeks, the vacation wage referred to in subsection (1) shall be paid to him in full by his employer not later than the day immediately preceding the commencement of his annual vacation. Idem.

(3) Where an employee is permitted by his employer to take his annual vacation in two periods of one week, one-half of the vacation wage referred to in subsection (1) shall be paid to him not later than the day immediately preceding the commencement of each of the two periods. Idem.

7. Where any holiday occurs during the period of any annual vacation that an employee has been permitted by his employer to take under this Ordinance, the period of the annual vacation shall be increased by one working day and the employee shall be paid by his employer, in addition to the vacation wage which he is entitled to be paid on account of that annual vacation, the wages that he is entitled to be paid for the holiday. Holiday occurring during vacation.

Payment of
vacation pay
on termination
of employ-
ment.

8. Where the employment of an employee with an employer is terminated at any time after the expiration of thirty days from the date of the commencement of the employment, the employer shall forthwith pay to him, in addition to all other amounts due to him, his vacation wage for his period of employment with that employer, but if the employee has at any time been permitted by that employer to take an annual vacation under any Ordinance, custom or agreement or under his contract of service, the employer shall be deemed to have complied with the provisions of this section if he forthwith pays to the employee, in addition to all other amounts due to him, his vacation wage for his period of employment between the date on which he became entitled to the last annual vacation that he was permitted to take and the date of the termination of his employment.

Employer
not to
discriminate
against
employee.

9. No employer shall discharge or threaten to discriminate against any employee

- (a) for testifying or consenting to testify in any investigation or proceeding relating to the enforcement of this Ordinance, or
- (b) for giving any information to the Commissioner or a person authorized by him regarding the annual vacation that any employee is entitled to or has been permitted to take under this Ordinance or the vacation wage that any employee has been paid or is entitled to be paid under this Ordinance.

Employer
to keep
Ordinance
posted.

10. Every employer employing three or more employees to whom this Ordinance applies shall post and keep this Ordinance in a conspicuous place where his employees are engaged in their duties.

Employer to
keep record
of employees.

11. Every employer employing any employee to whom this Ordinance applies shall keep a record showing in the case of each of his employees

- (a) the name of the employee;
- (b) the dates of the commencement and termination of his employment;
- (c) the dates on which each annual vacation is taken;
- (d) the employee's total wage and vacation wage for any period of employment;
- (e) all deductions made from the employee's vacation wage for any purpose whatever, and the purpose for which each such deduction is made; and
- (f) the amount paid to the employee in respect of each annual vacation to which he is entitled and the amount paid to the employee upon the termination of his employment, and the dates of payment.

12. The Commissioner or any person authorized by him may at any reasonable time Commissioner may inspect records.

- (a) inspect the record described in section 11 in use by any employer for the time being or any such record used by that employer during the preceding two years;
- (b) require any employer to verify the entries in such record by statutory declaration or in such manner as the Commissioner may require; and
- (c) require any person to furnish, in a form acceptable to the Commissioner or a person authorized by him, such information as the Commissioner or such person deems necessary to ascertain whether the provisions of this Ordinance are being or have been complied with.

13. All money payable by an employer to any employee under this Ordinance and any money ordered to be paid by an employer under subsection (2) of section 18 shall, for all purposes, be deemed to be salary or wages earned by the employee. Money deemed to be wages.

14. For the purposes of this Ordinance, the employment of any employee with the employer by whom he was employed on the day this Ordinance comes into force shall be deemed to have commenced on the latest of the following dates: Commencement of employment.

- (a) the date on which the employee's employment with that employer actually commenced; or
- (b) the date on which the employee last became entitled to any annual vacation under any Ordinance, custom or agreement or under his contract of service.

15. Notwithstanding anything in this Ordinance, an employer and an employee may enter into a written agreement to the effect that, because of shortage of labour, the employee will not take an annual vacation to which he is entitled under section 4, the employer shall not be subject to the provisions of section 5 with respect to that employee, but the employer shall nevertheless, within ten months after the date on which the employee became entitled to an annual vacation, pay to him, in addition to all other amounts due to him, his vacation wage for the year immediately preceding the date on which he became entitled to the said annual vacation. Employee may enter into agreement with employer.

16. (1) Nothing in this Ordinance affects any provision in any Ordinance, agreement or contract of service or any custom which ensures to employees more favourable conditions than those provided by this Ordinance. Effect on other Ordinances.

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

Other Ordinances not to affect rights of employee.

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

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

OFFENCES AND PENALTIES.

Offences.

18. (1) Every person who

- (a) fails to comply with any provision of this Ordinance;
- (b) with intent to deceive, makes any false or misleading statement in any communication, whether in writing or otherwise, to the Commissioner; or
- (c) interferes with or obstructs the Commissioner or a person authorized by him in the exercise of any power conferred upon him by this Ordinance;

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

(2) Where an employer is convicted of failure to pay to any employee any vacation wage, or part thereof, that he is required to pay under this Ordinance, the justice shall, in addition to the fine imposed, order the employer to pay to him forthwith an amount equal to the vacation wage or part thereof that the employer failed to pay to the employee, and the justice shall pay the said amount to the employee forthwith upon receipt of it.

(3) Where an employer fails to pay any money ordered to be paid under subsection (2), the justice may, in addition to any penalty prescribed by subsection (1), order that the employer be imprisoned for a further term not exceeding ninety days.

CHAPTER 5.

AN ORDINANCE TO MAKE PROVISION FOR THE PURCHASE OF FEDERAL GOVERNMENT ANNUITIES BY YUKON TERRITORIAL GOVERNMENT EMPLOYEES

SHORT TITLE.

1. This Ordinance may be cited as the *Annuity Plan* Short Title. Ordinance.

INTERPRETATION.

2. In this Ordinance, Definitions.
- (a) "annuity" means a life annuity with a ten-year guarantee "Annuity." purchased from the Government Annuities Branch of the Department of Labour, Canada;
 - (b) "earnings" means the total compensation received from "Earnings." the Territory excluding bonuses, overtime pay or special payments; and
 - (c) "employee" means any person employed in the public "Employee." service of the Territory who is
 - (i) resident or domiciled in Canada; and
 - (ii) required during the time of his active employment to devote his constant attention to the performance of the duties of his position, and the conditions of whose employment for the time over which such employment extends precludes his engaging in any other substantially gainful occupation.

ANNUITY PLAN.

3. (1) Where an employee has Territorial contribution.
- (a) completed six months but not more than eighteen months of continuous service in the public service of the Territory; and
 - (b) authorized the Territory to deduct an amount equal to five per cent of his earnings from the commencement of his employment as a contribution for the purchase of an annuity;

the Territory shall contribute an equal amount for the purchase of an annuity.

(2) Where an employee has completed more than eighteen Idem. months of continuous service in the public service of the Territory, he may at any time authorize the Territory to deduct an

amount equal to five per cent of his earnings commencing from the date of such authorization, and the Territory shall contribute from that date an equal amount for the purchase of an annuity.

Deposit.

4. All moneys collected and contributed under this Ordinance shall be deposited in a special account of the Yukon Consolidated Revenue Fund and shall be paid under the authority of the Commissioner to the Government Annuities Branch of the Department of Labour, by cheque drawn in favour of the Receiver General of Canada, at such times as the contracts for employees' annuities require.

Regulations.

5. The Commissioner may make such regulations as are necessary to give effect to this Ordinance.

CHAPTER 6.

AN ORDINANCE RESPECTING ARBITRATION.

SHORT TITLE.

1. This Ordinance may be cited as the *Arbitration Ordinance*. Short Title.

INTERPRETATION.

2. (1) In this Ordinance, Definitions.
- (a) "arbitrator" includes an umpire and a referee in the nature of an arbitrator; "Arbitrator."
- (b) "award" includes umpirage and a certificate in the nature of an award; and "Award."
- (c) "submission" means a written agreement to submit differences to arbitration, whether or not an arbitrator is named in the agreement. "Submission."
- (2) The Commissioner may make rules of practice and procedure, including tariffs of fees and costs, for the better carrying out of the purposes of this Ordinance and for regulating the practice hereunder, and, until other rules are so made, the Rules of Court established under the *Judicature Ordinance* apply *mutatis mutandis* to all causes, matters and proceedings under this Ordinance. Rules of Court.

APPLICATION.

3. This Ordinance applies to submissions made before as well as after the commencement of this Ordinance. Retrospective effect.
4. This Ordinance applies to every arbitration under any Ordinance whenever passed as if the arbitration were pursuant to a submission, except in so far as this Ordinance is inconsistent with the Ordinance regulating the arbitration or with rules or procedure authorized or recognized by that Ordinance. Other Ordinances.

REFERENCE BY SUBMISSION.

5. (1) Unless a contrary intention is expressed in a submission or a judge allows a submission to be revoked, a submission is irrevocable and has the same effect as if it had been made an order of a judge. Submission irrevocable.
- (2) A submission is not revoked by the death of the parties to it or either of them. Effect of death of party.
6. Where no other mode of reference is provided in a submission, the reference shall be to a single arbitrator. When no other mode expressed.

Umpire.

7. Where 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.

Death of arbitrator, etc.

8. (1) Where an arbitrator refuses to act or is incapable of acting or dies, the party by whom he was appointed may appoint an arbitrator in his stead, and this power may be exercised from time to time as vacancies occur.

Death of umpire, etc.

(2) Where an umpire refuses to act or is incapable of acting or dies, the arbitrators by whom he was appointed may appoint an umpire in his stead, and this power may be exercised from time to time as vacancies occur.

Umpire to act where arbitrators cannot agree.

9. Where 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.

Removal for misconduct.

10. Where a judge is satisfied upon evidence submitted to him by a party to the submission that an arbitrator or umpire has misconducted himself in the arbitration, the judge may remove the arbitrator or umpire and may appoint an arbitrator or umpire in his stead.

STAY OF PROCEEDINGS.

Stay of proceedings.

11. Where a party to a submission or a person claiming through or under him commences legal proceedings against any other party to the submission or any person claiming through or under him, in respect of a matter agreed to be referred, a party to such proceedings may, after service upon him of a statement of claim and before he takes any step in the proceedings, apply to a judge for a stay of proceedings, and the judge, 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 ready and willing to do all things necessary to the proper conduct of the arbitration and still remains ready and willing to do so, may make an order staying the legal proceedings.

APPOINTMENT OF ARBITRATOR OR UMPIRE BY A JUDGE.

Service of notice in certain cases.

12. (1) In any of the following cases

- (a) where a submission provides that the reference is to a single arbitrator and the persons whose concurrence is necessary do not, after differences have arisen, concur in the appointment of an arbitrator,
- (b) where an arbitrator or an umpire is to be appointed by any person and that person does not make the appointment, and

(c) where an arbitrator or umpire refuses to act or is incapable of acting or dies and the person having the right to appoint a person to fill the vacancy has not made the appointment, a party may serve the other party or the arbitrators or the person who has the right to make the appointment, as the case may be, with a written notice to concur in the appointment of a single arbitrator or to appoint an arbitrator or umpire.

(2) Where an appointment is not made within seven clear days after the service of the notice referred to in subsection (1), a judge may, on application by the person who gave notice, appoint an arbitrator or umpire. Appointment by judge.

(3) An arbitrator or umpire appointed under subsection (2) has the like powers to act in the reference and to make an award as if he had been appointed by consent of all parties. Arbitrators' powers.

POWERS OF ARBITRATORS.

13. (1) Unless a submission expresses a contrary intention, an arbitrator or umpire acting under the submission has power Powers.

- (a) to administer oaths to the parties and witnesses,
- (b) to state an award as to the whole or any part thereof in the form of a special case for the opinion of a judge, and
- (c) to correct in an award any clerical mistake or error arising from an accidental slip or omission.

(2) An arbitrator or umpire may at any stage of the proceedings and shall, if so directed by a judge, state in the form of a special case for the opinion of a judge any question of law arising in the course of the reference. Idem.

WITNESSES AND EVIDENCE.

14. All provisions of the *Evidence Ordinance* that are not inconsistent with this Ordinance apply to proceedings under this Ordinance. Application of Evidence Ordinance.

15. A party to a submission may obtain a subpoena or other notice under the Rules of Court to compel the attendance of a witness, but no person is compelled to produce a document that he would not have to produce on the trial of an action. Compulsory attendance of witnesses.

16. (1) Where a party to a submission desires to procure for use upon the reference the evidence of a person to be taken *de bene esse* or to be taken out of the Territory, an order may be made for the examination of such person or for the issue of a commission in the like circumstances and with the like effect as a similar order made in an action. Evidence de bene esse.

(2) The *Judicature Ordinance* and Rules of Court apply to an order or commission under subsection (1) and to the proceedings thereon and the evidence taken thereunder.

Duty of parties.

17. A party to a reference or a person claiming under him shall, subject to any legal objection, submit to be examined by an arbitrator or umpire on oath in relation to the matters in dispute and shall, subject to any legal objection, produce before the arbitrator or umpire all books, deeds, papers, goods, documents and things in his possession or power that are required or called for and shall do all other things that during the proceedings on the reference the arbitrator or umpire requires.

Oath.

18. Witnesses on a reference shall be examined on oath.

Evidence of prisoners.

19. A judge may order a sheriff, gaoler or other officer who has the custody of a prisoner to produce him for examination before an arbitrator or an umpire.

Copies.

20. An arbitrator or an umpire, where no special reason appears to him to exist for filing an original book, paper or document as an exhibit, may allow a copy of the whole or of such portion thereof as he may deem material to be substituted as an exhibit in the place of the original book, paper or document.

AWARDS.

Arbitrator's time to make award.

21. An arbitrator shall make his award in writing
(a) within three months after entering on the reference,
(b) within three months after having been called on to act by notice in writing from a party to the submission, or
(c) on or before any later date to which all the parties to the submission, by a writing signed by them, may from time to time increase the time for making the award.

Umpire's time for making award.

22. An 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 date to which the persons who appointed him, by any writing signed by them, may from time to time increase the time for making his award.

Extension by judge.

23. Upon application made to a judge by an arbitrator or umpire, time for making an award may, from time to time, be increased by the judge, whether or not the time for making the award has expired.

Remitting the award.

24. (1) Where, upon an application by a party to a submission, a judge is satisfied that a reference requires further consideration by an arbitrator or an umpire, the judge may remit the matters referred or any of them to the arbitrator or the umpire for further consideration.

(2) Unless the judge otherwise directs, where a reference is remitted to an arbitrator or an umpire under subsection (1), the arbitrator or the umpire shall make the award within three months after the date of the remission.

25. An award shall be delivered to any of the parties to a ^{Delivery.} submission requiring the same and the personal representatives of a deceased party may require delivery of the award.

26. An award may, by leave of a judge, be enforced in the ^{Enforcement.} same manner as a judgment or an order to the same effect.

APPEALS.

27. Subject to sections 28 and 29 respecting appeals and ^{Award is} setting aside awards, an award made by an arbitrator or by a ^{final.} majority of arbitrators or by an umpire is final and binding on all the parties to the reference and the persons claiming under them respectively.

28. (1) Where it is agreed by the terms of a submission that ^{Where} there may be an appeal from the award, the reference shall be ^{submission} conducted and an appeal lies to a judge within the time stated ^{allows an} in the submission or if no time is stated within six weeks after ^{appeal.} the delivery of the award to the appellant.

(2) The evidence of the witnesses examined upon the reference ^{Evidence.} shall be taken down in writing and shall, at the request of either party, be transmitted by the arbitrator or the umpire as the case may be, together with the exhibits, to the judge.

(3) Where the award of an arbitrator or an umpire is based ^{Statement by} wholly or partly upon his physical examination of property or ^{arbitrator} upon special knowledge or skill possessed by him, he shall trans- ^{in certain} mit to the judge a written statement thereof that will enable the ^{cases.} judge to form an opinion of the weight that should be attached to the physical examination performed by the arbitrator or umpire or to his special knowledge or skill in reaching the award.

29. (1) Whether or not a submission provides for an appeal ^{Setting} from an award, a party to a submission or a person claiming ^{aside award.} under him may apply to a judge to set aside an award on the grounds

(a) that an arbitrator or umpire has misconducted himself, or
 (b) that an arbitration or an award has been improperly procured,
 and the judge may, in his discretion, dismiss the application or set aside the award.

(2) Upon an application under subsection (1), a party may ^{Production} by notice require any other party to produce, and the party so ^{of exhibits.} required shall produce, upon the hearing of the application, any original book, paper or document in his possession that has been used as an exhibit or given in evidence upon the reference and that has not been filed with the deposition supporting the application.

30. Unless by leave of a judge, application to set aside an ^{Time for} award, other than by way of appeal, shall not be made after six ^{appeal.} weeks from the delivery of the award to the applicant.

Costs of appeal.

31. Where an appeal from an award is allowed or an award is set aside the judge who allowed the appeal or set aside the award may give directions as to the costs of the appeal or of the application to set aside the award and the costs of the reference and award.

COSTS.

Costs of reference.

32. The costs of a reference and award are in the discretion of the arbitrator or umpire who may direct to and by whom and in what manner the costs or any part thereof shall be paid.

Costs of orders.

33. A judge may make an order under this Ordinance on such terms as to costs or otherwise as he thinks just.

FEEES.

Where fixed by agreement.

34. Where an arbitrator or umpire takes upon himself the burden of a reference and award in respect of which a submission or other agreement between the parties to the submission has, to their knowledge, set out his fees for each day's attendance or a gross sum for the entire reference, the fees or sum so set out are substituted for the fees referred to in Schedules A and B.

Non-professional arbitrators.

35. Subject to section 34, an arbitrator or umpire who is not by profession a barrister, solicitor, engineer, architect, chartered accountant or Dominion land surveyor, is not entitled to demand or take for his attendance and services as an arbitrator or umpire any greater fees than those mentioned in Schedule A.

Professional arbitrators.

36. Subject to section 34, an arbitrator or umpire who is by profession a barrister, solicitor, engineer, architect, chartered accountant or Dominion land surveyor, is not entitled to demand or take for his attendance and services as an arbitrator or umpire any greater fees than those mentioned in Schedule B.

Limit of witness fees.

37. No greater fees are taxable in respect of a person called as a witness before an arbitrator than would be taxed in an action.

Where no business done at meeting.

38. (1) Where, at an arbitration meeting in respect of which due notice has been given, no proceedings are taken as a result of the absence of any party to a submission or as a result of a postponement at the request of any party, the arbitrator shall make up an account of the costs of the meeting, including the proper charges for his own attendance and that of any witnesses and of the counsel or solicitor of the party present who does not desire the postponement, and, unless he considers that it would be unjust to do so, he shall charge the amount thereof against the party in default or at whose request the postponement is made.

Idem.

(2) The party in default or who has requested a postponement shall where an amount is charged against him under subsection (1) pay the same to the other party, whatever may be the

event of the reference, and the arbitrator shall, in the award, make any direction necessary for that purpose and the amount so charged may be set off against and deducted from any amount awarded in his favour.

39. A party to an arbitration is entitled to have the costs of the arbitration, including the fees of the arbitrator, or, if he so wishes, the arbitrator's fees alone, taxed by the Clerk of the Court upon an appointment which may be given by the Clerk of the Court for that purpose. ^{Taxation of costs.}

40. (1) An arbitrator who, having entered upon a reference, refuses or delays after the expiration of one month from the publication of the award to deliver the award until a larger sum is paid to him for his fees than is permitted under this Ordinance or who received for his award or for his fees as an arbitrator such larger sum, shall forfeit and pay to the party who has demanded delivery of the award or who has paid to the arbitrator such larger sum in order to obtain the award or as a consideration for having obtained it, an amount three times the excess demanded or received by the arbitrator contrary to this Ordinance. ^{Penalty for excessive fees.}

(2) The penalty referred to in subsection (1) may be recovered by action before a judge. ^{Action for penalty.}

41. Where an award has been made, an arbitrator may maintain an action for his fees if the same have been taxed and, in the absence of an express agreement to the contrary, he may maintain such action against all parties to the reference, jointly or severally. ^{Action for fees.}

VALUATORS.

42. (1) A judge has power to appoint a valuator or an appraiser where it is provided by a written agreement that a valuation or an appraisal shall be made by a valuator or an appraiser. ^{Appointment.}

(2) A valuator or appraiser appointed under subsection (1) shall have the like powers to make a valuation or appraisal as if he had been appointed by consent of all parties to the agreement. ^{Powers.}

SCHEDULE A.

FEEES CHARGEABLE BY NON-PROFESSIONAL
ARBITRATORS.

1. For every meeting where the reference is not proceeded with but a postponement is made due to the default of a party or at the request of a party,
..... not less than \$3.00 and not more than \$10.00
2. For every day's sittings to consist of not less than six hours,
.....not less than \$10.00 and not more than \$30.00
3. Where a day's sittings consists of more than six hours, for each additional hour,
..... not less than \$2.00 and not more than \$5.00
4. Where a sittings does not extend to six hours, for each hour occupied, not less than \$2.00 and not more than \$5.00

SCHEDULE B.

FEEES CHARGEABLE BY PROFESSIONAL
ARBITRATORS.

1. For every meeting where the reference is not proceeded with but a postponement is made due to the default of a party or at the request of a party,
not less than \$6.00 and not more than \$15.00
2. For every day's sittings to consist of not less than six hours,
.....not less than \$20.00 and not more than \$60.00
3. Where a day's sittings consists of more than six hours, for each additional hour,
..... not less than \$5.00 and not more than \$10.00
4. Where a sittings does not extend to six hours, for each hour occupied, not less than \$5.00 and not more than \$10.00

CHAPTER 7.

AN ORDINANCE TO PROVIDE FOR THE ORDERLY DEVELOPMENT OF UNORGANIZED AREAS.

SHORT TITLE.

1. This Ordinance may be cited as the *Area Development Short Title Ordinance*.

INTERPRETATION.

2. In this Ordinance, "development area" means an area designated as such by the Commissioner. Definition of "development area".

POWERS OF COMMISSIONER.

3. The Commissioner may designate as a development area any area in the Territory where he considers that it will be necessary in the public interest to regulate the orderly development of such area as contemplated by this Ordinance. Commissioner may designate development area.

4. (1) The Commissioner may make regulations for the orderly development of a development area respecting Regulations.

- (a) the zoning of the area, including the allocation of land in the area for agricultural, residential, business, industrial, educational, public or other purposes;
- (b) the regulation or prohibition of the erection, maintenance, alteration, repair or removal of buildings;
- (c) streets, roads, lanes, sidewalks, parks, street lighting and street transit;
- (d) public health, including the supply, treatment and purification of water, the collection and disposal of garbage and other sewage, hospitals, and the burial of destitute persons;
- (e) fire protection; and
- (f) animals.

(2) The Commissioner shall cause to be tabled any regulation made by him pursuant to subsection (1) at the session of Council next following the making of such regulation.

5. (1) Where by a regulation under this Ordinance a certain matter or thing is directed to be done and is not done or a certain matter or thing is directed to be not done and is done by any person, the Commissioner or any person authorized by him may order the person who is in default under the regulation to remedy his default and if he fails to do so within thirty days of the Power to order remedy of default.

Chap. 7.

Area Development.

day on which the Commissioner's order is served on him or mailed to him at his last known address by registered mail, the Commissioner or any person authorized by him may

Action to
remedy
default.

(a) take such action as he sees fit to have the default remedied;
and

(b) recover from such person the expenses thereof with costs of action in any court of competent jurisdiction.

(2) The action taken by the Commissioner or any person authorized by him to have any default remedied may include the destruction, alteration or removal of any buildings, structures or portions thereof.

PENALTY.

Penalty for
violation of
regulations.

6. Every person who violates any regulation made under this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars.

CHAPTER 8.

AN ORDINANCE TO MAKE UNIFORM THE LAW
RESPECTING ASSIGNMENTS OF BOOK DEBTS.

SHORT TITLE.

1. This Ordinance may be cited as the *Assignments of Book Debts Ordinance*.

INTERPRETATION.

2. In this Ordinance,
- (a) "assignee" means any person to whom an assignment of book debts is made; Definitions.
 - (b) "assignment" includes every legal and equitable assignment, whether absolute or by way of security, and every mortgage or other charge upon book debts; "Assignee."
 - (c) "assignor" means any person making an assignment of book debts; "Assignment."
 - (d) "book debts" means all such accounts and debts, whether existing or future, as in the ordinary course of business would be entered in books, whether actually entered or not, and includes any part or class thereof; "Assignor."
 - (e) "creditors" means creditors of the assignor, whether execution creditors or not, who become creditors before the registration of an assignment, and, for the purpose of enforcing the rights of such creditors but not otherwise, includes a creditor suing on behalf of creditors, a trustee under the *Bankruptcy Act* and a liquidator of a company under the *Winding-up Act* or under an Ordinance of the Territory containing provisions for the winding-up of companies, without regard to the time when the creditor so suing becomes a creditor, or when the assignee, trustee or liquidator is appointed; "Book debts."
 - (f) "proper officer" means the officer in whose office assignments are required to be registered in any registration district; "Creditors."
 - (g) "registered" means filed in accordance with the provisions of this Ordinance; "Proper officer."
 - (h) "registration district" means a district established under this Ordinance for the registration of assignments; "Registered."
 - (i) "subsequent purchaser" includes a person who in good faith, for valuable consideration, and without notice obtains by assignment an interest in book debts that have already been assigned; and "Registration district."

Chap. 8.

Assignment of Book Debts.

"Valuable consideration."

- (j) "valuable consideration" includes
 - (i) any consideration sufficient to support a simple contract; and
 - (ii) an antecedent debt or liability.

APPLICATION.

Application.

- 3. This Ordinance does not apply to
 - (a) any assignment of book debts, whether specified or by way of floating charge, made by a corporation and contained,
 - (i) in a trust deed or other like instrument to secure bonds, debentures, or debenture stock of the corporation,
 - (ii) in any bonds, debentures or debenture stock of the corporation, as well as in the trust deed or other like instrument securing the same, or
 - (iii) in any bonds, debentures, or debenture stock or any series of bonds or debentures of the corporation not secured by any trust deed or other like instrument;
 - (b) any assignment of book debts due at the date of the assignment from specified debtors;
 - (c) any assignment of debts growing due under specified contracts;
 - (d) any assignment of book debts included in a transfer of a business made bona fide and for value; or
 - (e) any assignment of book debts, included in any authorized assignment under the *Bankruptcy Act*.

FORM AND REGISTRATION.

Registration.

- 4. (1) Except as provided in this Ordinance, every assignment of book debts made by any person engaged in a trade or business shall be absolutely void as against the creditors of the assignor and as against subsequent purchasers, unless the assignment is
 - (a) in writing;
 - (b) accompanied by an affidavit of an attesting witness, or affidavits of attesting witnesses, of the execution thereof by the assignor or by the assignors respectively, identifying the assignment and stating the date of execution by the assignor, or the respective dates of execution by the assignors, as the case may be, and a further affidavit of the assignee, or one of the several assignees, his or their agent, stating that the assignment was executed in good faith and for valuable consideration and not for the mere purpose of protecting the book debts therein mentioned against the creditors of the assignor or for the purpose of preventing such creditors from recovering any claims that they have against the assignor; and

(c) registered, as provided in this Ordinance, together with the affidavits, within thirty days of the execution of the assignment.

(2) When there are two or more assignors, the date of execution of the assignment shall be deemed to be the date of the execution by the assignor who last executes it.

(3) Every assignment that is required to be in writing and to be registered under this Ordinance shall, as against creditors and subsequent purchasers, take effect only from the time of the registration of the assignment.

5. (1) Registration of an assignment under this Ordinance shall be effected by filing the assignment, together with such affidavits as are by this Ordinance required, within thirty days from its execution, in the office of the proper officer of a registration district determined in accordance with the following rules:

How
registration
effected.

- (a) where the assignor is a corporation incorporated under the laws of the Territory, in the registration district in which the head office or registered office is situate;
- (b) where the assignor is an extra-territorial corporation having a head office or registered office within the Territory in the registration district in which the head office or registered office is situate;
- (c) where the assignor is an extra-territorial corporation not having a head office or registered office within the Territory, in the registration district of Whitehorse;
- (d) where the assignor is not a corporation, in the registration district in which the assignor carries on business at the time of the execution of the assignment; or
- (e) where the assignor is not a corporation, and at the time of the execution of the assignment carries on business in different registration districts, in any such registration district, and by filing a duplicate original of the assignment and affidavits, or a copy thereof certified by the proper officer of that registration district, in each of the other registration districts.

(2) The proper officer shall cause every assignment filed in his office to be numbered, to be endorsed with a memorandum of the day, hour and minute of filing, and to be indexed by entering in alphabetical order in a register kept by him the names of the parties to the assignment, with their descriptions, and the dates of execution and registration of the assignment.

(3) Where the time for registration of any assignment or other document expires on a Sunday or other day on which the office in which the registration is to be made is closed, the registration shall, so far as regards the time of registration, be valid if made on the next following day on which the office is open.

DISCHARGE.

Discharge of assignment.

6. (1) An assignment registered under this Ordinance may be discharged in whole or in part by the registration in the office in which the same is registered of a certificate of discharge, signed by the assignee, his executors, administrators, or assigns, and accompanied by an affidavit of an attesting witness of the due execution thereof.

(2) The proper officer in whose office a certificate of discharge, accompanied by the affidavit of execution is registered, shall note the fact of the discharge against each entry in the books of his office respecting the registration of the assignment and shall make a like notation upon the assignment or copy registered in his office.

(3) When there are two or more assignors residing in different registration districts affected by the discharge, the registration may be effected either by filing a duplicate or other original of the certificate of discharge and affidavit of execution in the office of the proper officer in each of the registration districts, or by filing the certificate of discharge and affidavit of execution in one of the registration districts and by filing a certificate of the entry of the discharge therein, signed by the proper officer in each of the other registration districts and each proper officer shall make the like notations of the discharge in the records of his office as are provided by subsection (2) of this section.

(4) The proper officer in whose office the certificate of discharge is registered shall on request furnish a certificate of the entry of the discharge in the records of his office.

INSPECTION OF RECORDS.

Inspection of records.

7. Upon payment of the prescribed fees every person shall have access to and be entitled to inspect the books of any proper officer containing records or entries of assignments or documents registered or filed under the provisions of this Ordinance; and no person shall be required, as a condition of his right thereto, to disclose the name of the person in respect of whom the access or inspection is sought; and every proper officer shall, upon request accompanied by payment of the prescribed fees, produce for inspection any assignment or document so registered or filed in his office.

REGISTRATION DISTRICTS AND OFFICES.

Registration districts and officers.

8. For the purpose of registration of assignments or other documents each registration district in the Territory for the purposes of the registration of mortgages and other transfers of personal property shall be a registration district and the registration clerk whose office is situate within a registration district shall be the proper officer for the registration of assignments or documents in that registration district.

AFFIDAVITS.

9. (1) Affidavits required by this Ordinance may be taken and made before the proper officer of any registration district or before any person, whether within or without the Territory, authorized to take affidavits in or concerning any cause, matter, or thing pending in any court in the Territory. Taking of affidavits.

(2) No registered assignment or other document shall be held to be defective or void solely on the ground that any affidavit required by this Ordinance was taken and made before a solicitor for any of the parties to the assignment or other document, or before a partner of the solicitor, or before a clerk in the office of the solicitor.

10. Any affidavit required by this Ordinance to be made by an assignee may, in the event of his death, be made by his executor or administrator, or by any of his next-of-kin or by the duly authorized agent of the executor or administrator. Affidavit in case of death of assignee.

11. Where the assignee is a corporation, every affidavit required or permitted by this Ordinance to be made or given by the corporation as assignee, may be made or given by any officer, employee or agent of the corporation. Affidavit on behalf of corporation.

12. Any affidavit made for the purposes of this Ordinance by the agent of an assignee, or of an executor or administrator, or by an officer, employee or agent of a corporation, shall state that the deponent is aware of the circumstances connected with the assignment, and that he has a personal knowledge of the facts deposed to. Affidavit of agent or officer.

13. Where an assignment or certificate of discharge or other document has been executed by a corporation under the provisions of this Ordinance no affidavit of an attesting witness shall be required. No affidavit of execution by corporation.

14. Where, before the making of any affidavit of execution required by this Ordinance, the attesting witness to an assignment, certificate of discharge, or other document dies or leaves the Territory, or becomes incapable of making or refuses to make such affidavit, a judge may make an order permitting the registration of the assignment, certificate of discharge or other documents, upon such proof of its due execution and attestation as the judge by the order may require and allow; the order, or a copy thereof, shall be annexed to the assignment, certificate of discharge or other document, as the case may be, and filed therewith; and the registration of the assignment, certificate of discharge or other document, under and in compliance with the terms of the order, has the like effect as the registration thereof with the affidavit of execution otherwise required by this Ordinance. Proof of execution otherwise than by affidavit.

RECTIFICATION OF OMISSIONS AND MIS-STATEMENTS.

Rectification of omissions and mis-statements.

15. Subject to the rights of other persons accrued by reason of any omission or mis-statement referred to in this section, a judge on being satisfied that the omission to register an assignment within the time prescribed by this Ordinance, or any omission or mis-statement in any document filed under this Ordinance, was accidental or due to inadvertence or impossibility, or other sufficient cause, may, in his discretion, extend the time for registration or order the omission or mis-statement to be rectified, on such terms and conditions, if any, as to security, notice by advertisement or otherwise, or as to any other matter or thing as the judge thinks fit to direct; the order, or a copy thereof, made under this section shall be annexed to the assignment or copy thereof on file or tendered for registration, and appropriate entries shall be made in the register.

DEFECTS AND IRREGULARITIES.

Defects and irregularities.

16. No defect or irregularity in the execution or attestation of an assignment or other document; no defect, irregularity, or omission in any affidavit accompanying an assignment or filed in connection with its registration; and no error of a clerical nature or in an immaterial or non-essential part of an assignment shall invalidate or destroy the effect of the assignment or the registration thereof, unless in the opinion of the judge before whom a question relating thereto is tried, the defect, irregularity, omission, or error has actually misled some person whose interests are affected by the assignment.

EVIDENCE OF RECORDS.

Evidence of records.

17. Copies of an assignment, certificate of discharge or other document registered or filed under this Ordinance, certified by the registration clerk, shall be receivable in evidence and shall be prima facie proof for all purposes as if the original assignment or document were produced, and also prima facie proof of the execution of the original assignment or document according to the purport of the copy, and the clerk's certificate shall also be prima facie proof of the date and hour of registration and filing.

FEES.

Fees.

18. For services under this Ordinance each registration clerk shall be entitled to receive the following fees:

- (a) for filing and registering an assignment, fifty cents;
- (b) for filing and registering a certificate of discharge, fifty cents;
- (c) for a general search, fifty cents;
- (d) for any certificate of registration or discharge or other certificate for purposes of this Ordinance, twenty-five cents;
- (e) for a copy of any document filed under this Ordinance, including certificate, every one hundred words, ten cents.

CHAPTER 9.

AN ORDINANCE RESPECTING BILLS OF SALE AND
CHATTEL MORTGAGES.

SHORT TITLE.

1. This Ordinance may be cited as the *Bills of Sale Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance,

Definitions.

- (a) "bill of sale" means a document in writing in conformity "Bill of Sale." with this Ordinance evidencing a sale or a mortgage, but does not include a bill of lading, a warehouse receipt, a warrant or order for the delivery of goods, or 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 the possessor of the document to transfer, either by endorsement or delivery, or receive goods thereby represented;
- (b) "change of possession" means such change of possession "Change of as is open and reasonably sufficient to afford public notice possession." thereof;
- (c) "chattels" means goods and chattels capable of complete "Chattels." transfer by delivery and includes when separately assigned or charged, fixtures and growing crops; but does not include chattel interests in real property or fixtures when assigned together with a freehold or leasehold interest in any land or building to which they are affixed; or growing crops, when assigned together with any interest in the land on which they grow; or a ship or vessel registered under the provisions of the *Canada Shipping Act* or *The Merchant Shipping Act, 1894*, and amending Acts, or any share in such ship or vessel; or shares or interests in the stock, funds, or securities of a government, or in the capital of a corporation, or book debts or other choses in action;
- (d) "creditors" means creditors of the grantor, whether execu- "Creditors." tion creditors or not, who become creditors before the registration of a bill of sale, or before the registration of a renewal statement, as the case may be, and, for the purpose of enforcing the rights of such creditors but not otherwise, includes a creditor suing on behalf of himself and other creditors, an assignee for the general benefit of creditors, a trustee under the *Bankruptcy Act*, and a liquidator of a company under the *Winding-up Act* or under any statute or Ordinance containing provisions for

the winding-up of companies, without regard to the time when the creditor so suing becomes a creditor, or when the assignee, trustee or liquidator is appointed;

- "Grantee." (e) "grantee" includes the bargainee, assignee, transferee, mortgagee, or other person to whom a bill of sale is made;
- "Grantor." (f) "grantor" includes the bargainer, assignor, transferor, mortgagor, or other person by whom a bill of sale is made;
- "Mortgage." (g) "mortgage" includes an assignment, transfer, conveyance, declaration of trust without transfer, or other assurance of chattels, intended to operate as a mortgage or pledge of chattels, or a power or authority or licence to take possession of chattels as security, or an agreement, whether intended or not to be followed by the execution of any other instrument, by which a right in equity to a charge or security on any chattels is conferred but does not include:
- (i) a mortgage or charge, whether specific or floating, of chattels created by a corporation, and contained,
 - (A) in a trust deed or other like instrument to secure bonds, debentures, or debenture stock of the corporation,
 - (B) in any bonds, debentures, or debenture stock of the corporation, as well as in the trust deed or other like instrument securing the same, or
 - (C) in any bonds, debentures, or debenture stock or any series of bonds or debentures of the corporation not secured by any trust deed or other like instrument;
 - (ii) security taken by a bank under section 88 of the *Bank Act*; or
 - (iii) a power of distress contained in a mortgage of real property;
- "Proper officer." (h) "proper officer" means the clerk of the registration district in which the property described in the bill of sale is situated, at the time of the execution of the instrument;
- "Registered." (i) "registered" means filed in accordance with the provisions of this Ordinance;
- "Registration district." (j) "registration district" means a district for the registration of bills of sale established under this Ordinance;
- "Sale." (k) "sale" includes a sale, assignment, transfer, conveyance, declaration of trust without transfer or other assurance not intended to operate as a mortgage, of chattels, or an agreement, whether intended or not to be followed by an execution of any other instrument, by which a right in equity to any chattels is conferred, but does not include,
 - (i) an assignment for the general benefit of the creditors of the person making the assignment;
 - (ii) a transfer or sale of goods in the ordinary course of any trade or calling; or

- (iii) a conditional sale within the meaning of the *Conditional Sales Ordinance* or an assignment of a conditional sale; and
- (l) "subsequent purchasers or mortgagees" means persons to whom chattels are conveyed or mortgaged, "Subsequent purchasers or mortgagees."
- (i) after the making of the sale or mortgage mentioned in section 7, or
- (ii) after the making of the mortgage mentioned in sections 15, 16 and 17, as the case may be.
3. The Commissioner may establish registration districts for the purpose of this Ordinance and he may alter the boundaries of any registration district. Registration districts.
4. The Commissioner may appoint and designate the place of office of a registration clerk for each registration district. Offices.
5. 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 registrations shall be made only during office hours. Office hours.
6. No registration clerk shall draw or prepare any document or conveyance that may be filed or registered in his office under the provisions of this or any other Ordinance. Registration clerk not to draw documents.
7. A sale or mortgage that is not accompanied by an immediate delivery and an actual and continued change of possession of the chattels sold or mortgaged is void as against creditors and as against subsequent purchasers or mortgagees claiming from or under the grantor in good faith, for valuable consideration and without notice, whose conveyances or mortgages have been duly registered or are valid without registration, unless the sale or mortgage is evidenced by a bill of sale duly registered; and the sale or mortgage, and the bill of sale, if any, evidencing the sale or mortgage, takes effect as against creditors and such subsequent purchasers or mortgagees only from the time of the registration of the bill of sale. Sale or mortgage to be evidenced by a registered bill of sale.
8. (1) Every schedule annexed to a bill of sale or referred to therein shall be deemed to be part of the bill of sale, and shall be registered therewith. Schedule to be part of bill of sale.
- (2) When a bill of sale is subject to any defeasance or trust, the defeasance or trust shall be deemed to be a part of the bill of sale, and the defeasance or a declaration of the trust shall be registered therewith. Defeasance or trust to be part of bill of sale.

Description of chattels.

9. A bill of sale shall contain a sufficient and full description of the chattels comprised therein so that the same may be thereby readily and easily known and distinguished.

Time and place of registration.

10. (1) Registration of a bill of sale is effected by filing the bill of sale, together with such affidavits as are by this Ordinance required, within thirty days from the day of its execution, in the office of the proper officer of the registration district in which the chattels comprised in the bill of sale are situate at the date of the execution of the bill of sale; where there are two or more grantors, the day of execution of the bill of sale shall be deemed to be the day of the execution by the grantor who last executed it.

Where chattels are situate in more than one registration district.

(2) Where the chattels comprised in the bill of sale are situate partly in one registration district and partly in another registration district, registration is effected by filing the bill of sale and affidavits in one of such registration districts, and by filing a duplicate original of the bill of sale and affidavits, or a copy thereof certified by the proper officer of that registration district, in the other registration districts.

Minutes of registration.

(3) The proper officer shall cause every bill of sale or copy thereof filed in his office to be numbered and he shall endorse thereon the day, hour and minute of its filing and shall enter in alphabetical order in a register kept by him the names of the parties to the bill of sale with their descriptions, the dates of execution and registration of the bill of sale and the amount, if any, of the consideration for which the bill of sale was made.

Affidavit of execution.

11. Except as provided by section 29 every bill of sale presented for registration shall be accompanied by an affidavit of an attesting witness, of the execution thereof by the grantor, identifying the bill of sale and stating the day of execution by the grantor.

Bill of sale to secure advances.

12. (1) Where a bill of sale is given to secure to the grantee,

- (a) repayment of any advances to be made by him under an agreement therefor,
- (b) against loss or damage by reason of the endorsement of a bill of exchange or promissory note,
- (c) against loss or damage by reason of any other liability incurred by the grantee for the grantor, or
- (d) against loss or damage by reason of the liability to be incurred under an agreement by the grantee for the grantor,

the bill of sale shall set forth clearly by recital or otherwise, and shall, when presented for registration, be accompanied by an affidavit of the grantee, or one of several grantees, or his or their agent, stating that it truly sets forth

- (e) the terms or substance of the agreement entered into between the parties in respect of the advances,

- (f) a copy of the bill of exchange or promissory note endorsed and of the endorsements,
 - (g) the nature and extent of such other liability incurred by the grantee for the grantor, or
 - (h) the terms or substance of the agreement in respect of the liability to be incurred by the grantee for the grantor,
- and in all cases the affidavit shall state that the bill of sale truly sets forth the extent or amount of the liability incurred or to be incurred and to be secured by the bill of sale.

(2) The affidavit shall also state that the bill of sale was executed in good faith and for the purpose of securing the grantee Further contents of affidavit.

- (a) repayment of the advances,
- (b) against loss or damage by reason of the endorsement,
- (c) against loss or damage by reason of the liability incurred by the grantee for the grantor, or
- (d) against loss or damage by reason of the liability to be incurred by the grantee for the grantor, under the agreement therefor,

as the case may be, and not for the mere purpose of protecting the chattels therein mentioned against the creditors of the grantor, or for the purpose of preventing the creditors from recovering any claims that they have against the grantor.

13. Where a bill of sale, other than a bill of sale within the scope of section 12 is given to secure the payment of an ascertained amount due or accruing due from the grantor to the grantee, or of a present advance being made by the grantee to the grantor, it shall, when presented for registration, be accompanied by an affidavit of the grantee, or one of several grantees, or his or their agent, stating that the amount set forth in the bill of sale as being the consideration therefor is justly due or accruing due from the grantor to the grantee, or is a present advance being made by the grantee to the grantor, as the case may be, and that the bill of sale was executed in good faith and for the purpose of securing to the grantee the payment of such amount, and not for the mere purpose of protecting the chattels therein mentioned against the creditors of the grantor, or for the purpose of preventing the creditors from recovering any claims that they have against the grantor. Bill of sale to secure a debt or a present loan.

14. (1) Where a bill of sale is not a bill of sale within the scope of section 12 or section 13, it shall, when presented for registration, be accompanied by an affidavit of the grantee, or one of several grantees, or his or their agent, stating that the bill of sale was executed in good faith and for good consideration, as set forth in the bill of sale, and not for the mere purpose of protecting the chattels therein mentioned against the creditors of the grantor or for the purpose of preventing the creditors from recovering any claims that they have against the grantor. Affidavit of bona fides accompanying other bills of sale.

Further particulars in affidavit.

(2) The affidavit required by subsection (1) shall further state that the goods or chattels covered by such bill of sale are not sold in bulk within the meaning of the *Bulk Sales Ordinance*; or in case of a sale in bulk such bill of sale shall be further accompanied by an affidavit of the grantor setting forth a complete list of his creditors or by the written waiver referred to in section 6 of the said Ordinance.

Renewal of bills of sale evidencing mortgages.

15. (1) Where a registered bill of sale evidences a mortgage of chattels, it shall, after the expiration of the period of three years from its registration cease to be valid as against creditors and as against subsequent purchasers or mortgagees claiming from or under the grantor in good faith, for valuable consideration and without notice, whose conveyances or mortgages have been duly registered, or are valid without registration, unless, before the expiration of that period, a renewal statement accompanied by the affidavit mentioned in subsection (2) is registered in accordance with subsections (2) and (3).

Contents of renewal statement and affidavit.

(2) A renewal statement made pursuant to this section shall set out the interest of the mortgagee, his executors, administrators or assigns, in the chattels comprised in the bill of sale, and the amount still owing for principal and interest or the extent or amount of the liability still secured thereby, and shall be accompanied by an affidavit of the mortgagee, his executors, administrators or assigns, or his or their agent, or of some one of them, stating that the statement is true and that the bill of sale has not been kept in force for any fraudulent purpose.

Form of renewal statement.

(3) A renewal statement made pursuant to this section may be in Form 1 in the Schedule, with such variations as the circumstances may require.

Registration of statement and affidavit.

(4) A renewal statement made pursuant to this section accompanied by the affidavit mentioned in subsection (2) shall be registered,

- (a) in the office of the proper officer of the registration district in which the bill of sale or copy thereof was registered, as regards the chattels still situate in that registration district, or
- (b) in case of the permanent removal of any of the chattels comprised in the bill of sale and the registration of a certified copy of the bill of sale pursuant to section 16, in the office of the proper officer of the registration district in which the certified copy of the bill of sale was so registered, as regards chattels so removed.

Further renewal statement.

(5) A further renewal statement accompanied by an affidavit shall likewise be registered in accordance with subsections (2), (3) and (4) of this section within the period of three years from the registration of the first renewal statement, and thereafter within each succeeding period of three years from the registration of the last preceding renewal statement; and failing such registration the bill of sale shall, after the expiration of any such period, become void to the extent provided in subsection (1).

(6) Where any mistake is made in a renewal statement defined by this section the mortgagee, his executors, administrators or assigns, may, after the discovery of the mistake, register an amended statement and affidavit referring to the former statement and clearly pointing out the mistake therein and correcting it.

Registration amended renewal statement.

(7) Where before the registration of the amended statement and affidavit referred to in subsection (6) a person has in good faith made an advance of money or given any valuable consideration to the grantor, or has incurred any costs in proceedings taken relying on the accuracy of the renewal statement as first registered, the bill of sale as to the amount so advanced or the valuable consideration given or costs incurred by such person, shall, as against that creditor, purchaser or mortgagee, stand good only for the amount stated in the renewal statement as first registered, or to the extent or amount of the liability secured in the renewal statement as first registered.

Effect of interest intervening before registration of amended renewal statement.

16. Where a registered bill of sale evidences a mortgage of chattels, and before the payment and discharge of the bill of sale, chattels comprised therein are permanently removed into a registration district other than the one in which they were situate at the time of its execution, the bill of sale shall, within thirty days after the grantee has received notice of the place to which the chattels have been removed, be registered in the office of the proper officer of the registration district into which the chattels are removed, by filing therein a copy of the bill of sale and of all affidavits and documents accompanying the bill of sale or filed on the registration or renewal thereof, certified as a true copy by the proper officer in whose office the bill of sale was registered or was last renewed; and failing such registration the bill of sale, in respect of the chattels so renewed ceases to be valid as against creditors and as against subsequent purchasers or mortgagees claiming from or under the grantor in good faith, for valuable consideration and without notice, whose conveyances or mortgages have been registered or are valid without registration.

Renewal of chattels to another registration district.

17. Where chattels subject to a mortgage that was executed at a time when they were situate without the Territory are permanently removed into the Territory, the mortgage shall within thirty days after the grantee has received notice of the place to which the chattels have been removed, be registered as a bill of sale, in the office of the proper officer of the registration district into which the chattels are removed, by filing therein a copy of the mortgage and of all affidavits and documents accompanying or relating to the mortgage proved to be a true copy by the affidavit of some person who has compared the same with the original; and failing such registration the grantee shall not be permitted to set up any right of property or right of

Renewal of chattels into the Territory.

possession in or to the chattels so removed as against creditors and as against subsequent purchasers or mortgagees claiming from or under the grantor in good faith, for valuable consideration and without notice.

Buyer to give notice of removal, sale, etc.

18. (1) Except for temporary purposes for a period of not more than twenty days, the grantor shall not remove the chattels comprised in a bill of sale into another registration district unless he has, at least ten days before such removal, given the grantee personally or by registered mail, written notice of the place to which the chattels are to be removed and the approximate time of the intended removal.

Idem.

(2) The grantor shall not, prior to the complete performance of the contract, sell, mortgage, charge or otherwise dispose of his interest in chattels comprised in a bill of sale, unless he, or the person to whom he is about to sell, mortgage, charge or otherwise dispose of same, has notified the grantee in writing, personally or by registered mail, of the name and address of such person, not less than ten days before such sale, mortgage, charge or other disposal.

Grantee may retake possession if notice not given.

(3) Where the grantor removed chattels comprised in a bill of sale or disposes of his interest in them contrary to this section, the grantee may retake possession of the chattels and deal with them as in case of default in payment of all or part of the purchase price.

Subsequent taking of possession.

19. A sale or mortgage or a bill of sale that under this Ordinance is void, or has ceased to be valid, as against creditors, purchasers or mortgagees, is not, by reason of the fact that the grantee has subsequently taken possession of the chattels sold or mortgaged, rendered valid as against persons who became creditors, purchasers or mortgagees before the grantee took possession.

Registration of assignment.

20. (1) An assignment of a bill of sale need not be registered, but it may be registered by filing the assignment, accompanied by an affidavit of an attesting witness of the execution thereof, in any office in which the bill of sale is registered.

Notation of registration of assignment.

(2) The proper officer in whose office an assignment is registered shall note the fact of the assignment against each entry in the books of his office respecting the registration of the bill of sale, and shall make a like notation upon the bill of sale or copy filed in his office.

Registration in case of chattels in two registration districts.

(3) Where the chattels comprised in a bill of sale that has been assigned are situate partly in one registration district and partly in another registration district, registration of the assignment may be effected by filing the assignment and affidavit pursuant to subsection (1), in the office of the proper officer in one of such registration districts, and by filing a duplicate original of the assignment and affidavit, or a copy of the assignment and affidavit certified by the proper officer of that registra-

tion district in the other registration district and the proper officer in each registration district shall make the like notation of the assignment in the records of his office as is provided by subsection (2).

21. (1) Where a registered bill of sale evidences a mortgage of chattels, it may be discharged in whole or in part by the registration, in the office in which the same is registered, of a certificate of discharge, in Form 2, signed by the mortgagee, his executors, administrators or assigns, and accompanied by an affidavit of an attesting witness of the execution thereof; but no certificate of discharge by an assignee shall be registered unless the assignment has been registered in that office.

Discharge of bill of sale evidencing mortgage.

(2) The proper officer in whose office a certificate of discharge accompanied by the affidavit of execution is registered shall note the fact of the discharge against each entry in the books of his office respecting the registration of the bill of sale, and shall make a like notation upon the bill of sale, or copy filed in his office.

Notation of registration of discharge.

(3) Where the chattels affected by the discharge are situated partly in one registration district and partly in another registration district, registration may be effected either by filing a duplicate or other original of the certificate of discharge and affidavit of execution in the office of the proper officer in each of the registration districts, or by filing the certificate of discharge and affidavit of execution in one of such registration districts and by filing a certificate of the entry of the discharge therein, signed by the proper officer of that registration district in the other registration district and the proper officer in each registration district shall make the like notation of the discharge in the records of his office as is provided by subsection (2).

Registration in case of chattels in two registration districts.

(4) The proper officer in whose office the certificate of discharge is registered shall on the request of any person furnish him with a certificate of the entry of the discharge in the records of his office.

Certificate of entry of discharge.

22. (1) Where any registration district is divided or the boundaries thereof are altered or any new registration district is established pursuant to section 3,

Procedure on change of boundaries of registration districts.

(a) every bill of sale evidencing a mortgage of chattels that was duly registered in a district affected by any such division, alteration or establishment, at the time when the division, alteration or establishment became effective, shall until it becomes necessary to register a renewal statement in respect thereof continue to be as valid and effectual as if the division, alteration or establishment had not been made;

(b) on and after the day upon which the division, alteration or establishment becomes effective, the renewal statement required to be registered in respect of any such bill of sale shall be filed with the registration clerk of each

district in which the chattels comprised in the bill of sale were situate at the time of the execution thereof, except only in the case of the permanent removal of such goods and chattels into a registration district other than the one in which they were situate at the time of its execution, in which case the renewal statement shall be registered in the office of the proper officer of the registration district in which the bill of sale is required to be registered pursuant to section 16; and

(c) in case the bill of sale is registered with the clerk of a registration district other than the clerk of the registration district with whom the renewal statement relating thereto is required to be filed, there shall be filed with every such statement a certified copy of the bill of sale to which it relates.

(2) No bill of sale duly registered as at the date of the division, alteration or establishment of any district in any district affected by any such division, alteration or establishment, loses its priority by reason of the non-registration thereof in the office of the registration clerk in any other district until the expiration of the period fixed by section 15 for the renewal thereof.

Expiry of
time on
Sunday.

23. Where the time for registration of a bill of sale or other document expires on a Sunday or other day on which the office in which the registration is to be made is closed, the registration is, so far as regards the time of registration, valid if made on the next following day on which the office is open.

Proof of
execution
otherwise
than by
affidavit.

24. Where before the making of any affidavit of execution required by this Ordinance, the attesting witness to a bill of sale or other document dies or leaves the Territory, or becomes incapable of making or refuses to make the affidavit, a judge may make an order permitting the registration of the bill of sale or other document, upon such proof of its due execution and attestation as the judge by the order may require and allow; the order or a copy thereof shall be annexed to the bill of sale or other document, as the case may be, and filed therewith; and the registration of the bill of sale or other document, under and in compliance with the terms of the order, has the like effect as the registration thereof with the affidavit of execution otherwise required by this Ordinance.

Taking of
affidavits.

25. (1) An affidavit required by this Ordinance may be taken and made before the proper officer of any registration district or before any person, whether within or without the Territory, authorized to take affidavits in or concerning any cause, matter or thing pending in any court in the Territory.

(2) No registered bill of sale or other document is defective or void solely on the ground that any affidavit required by this Ordinance was taken and made before a solicitor for any of the parties to the bill of sale or other document or before a partner of the solicitor, or before a clerk in the office of the solicitor.

26. An affidavit required by this Ordinance to be made by a grantee or assignee of the grantee may in the event of his death be made by his executor or administrator, or by any of his next of kin, or by the duly authorized agent of the executor or administrator. Affidavits in case of death of grantee.

27. Where the grantee or the assignee of a bill of sale is a corporation, every affidavit or statement required or permitted by this Ordinance to be made or given by the corporation as grantee or assignee may be made or given by any officer, employee or agent of the corporation. Affidavit, etc., on behalf of corporation.

28. An affidavit made for the purpose of this Ordinance by the agent of a grantee, assignee, executor or administrator, or by an officer, employee or agent of a corporation, shall state that the deponent is aware of the circumstances connected with the bill of sale or with the renewal of the bill of sale, as the case may be, and that he has a personal knowledge of the facts deposed to. Affidavit of agent or officer.

29. Where a bill of sale, certificate of discharge, assignment or other document has been executed by a corporation under the provisions of this Ordinance, no affidavit of an attesting witness is required. No affidavit of execution by corporation.

30. (1) Subject to the rights of other persons accrued by reason of any omission or mis-statement referred to in this section, a judge on being satisfied that the omission to register a bill of sale or renewal statement or mis-statement in any document filed under this Ordinance, was accidental or due to inadvertence or impossibility, or other sufficient cause, may, in his discretion, extend the time for registration or order the omission or mis-statement to be rectified on such terms and conditions, if any, as to security, notice by advertisement or otherwise or as to any other matter or things as the judge thinks fit to direct. Rectification of omission and mis-statements.

(2) An order made pursuant to subsection (1) or a copy thereof shall be annexed to the bill of sale or copy thereof on file or tendered for registration, and appropriate entries shall be made in the register. Order to be annexed to bill of sale.

31. No defect or irregularity in the execution or attestation of a bill of sale or renewal statement, no defect, irregularity or omission in any affidavit accompanying a bill of sale or renewal statement or filed in connection with its registration, and no error of a clerical nature or in an immaterial or non- Defects and irregularities.

essential part of a bill of sale or renewal statement shall be held to invalidate or destroy the effect of the bill of sale or renewal statement or the registration thereof, unless in the opinion of the court such defect, irregularity, omission or error has actually misled some person whose interests are affected by the bill of sale.

Bill of sale of subsequently acquired chattels.

32. This Ordinance applies to bills of sale of chattels, notwithstanding that the chattels may not be the property of or may not be in the possession, custody or control of the grantor, or any one on his behalf at the time of the making of the bill of sale, and notwithstanding that the chattels may be intended to be delivered at some future time, or that they may not at the time for the making of the bill of sale be actually procured or provided, or fit or ready for delivery, and notwithstanding that some act may be required for the making or completion of the chattels, or rendering them fit for delivery.

Where Her Majesty is grantee.

33. Where in a bill of sale Her Majesty is the grantee, this Ordinance applies, except the provisions thereof with respect to affidavits of bona fides and with respects to renewal statements.

Evidence of records.

34. (1) A certificate furnished by the proper officer touching any matter dealt with by this Ordinance shall be received for all purposes as prima facie evidence of the facts set out in the certificate, and a copy of a document filed or registered under this Ordinance certified by the proper officer shall be received as prima facie evidence for all purposes as if the original document were produced.

(2) No proof is required of the signature or official position of any proper officer in respect of any certificate produced as evidence pursuant to this section.

Inspection of records.

35. Upon payment of the fees prescribed by this Ordinance, every person is entitled to have access to and to inspect the books of any proper officer containing records or entries of bills of sale or documents filed under this Ordinance, and no person is required, as a condition of his right thereto, to disclose the name of the person in respect of whom such access or inspection is sought; and every proper officer shall, upon the request of any person, accompanied by payment of the prescribed fees, produce to him for inspection any bill of sale or document so registered or filed in his office.

Fees.

36. (1) For services under this Ordinance the proper officer is entitled to receive the following fees:

- (a) for filing and registering each bill of sale and accompanying documents, one dollar;
- (b) for filing and registering verified copy of bill of sale and accompanying documents under subsection (2) of section 10 or section 16, one dollar;

- (c) for filing and registering a renewal of a bill of sale, one dollar;
 - (d) for filing and registering an assignment of a bill of sale, one dollar;
 - (e) for filing and registering a certificate of discharge, one dollar;
 - (f) for any other certificate of registration or discharge or other certificate for purpose of this Ordinance, one dollar;
 - (g) for general search, fifty cents;
 - (h) for searching for each name, twenty-five cents;
 - (i) for the production for inspection of any bill of sale or renewal statement registered under this Ordinance or any former Ordinance relating to bills of sale, twenty-five cents;
 - (j) for copy of any document filed under this Ordinance, or any former Ordinance relating to bills of sale, including a certificate, every hundred words, ten cents; and
 - (k) for any other service not herein specifically provided for, such sum as the Commissioner may prescribe.
- (2) The Commissioner may alter the fees provided for by subsection (1). Alteration of fees.
- (3) The fees received under subsection (1) constitute territorial revenue and shall be paid into and form part of the Yukon Consolidated Revenue Fund. Territorial revenue.

SCHEDULE.

FORM 1.

(Section 11)

RENEWAL STATEMENT OF CHATTEL MORTGAGE.

Statement setting out the interest of.....
in the chattels mentioned in the bill of sale dated
 the.....day of....., 19....., made between
 of
 of the one part, and..... of
 of the other part; and registered in the office of.....
 of the registration district of....., on the.....
 day of19....., and of the amount still
 owing for principal and interest, or the extent or amount of the
 liability still secured by the said bill of sale.

The said.....is still the mortgagee of the
 said chattels, and has not assigned the said bill of sale (or the
 said.....is the assignee of the said bill of sale
 by virtue of an assignment thereof, dated the.....
 day of....., 19.....) (or as the case
 may be).

The amount still owing for principal and interest on the
 said bill of sale is in the sum of \$..... (or the extent
 or amount of the liability still secured by the said bill of sale
 is as follows: here give particulars).

.....
Signature of Mortgagee or Assignee

Registration District of

To Wit:

I,, of the
of, in the of
....., the mortgagee named in the bill of
sale mentioned in the foregoing (or annexed) statement (or
assignee of the mortgagee named in the 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 bill of sale mentioned in the said statement has
not been kept in force for any fraudulent purpose.

Sworn before me at.....
in the Registration District of.....
this.....day of....., 19.....

.....
(A Commissioner, etc.)

FORM 2.

(Section 20)

CERTIFICATE OF DISCHARGE.

I,, of, do certify thathas satisfied all money due, or accruing due on a certain bill of sale made by to, which bill of sale bears date the.....day of.....19....., and was registered (or in case the bill of sale has been renewed was last renewed) in the office of the..... of the registration district of....., on the.....day of 19....., as No..... (here mention the date of registration of each assignment thereof, and the names of the parties, or mention that such bill of sale 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 bill of sale is therefore discharged.

Witness my hand, this.....day of....., 19.....

.....
(Signature of Mortgagee or Assignee)

Witness:

CHAPTER 10.

AN ORDINANCE RESPECTING THE HANDLING
AND USE OF EXPLOSIVES IN THE YUKON.

SHORT TITLE.

1. This Ordinance may be cited as the *Blasting Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance,

- (a) "blaster" means a person who is the holder of a permit; Definitions.
- (b) "explosive" means gunpowder, blasting powder, nitroglycerine, gun-cotton, dynamite, blasting gelatine, gelignite, fulminates of mercury or of other metals, and every other substance made, manufactured or used with a view to producing a violent explosion, and includes detonators; "Blaster." "Explosive."
- (c) "inspector" means a person appointed or authorized to act as such by the Commissioner under section 4; and "Inspector."
- (d) "permit" means a blaster's permit issued under section 5 or a temporary permit issued under section 9. "Permit."

APPLICATION.

3. This Ordinance applies to any operation in the Territory in which explosives are used for blasting. Application.

APPOINTMENT OF INSPECTORS.

4. The Commissioner may appoint or authorize to act as an inspector one or more duly qualified persons to carry out the provisions of this Ordinance. Appointment of inspectors.

BLASTERS' PERMITS.

5. (1) Subject to section 7, an inspector may issue a blaster's permit, in Form 1 of the Schedule, to any person authorizing such person to conduct blasting operations. Issuance of blaster's permit.

(2) A blaster's permit issued under this section shall be subject to such restrictions and conditions as are endorsed thereon. Restrictions.

6. Every applicant for a blaster's permit shall make and transmit to an inspector an application, in Form 2 of the Schedule, accompanied by a written testimonial from an employer or blaster certifying that the applicant has had at least six months experience in connection with blasting operations, or Application for permit.

as an assistant to a blaster, and that in the opinion of such employer or blaster the applicant's character, knowledge and experience qualify him to handle explosives.

- Qualifications. **7.** No person is qualified to be the holder of a blaster's permit unless
- (a) he has a satisfactory knowledge of the English language; and
 - (b) he has achieved a satisfactory result in an examination given by an inspector pursuant to section 8.

EXAMINATIONS.

Substance of examination. **8.** (1) An inspector shall examine every applicant for a blaster's permit as to the applicant's knowledge of the following:

- (a) drilling for blasting purposes;
- (b) commercial explosives;
- (c) blasting accessories;
- (d) the use of safety fuses;
- (e) electrical blasting;
- (f) transportation and storage of explosives and blasting accessories; and
- (g) the safe use of explosives for general purposes.

Type of examination. (2) An examination under this section may be written or oral or may be given in such other manner as the inspector requires for the purpose of satisfying himself as to the qualifications of the applicant.

TEMPORARY PERMITS.

Temporary permit. **9.** (1) An inspector or any person authorized by him in that behalf may issue a temporary permit, in Form 3 of the Schedule, to any person to handle and use explosives.

Idem. (2) No permit shall be issued under this section unless the inspector or person authorized by him in that behalf is satisfied that the applicant for such permit has an adequate knowledge of the handling and use of explosives.

Duration, etc. (3) A permit issued under this section shall be valid for such period not exceeding ninety days as is specified therein and shall be subject to such restrictions and conditions as are endorsed thereon by the inspector or person authorized by him in that behalf.

Notification. (4) Where a permit is issued under this section by any person authorized by an inspector in that behalf, such person shall forthwith notify the inspector of the issue of such permit.

PROHIBITIONS.

10. (1) Subject to subsection (2), no person other than a blaster shall conduct a blasting operation. Blasting operations.

(2) A blaster may be assisted by reliable persons who are not blasters, but the blaster shall assume full authority over such persons and shall be responsible for the conduct of their work. Assistants.

(3) In this section "blasting operation" means any blasting operation requiring the use of explosives, and includes the preparing and firing of charges and the handling of misfires. "Blasting operation" defined.

11. No person in charge of any operation in respect of which it is necessary to use explosives shall allow a person other than a blaster to carry on blasting operations in connection therewith. Unauthorized persons.

12. No person shall refuse to produce for inspection any permit of which he is the holder when requested to do so by an inspector or a member of the Royal Canadian Mounted Police. Production of permit.

13. No person may make or assist in making any false representation for the purpose of procuring a permit for himself or any other person. False representation.

BLASTING ACCIDENTS.

14. (1) Where a blasting accident occurs in which any personal injury is sustained or where there is any unusual occurrence in which explosives are involved, the permit of any person in charge of the blasting operation shall be suspended by his employer or an inspector, pending investigation of the accident or occurrence. Suspension of permit.

(2) The person in charge of the blasting operation or his employer shall immediately forward a report of the accident or occurrence to an inspector and shall enclose with the report the permit, if any, of such person. Report to inspector.

(3) The inspector shall forthwith investigate the accident or occurrence and submit the results of his investigation to the Commissioner. Inspector to investigate.

PENALTIES.

15. Where, in the opinion of the employer or his agent, a blaster is guilty of a violation of this Ordinance or of any rule made pursuant to this Ordinance, the employer or his agent shall immediately suspend such blaster from performing any duty in connection with the handling of explosives and shall forthwith report the suspension to an inspector for such action as the inspector deems advisable. Suspension of blaster.

16. An inspector may suspend or revoke a permit for whatever reason he deems sufficient. Revocation of permit.

Chap. 10.

Blasting.

Penalty.

17. Every person who violates any provision of this Ordinance or any rule made thereunder is guilty of an offence and liable upon summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

**Civil action
for damages.**

18. Nothing in this Ordinance shall be construed as limiting or interfering with the rights of any person to bring and maintain a civil action for damages occasioned by an explosion.

RULES.

Rules.

19. The Commissioner may make rules

- (a) prescribing forms and notices for carrying out this Ordinance;
- (b) prescribing the nature of examinations for permits; and
- (c) generally for the purpose of ensuring the proper care, use and handling of explosives.

SCHEDULE.

FORM 1.

(Section 5 (1))

YUKON TERRITORY BLASTER'S PERMIT

Permit Number.....

It is hereby certified that Mr.....

Address

.....

is authorized to work as a blaster under the provisions of the
Blasting Ordinance.

Date of issue Inspector.....

Subject to the following conditions:

.....

NOTE: *The above permit should be printed on heavy linen paper.*

FORM 2.

(Section 6)

APPLICATION FOR BLASTER'S PERMIT
YUKON TERRITORY.

1. Name Age
2. Address
3. Occupation
4. Qualifications.....
5. Experience in handling and firing explosives (give name of
employer and period of employment)

6. Does your present employment require you to handle and fire explosives?

7. If so, kindly give details of this work:

8. Is firing of explosives done with safety fuse or electricity?

.....
Applicant's Signature

We herewith recommend the above named applicant as a person who, in our opinion, is qualified to handle explosives.

.....
Present Employer *Signature of Employer*
or Blaster making recommendation.

FORM 3.
(Section 9)

TEMPORARY BLASTER'S PERMIT.

Permit Number.....

It is hereby certified that Mr.....

Address.....

.....
is authorized to handle explosives under the provisions of the *Blasting Ordinance* for a period of time not exceeding.....

.....
(ninety days maximum)

Date of issue.....

Inspector or person authorized
by Inspector.

Subject to the following conditions.....

CHAPTER 11.

AN ORDINANCE RESPECTING THE SALE OF
GOODS IN BULK.

SHORT TITLE.

1. This Ordinance may be cited as the *Bulk Sales Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance, Definitions.
- (a) "creditor" means a person to whom the vendor of stock is indebted, whether or not the debt is due, and includes a surety and the endorser of a promissory note or bill of exchange who would, upon payment by him of the debt, promissory note or bill of exchange in respect of which the suretyship was entered into or the endorsement was given, become a creditor of such vendor; "Creditor."
 - (b) "proceeds of the sale" includes the purchase price or consideration payable to the vendor or passing from the purchaser to the vendor on a sale in bulk and the moneys realized by a trustee under a security or by the sale or other disposition of any property coming into his hands as the consideration or part of the consideration for the sale; "Proceeds of sale."
 - (c) "purchaser" includes a person who gives to a vendor real or personal property in barter or exchange for a stock in bulk; "Purchaser."
 - (d) "sale", whether used alone or in the expression "sale in bulk", includes a transfer, conveyance, barter or exchange and an agreement to sell, transfer, convey, barter or exchange, and "sell" has a similar meaning; "Sale."
 - (e) "sale in bulk" means a sale of a stock or part thereof out of the usual course of business or trade of the vendor, or of substantially the entire stock of the vendor, or of an interest in the business of the vendor; "Sale in bulk."
 - (f) "stock" means "Stock."
 - (i) stock of goods, wares, merchandise or chattels ordinarily the subject of trade and commerce, and
 - (ii) the goods, wares, merchandise or chattels in which a person trades or that are produced or used in his business, trade or occupation;
 - (g) "stock in bulk" means any stock or portion thereof that is the subject of a sale in bulk; "Stock in bulk."

- "Trustee," (h) "trustee" means
- (i) an authorized trustee under the *Bankruptcy Act* appointed for the bankruptcy district or division wherein the stock of the vendor or some part thereof is located or the vendor's business or trade or some part thereof is carried on at the time of the sale in bulk thereof,
 - (ii) any trust company licensed or authorized to carry on business in the Territory,
 - (iii) any person named as trustee by the vendor or by the creditors of the vendor in their written consent to a sale in bulk, or
 - (iv) any person appointed as trustee under section 13; and
- "Vendor." (i) "vendor" includes a person who barter or exchanges stock in bulk with another person for other property, real or personal.

SCOPE OF ORDINANCE.

- Persons to whom this Ordinance applies.
3. This Ordinance applies only to sales in bulk by,
- (a) persons who, as their ostensible occupation or part thereof, buy and sell goods, wares or merchandise ordinarily the subject of trade and commerce;
 - (b) commission merchants;
 - (c) manufacturers; and
 - (d) proprietors of hotels, rooming houses, restaurants, motor vehicle service stations, oil or gasoline stations or machine shops.
- Scope of Ordinance.
4. Nothing in this Ordinance applies to or affects a sale by an executor, administrator, receiver, assignee or trustee for the benefit of creditors, authorized trustee under the *Bankruptcy Act*, official receiver or liquidator, a public official acting under judicial process, a trader or merchant selling exclusively by wholesale or an assignment by a trader or merchant for the general benefit of his creditors.

SALES IN BULK.

- Statement of creditors to be furnished.
5. (1) In this section,
- (a) "statement" means the statement referred to in subsection (2), and
 - (b) "declaration" means the declaration referred to in subsection (2).
- (2) Except as provided in this Ordinance, before paying to the vendor any part of the purchase price or giving a promissory note or security for the purchase price or part thereof or executing a transfer, conveyance or encumbrance of property, a purchaser of stock in bulk shall demand of and receive from the vendor, and the vendor shall furnish to the purchaser

a written statement verified by the statutory declaration of the vendor or his duly authorized agent, or if the vendor is a corporation, by the statutory declaration of its president, vice-president, secretary-treasurer or manager.

(3) The statement shall contain the names and addresses of the creditors of the vendor and the amount of the indebtedness or liability due or to become due and payable by the vendor to each of the creditors.

(4) The statement and declaration may be in Form A.

(5) A purchaser may, before obtaining the statement, pay to the vendor a sum not exceeding fifty dollars on account of the purchase price.

(6) From and after the furnishing of the statement and declaration, no preference or priority shall be obtainable by any creditor of the vendor in respect of the stock in bulk or the proceeds of sale thereof by attachment, garnishment proceedings, contract or otherwise. No preference or priority.

6. Before the completion of a sale in bulk,

- (a) the claims of the creditors of the vendor as shown by the written statement referred to in section 5 shall be paid in full; Payment of creditors in full.
- (b) the vendor shall produce and deliver to the purchaser a written waiver of the provisions of Ordinance, other than the provisions of section 5, from creditors of the vendor representing not less than sixty per cent in number and amount of the claims exceeding fifty dollars as shown by the written statement, which waiver may be in Form B; or
- (c) the vendor shall produce and deliver to the purchaser the written consent thereto of creditors of the vendor representing not less than sixty per cent in number and amount of the claims exceeding fifty dollars as shown by the written statement. Consent of creditors to sale.

7. Where a sale in bulk is made with the written consent of the creditors of the vendor under paragraph (c) of section 6, the purchaser shall pay, deliver or convey the entire proceeds of the sale to the person named as trustee by the creditors in the written consent, or if no trustee is named therein, to the trustee named by the vendor or appointed under section 13, to be dealt with as provided by section 8. When proceeds of sale to be paid over to trustee.

8. (1) Where the proceeds of the sale are paid, delivered or conveyed to a trustee under section 7, the trustee shall be a trustee for the general benefit of the creditors of the vendor and shall distribute the proceeds of the sale among the creditors of the vendor in proportion to the amounts of their claims as shown by the written statement and such other creditors of the vendor as file claims with the trustee in accordance with the *Bankruptcy Act*. Distribution of proceeds of sale.

Chap. 11.

Bulk Sales

- Idem. (2) The distribution shall be made in like manner as moneys are distributed by a trustee under the *Bankruptcy Act*, and in making the distribution all creditors' claims shall be proved in like manner, are subject to like contestation and are entitled to like priorities as in the case of a distribution under that Act.
- Powers of creditors, etc. (3) The creditors, vendor and trustee have in all respects the same rights, liabilities and powers as the creditors, authorized assignor and authorized trustee respectively have under the *Bankruptcy Act*, the vendor being deemed for such purpose to be an authorized assignor under that Act and the trustee an authorized trustee under that Act, and the priorities of creditors shall be determined as of the date on which the transfer of stock takes place.
- Publication. (4) Before making distribution, the trustee shall
(a) cause a notice thereof to be published twice in the *Yukon Gazette*, and
(b) allow a period of at least fourteen days to elapse after the last of such publications.
- Idem. (5) Except as provided in subsection (4), no advertisement or notice of the distribution need be published.
- Fees of trustees. 9. The fees or commission of the trustee shall not exceed three per cent of the proceeds of the sale that come to his hands, and in the absence of an agreement by the vendor to the contrary, the fees or commission, together with any disbursements made by the trustee, shall be paid by being deducted out of the moneys to be received by the creditors and shall not be charged to the vendor.
- Sale void against creditors unless Ordinance complied with. 10. (1) A sale in bulk in respect of which this Ordinance has not been complied with shall be deemed to be fraudulent and void as against the creditors of the vendor, and every payment made on account of the purchase price, every delivery of a note or other security therefor and every transfer, conveyance and encumbrance of property by the purchaser shall be deemed to be fraudulent and void as between the purchaser and the creditors of the vendor.
- When purchaser personally liable. (2) Where this Ordinance has not been complied with in respect of a sale in bulk and the purchaser has received or taken possession of the stock in bulk, he is personally liable to account to the creditors of the vendor for the value thereof including all moneys, security or property realized or taken by him from, out of or on account of the sale or other disposition by him of the stock in bulk.
- Estoppel. (3) In an action brought or proceedings had or taken by a creditor of the vendor within the time limited by section 12 to set aside or have declared void a sale in bulk, or in the event of a seizure of the stock or some part thereof in the possession of the purchaser under judicial process issued by or on behalf of a creditor of the vendor within such period, the purchaser

shall be estopped from denying that the stock in his possession at the time of the action, proceedings or seizure is the stock purchased or received by him from the vendor.

(4) Where at the time action is brought, proceedings are taken or a seizure is made as referred to in subsection (3) and the stock in the possession of the purchaser or any part thereof was in fact purchased by him subsequent to the sale in bulk from a person other than the vendor of the stock in bulk and has not been paid for in full, the creditors of the purchaser are, to the extent of the amounts owing to them for the goods so supplied, entitled to share with the creditors of the vendor in the amount realized on the sale or other disposition of the stock in the possession of the purchaser at the time of the action, proceedings or seizure in like manner and within the same time as if they were creditors of the vendor. Rights of creditors.

GENERAL PROVISIONS.

11. In a proceeding wherein a sale in bulk is attacked or comes in question, whether directly or collaterally, the burden of proof that this Ordinance has been complied with is upon the person upholding the sale in bulk. Burden of proof on purchaser.

12. No action shall be brought or proceedings had or taken to set aside or have declared void a sale in bulk for failure to comply with this Ordinance unless the action is brought or proceedings had or taken within six months from the date of the completion of the sale. Limitation of time in which to bring action to set sale aside.

13. Where the creditors of the vendor in their written consent to a sale in bulk have not named a trustee and the vendor has not named one, a judge, upon the application of a person interested, shall by order appoint a trustee and fix the security, if any, to be given by him. Appointment of trustee by judge.

SCHEDULE A.

FORM A.

(Section 5)

STATEMENT AND DECLARATION.

Statement showing names and addresses of all creditors of

Name of Creditors	Post Office Address	Nature of indebtedness	Amount	When Due

I,, of in the Yukon Territory, do solemnly declare that the above is a true and correct statement of the names and addresses of all creditors of, and shows correctly the amount of indebtedness or liability due, owing, payable or accruing due or to become due and payable by to each of said creditors (*If the declaration is made by an agent, add: I am the duly authorized agent of the vendor and have a personal knowledge of the matters herein declared to.*)

(Or, if the vendor is a Corporation)

I,, of in the Yukon Territory, do solemnly declare that the above is a true and correct statement of the names and addresses of all the creditors of the (*name of Corporation*) and shows correctly the amount of the indebtedness or liability due, owing, payable or accruing due, or to become due, and payable by the Corporation to each of the said creditors, and that I am the of the said Corporation, and have a personal knowledge of the matters herein declared to.

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and

effect as if made under oath, and by virtue of the *Canada Evidence Act*.

Declared before me at the
 of
 in the Yukon Territory this
 day of
 A.D. 19

A Commissioner, etc.



FORM B.

(Section 6)

WAIVER.

We, the undersigned creditors of
 of in the Yukon Territory, do hereby
 waive the provisions of the *Bulk Sales Ordinance* of the Yukon
 Territory in so far as the said Ordinance would apply to,
 affect or cause to make fraudulent or void the sale in bulk
 by the said of his stock of goods,
 wares, merchandise and fixtures, or part thereof, or an inter-
 est in his business (*as the case may be*) to
 of in the Yukon Territory and we do
 hereby admit having received notice of the intended sale and
 agree not to disturb, dispute or question the validity of the
 said sale in any way under the provisions of the said Ordinance.

Dated this..... day of, A.D. 19.....

Signed in the presence of.....

CHAPTER 12.

AN ORDINANCE RESPECTING BUSINESSES,
CALLINGS, TRADES AND OCCUPATIONS,
AND THE ISSUE OF LICENCES
THEREFOR.

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as the *Business Licence Ordinance*.

INTERPRETATION.

"Resident" defined. **2.** In this Ordinance, "resident" means a person who resides in the Territory for not less than eight months in each year.

Application. **3.** This Ordinance does not apply to those portions of the Territory that are situated within the boundaries of any municipality.

Issue of licence. **4.** (1) The Commissioner or a person authorized by him may issue licences under this Ordinance.

Where insurance for employees required. (2) Where a person is required by the *Workmen's Compensation Ordinance* to insure and maintain insurance for the protection of his employees, the Commissioner shall refuse to issue a licence to that person under this Ordinance if he fails to produce satisfactory evidence showing that he has complied with the *Workmen's Compensation Ordinance*.

Commissioner may suspend or cancel. (3) Where a person who is required by the *Workmen's Compensation Ordinance* to insure and maintain insurance for the protection of his employees has failed to comply with that Ordinance, the Commissioner shall suspend or cancel the licence issued to such person.

Prohibition. **5.** (1) No person shall carry on within the Territory any of the businesses, callings, trades or occupations specified in the Schedule hereto, without having first obtained a licence for the purpose, and paid the fee therefor, as shown in the said Schedule.

Saving provision: newspaper publisher. (2) Notwithstanding anything in this Ordinance, no licence is required by this Ordinance to be obtained by any person for the purpose of carrying on within the Territory the business of publishing a newspaper.

Partnership. **6.** In the case of persons engaged in, following, practising, carrying on or exercising any trade, occupation, profession, business or calling as members of a partnership, it shall be sufficient compliance with this Ordinance if one licence is taken

out by the partnership in the partnership name in respect of that trade, occupation, profession, business or calling, and the licence fee is paid thereon.

7. The licence fees mentioned in the Schedule hereto, where not otherwise specially expressed, shall be payable by the person engaging in, following, practising, carrying on or exercising the trades, occupations, businesses, professions or callings therein mentioned for each store, office, house or place of business, calling or trade occupied or carried on by him, either in his own name or in the name of an agent or representative in any part of the Territory.

Licence fee payable by person carrying on business.

8. Any person engaging in, following, practising, carrying on or exercising any trade, occupation, profession, business or calling described in section 5 without having taken out and had granted to him and holding a licence in that behalf is guilty of an offence under this Ordinance and liable on summary conviction to a penalty not exceeding one hundred dollars, together with the amount that he should have paid for such licence, which amount and penalty shall, for the purpose of recovery under this Ordinance, be held to be one penalty, and may be recovered on summary conviction at the instance of any constable, police officer or other agent appointed by the Commissioner for the purpose of collecting any revenue of the Territory.

Offence and penalty.

9. Where a person is required pursuant to any other Ordinance to obtain a licence for the purpose of carrying on within the Territory any business, calling, trade or occupation, no licence is required to be obtained by him for that purpose pursuant to this Ordinance.

Other Ordinances.

10. Any person commencing business after October 1st in any year shall pay one-half of the licence fee mentioned in the Schedule hereto.

One-half fee.

11. Every application for a Territorial trade licence shall be in writing, and shall set forth the following particulars:

Application to be in writing.

- (a) the name, occupation and address of the applicant;
- (b) the nature of the licence applied for;
- (c) the place where the trade, occupation, business, profession, employment or calling, if licensed, will be carried on; and
- (d) such further and other particulars as the Commissioner may require.

12. (1) Unless it is expressly issued for a lesser period and so endorsed, a licence shall be for the fiscal year current at time of issue thereof, and shall expire on the thirty-first day of March next thereafter.

Expiry date.

(2) The fee payable in respect of any licence shall be an annual fee whether the licence is issued on the first day of April in any year or any later day, unless it is expressly paid for a licence for a shorter period, or a particular occasion or event and the licence is so endorsed.

Transfer
of licence.

13. (1) With the consent of the Commissioner, a licence may be transferred if the applicant for such transfer of licence files with the Commissioner an application in writing setting forth:

- (a) the name, occupation and address of the applicant;
- (b) the nature and number of the licence to be transferred;
- (c) the name and address of the licensee from whom the licence will be transferred;
- (d) the place where the applicant will carry on business under the licence;
- (e) the real consideration or reason for the transfer of the licence; and
- (f) such further and other particulars as the Commissioner may require.

(2) A fee of one dollar shall be paid to the Commissioner upon the filing of every such application.

Power to
suspend or
revoke
licence.

14. (1) Wherever by this Ordinance power is given to the Commissioner to grant or issue licences for any trade, business, profession, occupation, calling, employment or purpose, he shall have power to revoke or to suspend any licence so granted in the event of the holder of such licence being convicted of a breach of any law or Ordinance relating to the trade, business, profession, occupation, calling, employment or purpose in respect of which such licence was granted or issued.

(2) In such case there shall be no refund made of any part of the fee paid by the licensee in respect of such licence.

SCHEDULE.

LICENCES AND FEES.

1. Accountants—An Accountant, whether a chartered accountant or otherwise, who keeps his own business\$ 25.00
2. Agents taking orders for commodities without a place of business in the Yukon Territory:
 - (a) if a resident 25.00
 - (b) if a non-resident 100.00
3. Auctioneer 25.00
4. Baker—Owning or keeping a bakeshop or delicatessen 25.00
5. Banking Business—For each Branch 100.00
6. Barber—Keeping Barbershop:
 - (a) for first chair 25.00
 - (b) for each additional chair 5.00
7. Billiard and Pool Hall—Operating a Billiard or Pool Room for hire:
 - (a) for first table 25.00
 - (b) for each additional table 5.00
8. Blacksmith 25.00
9. Bottling Works—Carrying on the work of bottling 50.00
10. Bowling Alley—Keeping Bowling Alley:
 - Each Alley 25.00
11. Broker or Broker's Agent—Carrying on business of Broker of any kind, representing any Broker or Brokerage Company, or soliciting business for any Broker or Brokerage Company 50.00
12. Butcher—Meat Storage Plant—Keeper of Meat Market 50.00
13. Cigar Stand or Store—Keeping a Cigar Stand or Store 25.00
14. Contractors—Carrying on Business employing any building tradesman:
 - (a) if a resident 50.00
 - (b) if a non-resident 100.00
15. Diamond Driller—For each drill 10.00
(Total fee not to exceed \$50.00)

16. Drug Stores that sell goods other than pharmaceutical products	50.00
17. Dry Cleaners	25.00
18. Electric Light and Power Plant—Keeping an electric light plant and furnishing light or power for sale, or retailing electric light or power	100.00
19. Freightling—By motor vehicle	25.00
20. Garage Keeper	50.00
Filling Station	10.00
21. Hawker or Pedlar	50.00
22. Launderer—Keeping a steam laundry	50.00
23. Merchants selling petroleum products in bulk	50.00
24. Merchant—General	50.00
25. Mill—Operating a Sawmill	50.00
26. Motor Vehicle Dealer	25.00
27. Photographer	25.00
28. Printers	50.00
29. Professions—Practising any profession, the fee for which is not fixed by any other Ordinance	25.00
30. Public Telephone System	100.00
31. Restaurant Keeper	25.00
32. Rifle or Shooting Gallery	25.00
33. Taxicab Operator	25.00
34. Transportation by Water—Any person or Company carrying passengers or freight for a fee on waterways within Yukon Territory, by a mechanically driven boat, or a mechanically driven boat towing barges—licence fee to be computed at 50 cents per ton on the net tonnage of both boat and barge.	
35. Hotel or Rooming House:	
(a) with three or more rooms to rent	25.00
(b) with ten or more rooms to rent, and having a licence for sale of beer	50.00
(c) a Boarding House	10.00
36. Keeping an Automatic Record Playing Machine for public entertainment, and for which any fee or compensation is directly or indirectly received. For each machine	15.00
37. Any business of any nature whatsoever not referred to in this Schedule, and in respect of which the licence fees are not imposed herein, nor by the provisions of any other Ordinance	25.00

CHAPTER 13.

AN ORDINANCE RESPECTING CEMETERIES AND BURIAL SITES.

SHORT TITLE.

1. This Ordinance may be cited as the *Cemeteries and Burial Sites Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance, Definitions.
- (a) "company" means a cemetery company incorporated under this Ordinance or under any Ordinance respecting cemeteries in force in the Territory before the 17th day of November, 1955; "Company."
 - (b) "municipality" means a municipality as defined in the *Municipal Ordinance*; and "Municipality."
 - (c) "trustees" means trustees who hold land as a cemetery for the use of religious societies or congregations under this Ordinance or under any Ordinance respecting cemeteries in force in the Territory before the 17th day of November, 1955. "Trustees."

PART I.

CEMETERIES.

CEMETERY COMPANIES.

3. Ten or more persons may form a company for the purpose of establishing one or more public cemeteries outside the limits of a municipality or, if permission to do so is given by a by-law of the municipal council, within the limits of a municipality, if they Formation of companies.

- (a) subscribe stock to an amount adequate to purchase the ground required for a cemetery;
- (b) execute an instrument in Form A;
- (c) pay to the treasurer of the proposed company twenty-five per cent of the capital stock intended to be raised; and
- (d) deposit the instrument mentioned in paragraph (b) 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.

4. Where an instrument has been deposited with the Territorial Secretary pursuant to section 3 and he is satisfied that the provisions of this Ordinance have been complied with, the Territorial Secretary may cause to be published in the *Yukon Gazette* Notice of formation.

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a notice setting out that the company has been formed, the name of the company and the names of the shareholders of the company.

Powers.

5. From and after the date of publication of the notice referred to in section 4, the persons named in the notice and their successors are a body corporate and politic under the name mentioned therein, with power to acquire, hold and alienate both real and personal property for the purposes of the company.

Interest on paid-up stock.

6. (1) Out of the proceeds of the sales by a company of burial sites in a cemetery, the company may pay to its shareholders, who do 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, not exceeding five per cent per annum, as may be determined by the by-laws of the company, and may also repay to such shareholders the amount of paid-up stock held by them not represented by lands in the cemetery.

Rights of persons holding paid-up stock.

(2) Every person who holds fully paid-up shares of the capital stock of a company that are not represented by land in the cemetery is entitled to all the rights of shareholders in respect of such shares until they are repaid to him by the company.

Repayment by company.

(3) A person ceases to be a shareholder in respect of any share repaid to him by the company.

No dividend, etc., payable to shareholder.

(4) Except as provided by this section, no dividend or profit of any kind shall be paid by the company to a shareholder.

Application of proceeds of sale.

7. (1) Subject to section 6, one-half of the proceeds of all sales of burial sites in a cemetery made by a company shall be applied first 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.

Idem.

(2) After the purchase money of all land acquired by a company has been paid, the proceeds of all future sales of burial sites in a cemetery and any gifts or other revenue the company may acquire shall be applied exclusively to the preservation, improvement and embellishment of the cemetery and to the incidental expenses thereof.

Owner of lot a shareholder.

8. Every proprietor of a lot in a cemetery of one hundred square feet or more in area who has paid twenty-five per cent or more of the price of the lot is a shareholder of the company, and every such lot represents a share in the company.

Size of lots. Rights of owners.

9. A company may sell a lot of any size, but no proprietor of a lot or lots under one hundred square feet in area thereby becomes a shareholder of the company.

10. A company may reserve any part of a cemetery held by it upon such terms as may be agreed upon for the exclusive use of any religious society or congregation. Reservations for religious societies, etc.

11. (1) A company shall furnish graves for strangers free of charge. Graves for strangers.

(2) A company shall furnish graves for indigents free of charge if a minister or clergyman of the denomination to which the deceased belonged or the Commissioner or a person authorized by him certifies that the relatives of the deceased are indigent and cannot afford to purchase a burial lot or that the deceased has no relatives. Graves for poor.

12. A company shall permit the religious denomination to which a deceased belongs to perform its usual religious rites on the interment of the deceased. Religious rites.

DIRECTORS.

13. The affairs and property of a company shall be managed by five directors, a majority of whom constitute a quorum. Directors.

14. Every shareholder who has paid to the company not less than five dollars on his share or shares is eligible to be elected director. Qualifications of director.

15. The first directors shall be elected by ballot from among the subscribers to the instrument mentioned in section 3, and thereafter the directors shall be annually elected by ballot by the shareholders on the 1st Monday in June in each year. Election of directors.

16. A shareholder is entitled to one vote at an election of directors for every share he holds in excess of ten shares, and for the purposes of this section a share shall not be considered unless at least two dollars have been paid in respect thereof. Qualifications of shareholder to vote.

17. (1) The directors of a company or a majority of them shall, at their first meeting, elect one of their number to be president of the company. President.

(2) The president of a company, or if he is absent, another director chosen by the directors for the occasion, shall preside at every meeting of the directors of a company and shall not vote, except in a case of an equality of votes, when he has the deciding vote. President to preside.

18. (1) The directors may call for instalments on the sums subscribed and may appoint a time for the payment thereof. Calls on stock.

(2) Where instalments are called under subsection (1) and are not paid at the time specified for payment, the rights of the subscriber and every instalment formerly paid are forfeited to the company unless the directors think it expedient to remit the forfeiture. Forfeiture and remission.

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No remission after one year.

(3) A forfeiture may not be remitted if the instalment called is not paid with interest within one year after the day when it ought to have been paid.

Minutes.

19. (1) The directors shall record in a book kept for the purpose minutes of all their proceedings and by-laws.

Record of monies.

(2) The directors shall record in a book kept for the purpose an accurate account of all monies received and expended by them.

Access to records.

(3) Every shareholder of a company shall have access to the records kept by the directors under subsections (1) and (2) for the purpose of searching and making extracts therefrom without payment of any fee.

TRUSTEES OF RELIGIOUS BODIES.

Organization of board of trustees.

20. (1) Subject to subsection (2), where one or more religious societies or congregations in the Territory desire to take a transfer of land for the purpose of establishing a cemetery for the use of the society or congregation or for the use in common of the societies or congregations, the society or congregation or societies or congregations may appoint trustees to whom and their successors, to be appointed in such manner and subject to such rules as may be specified in the transfer, the land requisite for that purpose may be transferred; and the trustees and their successors in perpetual succession by the name expressed in the transfer may take, hold and possess the land and maintain and defend actions for the protection thereof or of their property therein.

Except with permission, land to be outside municipality.

(2) Trustees cannot take, hold or possess land for the purpose set out in subsection (1) within the limits of a municipality unless permission to do so is given by a by-law passed by the municipal council of the municipality.

Appointment of successors of trustees.

21. (1) Where a transfer of land for the purpose of establishing a cemetery for the use of one society or congregation does not specify the manner in which the successors of the trustees therein named are to be appointed, the society or congregation may, at a meeting called in accordance with its constitution or in accordance with the practice of the church with which it is connected, by the votes of the majority of those persons present at the meeting who, by such constitution or practice are entitled to vote in respect of church business, pass a resolution specifying the manner in which the successors of the trustees for the term then being are to be appointed.

Idem.

(2) Where a transfer of land for the purpose of establishing a cemetery for the use of two or more societies or congregations does not specify the manner in which successors of the trustees therein named are to be appointed, the societies or congregations may enter into an agreement with each other in writing in such

manner as seems to them best, and the agreement shall specify the manner in which the successors of the trustees for the term then being are to be appointed.

22. Trustees are personally liable for any judgment recovered against them as trustees. Trustees personally liable.

23. Trustees shall keep a record of all rules made by them under this Ordinance, and such rules shall be open for inspection by every member of the society or congregation or societies or congregations. Records.

GENERAL.

24. Land that has been used as a cemetery and held by a company or trustees shall be held and conveyed exclusively as a cemetery. Purposes of land.

- 25.** (1) A company or trustees shall Cemetery to be fenced, kept in good repair, etc.
- (a) enclose every part of the cemetery held by them with walls or fences of a height of at least four feet;
 - (b) keep such cemetery and its buildings and fences in good order and repair;
 - (c) take every reasonable step required to prevent animals from trespassing and straying in such cemetery; and
 - (d) construct and maintain all proper and necessary sewers and drains in and about such cemetery for draining it and keeping it dry.

(2) The company or trustees may cause any sewer or drain for draining or keeping the cemetery dry to open into an existing sewer with the consents in writing of the persons having the management of any street or road where the existing sewer is located and of the owner or occupier of any land through which the opening is intended to be made, and shall restore the street, road or land to as good a condition as it was before being disturbed. Repairs to drains, etc.

26. The location of every cemetery is subject to the approval of the Commissioner or, where it is within the limits of a municipality, of the municipal council of the municipality. Location of cemetery subject to approval of Commissioner or municipal council.

27. Real estate of a company or trustees and the lot or plots that have been conveyed by the company or trustees to individual proprietors for burial sites are exempt from taxation of any kind and are not liable to be seized or sold under execution. Exemption from taxation and execution.

28. The directors of a company may pass by-laws and trustees may make rules By-laws and rules.

- (a) respecting the laying out and management of a cemetery held by them,

- (b) respecting the sale of land in such cemetery,
- (c) respecting the erection of tombs, monuments and grave-stones in such cemetery, and
- (d) providing that burials within such cemetery are conducted in a decent manner.

Record of burial.

29. (1) The directors of a company and trustees shall keep a record of all burials showing the name, age, occupation and date of burial of every person buried in a cemetery held by them or, if they cannot obtain this information, they shall show in the record why the information cannot be obtained.

Search.

(2) Every person is entitled to search and make extracts from a burial record kept under this section without paying a fee.

Chapels and vaults.

30. (1) A company or trustees may erect within the bounds of a cemetery held by them a chapel and a vault or a vault alone for use as a repository for the dead during the winter months.

Chapels and vaults to be of permanent construction.

(2) Any chapel or vault referred to in subsection (1) shall be of permanent construction and all vault windows and other openings shall be protected by fast wooden or metal sheeting shutters.

No connections between vault and chapel.

(3) There shall be no open connections between a vault and a chapel except underneath the floor for the reception of a coffin.

No burial in vault, chapel, etc.

31. Except as described in section 30, no person shall be buried in a vault or in or under any chapel or other building in a cemetery or within fifteen feet of the outer wall of any chapel or building in a cemetery.

Map of cemetery to be deposited.

32. (1) A company or trustees shall deposit with the Territorial Secretary, or where the cemetery is within a municipality, with the municipal clerk of the municipality, a map of each cemetery held by them, whether or not a certificate of title has been granted for such land, signed by the person or persons authorized by the by-laws to sign for the company, or the trustees and certified by a Dominion land surveyor whose signatures are duly witnessed and attached.

Description of map.

(2) The map referred to in subsection (1) shall be made on a scale of not less than one inch to four chains and shall show

- (a) the number of the lots and blocks in a townsite or the number of the lot and group, or the name of the district or reservation, as the case may be, in which the land lies;
- (b) all boundary lines within the limits of the land shown on the map of blocks and lots or reservations;
- (c) all paths, lanes, woods, passages, thoroughfares or reservations set apart within the cemetery with the courses and woods thereof;

- (d) the length and width of all burial lots;
- (e) the courses of all division lines between burial lots; and
- (f) the courses of all streams or waters within the limits of the land included in the map.

(3) Burial lots in a cemetery shall be marked on the map mentioned in this section with distinct numbers or symbols. Marking of lots.

33. Every transfer of a burial lot in a cemetery shall be in writing and signed by the directors of the company or trustees who hold the cemetery and shall describe the lot clearly with reference to its description upon the map deposited under section 32. Transfer of lots.

34. All burial lots in a cemetery when numbered and transferred by the company or trustees as burial sites shall be indivisible but may afterwards be held and owned in individual shares. Lots may be owned in shares.

35. (1) A company or trustees shall keep a register of the lots in a cemetery held by them, showing with respect to each lot Register of lots.

- (a) its distinct number or symbol with respect to the map filed under section 32;
- (b) its dimensions;
- (c) whether or not it has been transferred or conveyed;
- (d) the name or names and addresses of the owner or owners of the lot;
- (e) whether or not it has been used as a burial site;
- (f) the name of every person buried in the lot; and
- (g) the date of every burial in the lot.

(2) Every company or trustees who hold a cemetery shall file in the office of the Territorial Secretary, or where the cemetery is within a municipality, with the municipal clerk of the municipality, a copy of the register kept under this section signed by the person or persons authorized by the by-laws to sign for the company or trustees and authenticated by the affidavit of such person or persons or trustees. Copy of register to be filed with Territorial Secretary.

(3) After a copy of the register has been filed under this section, a company or trustees shall on or before the 1st day of January in each year thereafter file in the office where the copy is filed a statement certified by the affidavit of the directors of the company or trustees stating every addition or alteration entered upon or made to the register since the date when the copy of the register or the last such statement was filed. Additions to register.

36. (1) Any company or trustees who cause or allow to be brought to or flow into any river, spring, well, stream, canal, reservoir, aqueduct, lake, pond or watering place any offensive matter from a cemetery held by them whereby the water is fouled, is guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars. Befouling of water.

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Action for
fouling water.

(2) In addition to the penalty provided by subsection (1), any person having a right to use the water may sue the owner of a cemetery and may recover any special damage suffered by him by reason of the water being fouled.

Damages.

(3) Where, in an action mentioned in subsection (2), no special damage is alleged or proved, the court shall award a sum not exceeding ten dollars for every day during which the fouling has continued after the expiration of twenty-four hours from the time when notice of the fouling was served by the person mentioned in that subsection upon the company or trustees who hold the cemetery.

Offences.

37. No person shall

- (a) wilfully destroy, mutilate, deface, injure or remove any tomb, monument, marker, gravestone or other structure placed in a cemetery or any fence, railing or other work for the protection or ornament of a cemetery, or any tomb, monument, marker, gravestone or other structure or any lot or plot within a cemetery;
- (b) wilfully destroy, cut, break or injure any tree, shrub or plant in a cemetery;
- (c) play in any game or sport in a cemetery;
- (d) except at a military funeral, discharge firearms in a cemetery;
- (e) wilfully disturb persons assembled for the purpose of burying a body in a cemetery; or
- (f) commit a nuisance in a cemetery.

Action by
company or
trustees.

38. (1) Any person who commits any of the acts prohibited by section 37 is liable to an action for damages or trespass in the name of the company or trustees who hold the cemetery and to pay all damages occasioned by his unlawful act.

Application
of damages.

(2) A company or trustees who collect any money as damages pursuant to subsection (1) shall apply it to the reparation and reconstruction of any property destroyed.

Penalty.

39. Every company or trustees who violate any provision of this Ordinance for which no penalty is otherwise provided is guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars.

Only
company or
trustee to
hold lands for
cemetery.

40. Every person who, not being a company or a trustee, holds land for a cemetery is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars, and such person is liable for a separate offence for each day that he so holds.

PART II.

BURIAL SITES.

41. In this Part, "burial site" means the site of any human grave or graves, tomb, burial mound or other burial place not located within a cemetery. Definition of "burial site".

42. Except as permitted by the Commissioner in writing and in accordance with this Part, no person shall excavate or investigate a burial site or remove or disturb a body, marker, monument or fence from a burial site. No disturbance of burial sites.

43. No person shall deposit garbage, rubble, brush, ashes or refuse within a distance of three hundred feet of a burial site. Prohibitions.

44. Except with the approval in writing of the Commissioner, no person shall erect any marker, monument, sign or notice on any burial site unless he is a relative of a person whose body is buried or a member of the Royal Canadian Mounted Police engaged in marking or protecting such site in the course of his duties. No markers to be erected on burial sites.

45. (1) The Commissioner may grant a permit to such persons or organizations as he may deem desirable authorizing such persons or organizations to care for, ornament and protect a burial site, but any such permit does not entitle a person to demand any remuneration for services performed thereunder from the Territory or any person. Permit to care for burial site.

(2) The Commissioner may, at any time, revoke any permit granted under subsection (1). Revocation of permit.

(3) During the month of January in each year every person who holds a permit under subsection (1) shall furnish a report in duplicate to the Commissioner stating in detail the work done under his permit during the preceding year. Report by permit holder.

46. Any person who violates any provision of this Part is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars or to imprisonment for a period not exceeding six months, or to both fine and imprisonment. Offence and penalty.

FORM A.

RESOLUTION TO FORM CEMETERY COMPANY.

Be it remembered that on this _____ day of _____
in the year one thousand nine hundred and _____
we, the undersigned shareholders, met at _____
in the Yukon Territory and resolved to form a cemetery com-
pany to be called The _____ Cemetery
Company under the provisions of the *Cemeteries and Burial
Sites Ordinance*; and we do hereby agree that the capital stock
of the said company shall be _____
dollars to be divided into shares of _____
dollars, each such share entitling the holder to one hundred
surface square feet; and we, the undersigned shareholders, 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 by-laws of the said company to be made
in that behalf.

Name	No. of Shares	Amount

CHAPTER 14.

AN ORDINANCE TO PROVIDE FOR CHANGE OF NAME.

1. This Ordinance may be cited as the *Change of Name Short Title Ordinance*.

2. In this Ordinance, Definitions.
- (a) "change" means any change by way of alteration, sub-stitution, addition or abandonment; "Change."
 - (b) "child" means an unmarried child under the age of twenty-one years, including an adopted child who has been adopted in accordance with the law of the place at which the adoption was affected; "Child."
 - (c) "given name" includes Christian name and baptismal name; "Given name."
 - (d) "name" includes given name and surname; and "Name."
 - (e) "surname" includes family name and patronymic. "Surname."

3. (1) Subject to subsections (2) and (3), no person shall change his name except under this Ordinance. Changes to be under Ordinance.

(2) This Ordinance does not apply to a change of surname to that of her husband by a woman upon marriage, the adoption of her maiden name by a woman upon dissolution of her marriage or to a change of name effected under the *Adoption Ordinance*. Certain exceptions.

(3) Nothing in this Ordinance shall be deemed to affect any change of name lawfully effected prior to the 29th day of March, 1954. Prior changes.

4. (1) Subject to subsections (2) and (3), any person who is twenty-one or more years of age, is a Canadian citizen and has resided in the Territory for at least one year prior to the date of his application may apply to the Court for a change of name. Who may apply.

(2) Where a person has not resided in the Territory for at least one year prior to the date of his application for a change of name, he may apply to the Court for an order allowing him to make such application and the Court may make such order where satisfied that hardship would otherwise be caused. Special Court Order where residence insufficient.

(3) No married woman shall, during the life of her husband, apply for a change in the surname acquired from him. Married woman cannot apply re surname.

Consents.

5. The provisions of this Ordinance requiring consent to a change of name do not apply to a person who is under the age of fourteen years or to a person who by reason of mental or physical infirmity is unable to give consent and the Court may, in any case in which a person whose consent is required cannot be found or where for any other reason it is satisfied that a consent may be dispensed with, dispense with the requirement of a consent.

Mentally incompetent adult children.

6. Notwithstanding the definition of "child", where, under this Ordinance, a change of name affecting unmarried children under the age of twenty-one years may be obtained, the Court may, in its discretion, direct that the application and resulting order shall extend to unmarried children who are over that age and who, by reason of mental incapacity, are unable to apply for a change of name.

Married man.

7. A married man who applies for a change of name
- (a) shall, respecting any change of his surname, obtain the consent of his wife;
 - (b) shall, respecting any change of his surname, also apply for a like change in the surname of his wife and all his or their children;
 - (c) may, with the consent of his wife and any child concerned, apply for a change in the given name of his wife or of any or all of his or their children; and
 - (d) may, with the consent of such child and that of the wife of such child, apply for a change in the name of a married male child, who is under the age of twenty-one years, the wife of such child and any children of such child.

Widower or widow.

8. A widower or a widow who applies for a change of name
- (a) shall, respecting any change of his or her surname, also apply for a like change in the surname of all his or her children;
 - (b) may, with the consent of any child concerned, apply for a change in the given name of any or all of his or her children;
 - (c) may, with the appropriate consent of any child concerned, apply for a change in the name of any children that are in his or her lawful custody and that are the children of a deceased wife or husband; and
 - (d) may, with the consent of such child, and that of a wife of such child, apply for a change in the name of a married male child who is under the age of twenty-one years, the wife of such child, and any children of such child.

Divorced person.

9. (1) Subject to subsection (3), a person whose marriage has been dissolved may apply for a change of name and may, with the consent of the other parent, if living, and with the

consent of the children affected, apply for a like change in the surname or a change in the given names of any or all of his or her children that are in his or her lawful custody.

(2) An application under this section shall indicate whether or not the other parent is living and shall be accompanied by such proof respecting the dissolution of the marriage and custody of the children as the Court may require. Nature of application.

(3) Where a woman, whose marriage has been dissolved, re-marries, she must obtain the consent of her husband by re-marriage if she applies for a change in the surname of her children to that of her husband. Divorced woman who re-marries.

10. (1) A widow who re-marries or an unmarried mother who marries may, with the consent of the man she marries and the consent of her children, apply for a change in the surname of her children to that of such man. Marriage by widow or unmarried mother.

(2) An unmarried mother may apply for a change of name and may, with their consent, apply for a change of the names of any or all of her children living with her. Unmarried mother.

11. (1) Every application for a change of name shall be filed with the Clerk of the Court together with such other documents as may be required under this Ordinance and an application fee of ten dollars. Filing of application.

(2) Every application for a change of name shall set forth Contents.

- (a) the surname and given names of the applicant;
- (b) the address of the applicant and the date and place of his birth;
- (c) the full name of the applicant's father and the maiden name in full of his mother;
- (d) where the applicant is married, the name in full of the spouse, the date and place of marriage, the full name of the spouse's father and the maiden name in full of the spouse's mother;
- (e) a statement that the applicant is a Canadian citizen;
- (f) the occupation or calling of the applicant;
- (g) full particulars of any civil or criminal action pending against the applicant, any chattel mortgage, lien or other encumbrance registered against the property of the applicant and, if none, a statement to that effect;
- (h) the change of name desired and full particulars of any previous change of name or statement that there was none;
- (i) the names, ages and particulars of all persons whose consents are required and if a consent has not been obtained the reason for it;
- (j) the names, ages and particulars of all persons whose names may be changed as a result of the application; and
- (k) a statement of the reasons for desiring a change of name.

Other documents.

(3) Every application for a change of name shall be accompanied by

- (a) an affidavit by the applicant deposing that the application is made in good faith and for no improper purpose, that the statements set out in the application are true and that, unless a Court order under subsection (2) of section 4 has been obtained, the applicant has resided in the Territory for at least one year immediately prior to the application;
- (b) a certificate of the sheriff of the Territory as to the existence of any unsatisfied executions against the property of each person whose name may be changed as a result of the application; and
- (c) such consents, in writing, or other documents that are required by this Ordinance respecting the particular application in question, including such proof as the Court may require that the applicant is a Canadian citizen.

Objection to application.

12. Any person who objects to a change of name shall file his objection in writing with the Clerk of the Court and pay a filing fee of five dollars.

May grant without hearing or set a hearing.

13. (1) Where an application for a change of name has been filed, the Court shall, where no objection to the application has been filed and it is satisfied that the application and all supporting documents are in order and may be granted, grant the application without a hearing and shall, in any other case, appoint a time and place for the hearing of the application.

Hearing.

(2) At a hearing the Court may require the applicant, any person whose name will be affected by the application and any other person who, in the opinion of the Court, has information respecting the application or any circumstances connected therewith to give evidence under oath and examine any such person or permit him to be examined by any interested person.

Where rejected on hearing.

14. (1) Where the Court is of opinion on a hearing that any change of name that would result from the granting of an application might reasonably cause mistake or confusion or be a cause of embarrassment or inconvenience, or has been sought for any improper purpose or would on any other ground be objectionable, the Court shall refuse the application and make an order to that effect.

Where allowed.

(2) Where the Court is of opinion on a hearing that the application should in whole or in part be granted, it shall make an order to that effect.

Order.

15. (1) An order made under this Ordinance shall provide for such changes of names as the Court deems proper having regard to the nature of the application, objections thereto or any other evidence adduced, the relationship and status of persons affected thereby and all other relevant circumstances and the order shall have effect according to the tenor thereof.

(2) Every such order shall be entered by the Clerk of the Court who shall send two certified copies thereof and a certified copy of the application and supporting documents to the Registrar General of Vital Statistics and shall also send to the sheriff a certified copy of the order and any particulars shown on the application respecting any judgment, pending action, chattel mortgage, lien or other registered encumbrance relating to any person affected by the order.

Clerk to enter and transmit to certain persons.

(3) Where the sheriff of the Territory has received a copy of the order, and any particulars pursuant to subsection (2) of section 15, he shall enter and re-index any such judgment pending action, chattel mortgage, lien or other registered encumbrance under the name as changed.

Sheriff to note change.

16. (1) Any person may obtain from the Clerk of the Court a certified copy of an order effecting a change of name and such certified copy is conclusive evidence of its contents.

Certified copy may be obtained.

(2) Subject to the *Vital Statistics Ordinance*, and without restricting the effect that a change of name may have at law, a person whose name has been changed under this Ordinance is, upon production of the certified copy of the order and satisfactory proof of identity, entitled to have a memorandum of the change of name endorsed on any record, certificate, instrument, document, contract or writing, whether public or private.

Persons entitled to have change endorsed.

17. (1) Every person who has reason to believe that an order effecting a change of name has been obtained by fraud, misrepresentation or for an improper purpose may apply to the Court for an annulment of the order.

Application to annul.

(2) An application for annulment shall be accompanied by an affidavit of the applicant setting out the reasons therefor and by a filing fee of five dollars.

Affidavit and fee.

(3) The Court may refuse such application or may set a time and place for the hearing of the application and shall, upon such hearing, have power to call such witnesses and hear such evidence as it deems proper and shall make such order as it deems proper refusing the application or annulling the order of change of name in whole or in part.

Hearing and order.

(4) The Clerk of the Court shall enter an annulling order and suitably endorse the previous order that is wholly or partially annulled, shall send two certified copies of the annulling order to the Registrar General of Vital Statistics and one certified copy to the sheriff of the Territory who shall amend their records accordingly, and one certified copy to any other sheriff to whom a copy of the order and particulars were sent pursuant to subsection (2) of section 15.

Duties of Clerk and copies.

(5) Where an order annulling a previous change of name order has been made, any certified copy of the previous order may be demanded from the person to whom it was issued and such person shall forthwith comply with such demand.

Certificates may be recalled.

Chap. 14.

Change of Name.

Offence of
improper
obtaining.

18. (1) Every person who, by fraud, misrepresentation or for an improper purpose, obtains or attempts to obtain a change of name under this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars.

Refuses to
obey.

(2) Every person who refuses to return a certified copy of an order that has been annulled or otherwise refuses to comply with a lawful order or demand under this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars.

Regulations.

19. The Commissioner may make such regulations as he deems necessary for carrying out the provisions and purposes of this Ordinance.

CHAPTER 15.

AN ORDINANCE RESPECTING THE
PRACTICE OF CHIROPRACTIC.

SHORT TITLE.

1. This Ordinance may be cited as the *Chiropractic Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance,

Definitions.

- (a) "chiropractic" means the method of treating human beings for disease and the causes of disease by means of adjustment by hand and the articulations of the spinal column and other adjustments by hand incidental thereto; "Chiro-practic."
- (b) "chiropractor" means a person who is entitled to practise chiropractic in the Territory under this Ordinance; "Chiro-practor."
- (c) "licence" means a valid and subsisting licence issued under this Ordinance to practise chiropractic in the Territory; and "Licence."
- (d) "register" means the Chiropractic Register referred to in section 3. "Register."

REGISTRATION AND LICENSING.

3. The Territorial Secretary shall keep a register called the Chiropractic Register and shall enter therein the names, addresses and qualifications of all persons who are pursuant to this Ordinance entitled to be registered in the register and he may issue licences to such persons. Registration and licensing.

4. (1) A person who

Qualifications for licence.

- (a) on the 17th day of November, 1955, was entitled by law to practise chiropractic in the Territory,
- (b) produces to the Territorial Secretary a certificate under the hand of the proper authority showing that he is licensed under a chiropractic Act of any province, and satisfies the Territorial Secretary that he is the person named in the certificate and that he is in good standing in that province, or
- (c) produces to the Territorial Secretary a certificate under the hand of the proper authority showing that he has been admitted to practise as a chiropractor in either of the States of Oregon or Washington and satisfies the

Territorial Secretary that he is the person named in the certificate and that he is in good standing in the state in which he is so entitled to practise, and who pays the fees required by this Ordinance, is entitled to be registered in the register.

Registration fee. (2) Every person who applies for registration in the register shall, with his application for registration, send to the Territorial Secretary a registration fee of twenty-five dollars payable to the Territorial Treasurer.

Licence fee. 5. Every person who is registered in the register shall send to the Territorial Secretary at the time his name is registered in the register and subsequently on or before the 31st day of March in each year an annual licence fee in the sum of twenty-five dollars.

Validity of licence. 6. No licence is valid unless
 (a) the licence fee in respect of the year for which the licence is issued has been paid, and
 (b) the holder of the licence has been registered pursuant to section 3.

Expiration of licence. 7. A licence expires on the 31st day of March next following the day upon which it came into force.

PRACTICE OF CHIROPRACTIC.

Practice limited to holders of licences. 8. No person shall practise chiropractic or recover a fee, reward or remuneration for professional services rendered or material or appliances provided by him in practising chiropractic unless he holds a licence under this Ordinance at the time the services are rendered or material or appliances are provided.

Licencee's right to practise and to recover fees. 9. A person who holds a licence is entitled to practise chiropractic in the Territory and to bring an action before a judge for the recovery of reasonable charges for professional aid, advice and visits and the costs of any materials or appliances supplied by him to his patients.

Limitations of actions for malpractice. 10. No chiropractor is liable to an action for negligence or malpractice by reason of professional services requested or rendered unless the action is commenced within one year from the day when, in the matter complained of, the professional services terminated.

Use of X-ray photographs. 11. A chiropractor may in connection with his practice use X-ray shadow photographs of the human spinal column, but no such photographs shall be taken except under the supervision of a medical practitioner under the *Medical Profession Ordinance*.

OFFENCES AND PENALTIES.

12. (1) A person who is not the holder of a licence under this Ordinance and who, in the Territory,

Offences respecting unlicensed practice.

- (a) practises chiropractic;
- (b) appends to his name the title of chiropractor or any word indicative of any such title or used in substitution or abbreviation thereof;
- (c) holds himself out in any way to be a duly qualified chiropractor; or
- (d) assumes any title or description implying or designed to lead the public to believe that he is duly qualified to practise as a chiropractor,

is guilty of an offence.

(2) A chiropractor who

Offences by chiropractor.

- (a) prescribes or administers drugs or medicinal preparations;
- (b) treats venereal disease or any other communicable disease;
- (c) performs any surgical operation;
- (d) practises obstetrics or any branch of medicine or osteopathy;
- (e) uses or directs or prescribes the use of anaesthetics for any purpose;
- (f) uses any method other than chiropractic in the treatment of disease; or
- (g) takes X-ray photographs without supervision by a medical practitioner;

is guilty of an offence.

(3) A person who commits an offence against this Ordinance is liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

Penalty.

13. In the case of an offence under this Ordinance a complaint shall be made, or an information laid, within one year from the time when the matter of the complaint or information arose.

Time for prosecution.

14. In a prosecution for an offence under this Ordinance the onus of proof that the person against whom the charge is laid is the holder of a licence is upon the person against whom the charge is laid.

Onus of proof.

INVESTIGATION AND REMOVAL.

15. (1) Subject to subsection (2) the Territorial Secretary shall remove from the register the name of a person registered therein who fails to comply with the provisions of this Ordinance with respect to licence fees and the licence issued to that person is invalid until such time as he is again registered in the register.

Removal for non-payment of fees.

- Extension of time. (2) Where reasons satisfactory to the Commissioner are advanced to him as to why the licence fee has not been paid at the required time or within the required period, the Commissioner may grant an extension for payment of fees before having the name of the person on whose behalf they are paid struck off the register, but shall in no case grant an extension of time exceeding sixty days.
- Reinstatement. (3) A person whose name is removed from the register pursuant to subsection (1) is entitled to have his name restored to the register if he pays a fee of ten dollars in addition to the fee in respect of which his name was removed from the register.
- Board of Inquiry. **16.** (1) The Commissioner may appoint two or more persons to act as a Board of Inquiry for the purpose of investigating any complaint made against a chiropractor with respect to an alleged contravention of this Ordinance or any complaint of malpractice or infamous, disgraceful or improper conduct on the part of a chiropractor.
- Powers of Board. (2) The Board of Inquiry appointed pursuant to subsection (1) may make rules and regulations under which the inquiry is to be held and has power
- (a) to summon and bring before it any person whose attendance it considers necessary to enable the Board properly to inquire into the matter complained of;
 - (b) to swear and examine all such persons under oath;
 - (c) to compel the production of documents; and
 - (d) to do all things necessary to provide a full and proper inquiry.
- Security for costs. (3) A Board of Inquiry may direct that the person who made the complaint it is appointed to investigate shall deposit with the Board, as security for the costs of the inquiry and to the person complained against, a sum not exceeding five hundred dollars.
- Frivolous and vexatious complaint. (4) Where the Board of Inquiry finds that a complaint is frivolous or vexatious, it may cause to be paid to the Territorial Secretary out of the deposit for security mentioned in subsection (3) such portion of the costs of the inquiry and to the person complained against as it deems advisable, and where the Board does not so find or where there is any balance of the deposit remaining the deposit or balance thereof shall be returned to the person who deposited it.
- Quorum. (5) A majority of the members of the Board of Inquiry is a quorum.
- Findings and recommendations. (6) A Board of Inquiry shall, after investigation of a complaint pursuant to this section, make a finding and shall immediately report its finding to the Commissioner, and where it finds that the person complained against is guilty of contravention of

this Ordinance or of malpractice or of infamous, disgraceful or improper conduct, may, in its report to the Commissioner, recommend that such person be

- (a) reprimanded;
- (b) fined in an amount named by the Board, such amount not to exceed five hundred dollars;
- (c) struck off the register and his licence cancelled; or
- (d) struck off the register and his licence suspended for a definite period named by the Board.

(7) The Board of Inquiry shall, at the time it sends its report to the Commissioner pursuant to subsection (6), notify the person complained against of its finding and of the recommendations for punishment, if any, made by it in such report. Notification to the person complained against.

(8) Every person who

Offences.

- (a) fails, without valid excuse, to attend an inquiry as required under this section;
- (b) fails to produce any document, book or paper in his possession or under his control, as required under this section; or
- (c) at an inquiry under this section
 - (i) refuses to be sworn or to affirm, or to declare, as the case may be, or
 - (ii) refuses to answer any proper question put to him by the Board of Inquiry,

is guilty of an offence.

17. (1) A person against whom a finding has been made by a Board of Inquiry may, within thirty days after the finding has been made, appeal from such finding to a judge. Appeal to judge.

(2) The judge before whom an appeal is made under subsection (1) may hear the appeal at such time and in such manner as he deems just and he may, by order, quash, alter or confirm the finding of the Board of Inquiry. Powers of judge.

18. (1) Where a chiropractor has been found guilty of a contravention of this Ordinance or of malpractice or of infamous, disgraceful or improper conduct by a Board of Inquiry and no appeal has been taken from the finding or the time for appeal has expired, the Commissioner shall, after receiving the report from the Board, impose the penalty recommended by it, and a Commissioner powers on recommendation by Board.

- (a) in the case of a reprimand, reprimand the chiropractor in writing and note the reprimand in the register;
- (b) in the case of a fine, make an order fining the chiropractor, which order shall be filed in the appropriate court and have the same effect as an order of that court;
- (c) in the case of a recommendation to strike off the register and cancel his licence, have the name of the practitioner struck off the register and cancel his licence; and

(d) in the case of a recommendation to strike off the register and suspend his licence, have the name of the chiropractor struck off the register and suspend his licence for such time as the Board has recommended.

Commissioner
to enforce
order of
judge.

(2) Where a judge on appeal confirms or alters the finding of a Board of Inquiry, his order in the case of a fine shall be carried out in the usual way and in the case of any other punishment referred to in subsection (1) shall be directed to the Commissioner and carried out by him in the same manner as provided by subsection (1).

Application
for rein-
statement.

19. (1) A chiropractor whose name has been struck off the register and whose licence has been cancelled or suspended pursuant to section 18 may,

(a) where he had not taken any appeal from the finding within one year from the date of the finding of the Board of Inquiry, apply to the Commissioner to have his name restored to the register, or

(b) where he had appealed from the finding within one year from the date of an order under subsection (2) of section 17, apply to a judge for an order directing the Territorial Secretary to have his name restored to the register.

Order by
Commissioner
or judge.

(2) The Commissioner or judge may, upon application under subsection (1), order the Territorial Secretary to reinstate a chiropractor on the register and renew his licence and restore his rights and privileges in such manner and upon such conditions as the Commissioner or judge may decide.

Territorial
Secretary
to reinstate.

(3) The Territorial Secretary shall, upon receiving an order under subsection (2) to do so, reinstate a chiropractor on the register and renew his licence and restore his rights and privileges in such manner and upon such conditions as the order directs.

CHAPTER 16.

AN ORDINANCE RESPECTING CHOSSES IN ACTION.

1. This Ordinance may be cited as the *Choses in Action* Short Title. Ordinance.

2. (1) Every debt and every chose in action arising out of Assignment. contract is assignable at law by any form of writing containing apt words in that behalf, but subject to such conditions and restrictions with 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 accrued, or he may proceed in respect of the same as though this Ordinance had not been passed.

(2) The word "assignee" in this section includes a person "Assignee." who is entitled, by any first or subsequent assignment or transfer or any derivative title, to a debt or chose in action and possessing at the time when the action is instituted the right to receive the subject or proceeds thereof and to give effectual discharge therefor.

3. The plaintiff in an action for the recovery of the sub- Action for debt on assignment. ject of an assignment made in conformity with section 2 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 were brought in the name of the original creditor or of the person to whom the cause of action accrued.

4. An assignment of a debt or chose in action arising out of contract and not assignable by delivery is subject to any defence or set-off in respect of the whole or any part of the debt or chose in action 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 the debt or chose in action. Equities of debtor against assignor before notice.

5. Where an assignment is made in conformity with this Ordinance and notice thereof is given to the debtor or person liable in respect of the subject of the assignment, the assignee is entitled to have, hold and enjoy the same free of any claims, defences or equities that may arise subsequent to the notice by any act of the assignor or otherwise. Assignee's rights after notice to debtor.

Securities
transferable
by delivery.

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 vests the property in such bonds or debentures in the transferee or in the holder thereof and any such holder may bring any action on or in respect of any such bonds or debentures in his own name.

Negotiable
instruments.

7. The provisions of this Ordinance shall not be construed to apply to bills of exchange or promissory notes or instruments that are negotiable or in respect of which the property therein passes by mere delivery.

CHAPTER 17.

AN ORDINANCE RESPECTING A CITIZENSHIP
INSTRUCTION AGREEMENT BETWEEN THE
YUKON TERRITORY AND THE
GOVERNMENT OF CANADA.

1. This Ordinance may be cited as the *Citizenship Instruction Agreement Ordinance*. **Short Title.**

2. In this Ordinance,

Definitions.

(a) "citizenship instruction" means the teaching of the English or French language and of the elementary facts about Canadian institutions and ways of life to newcomers for the purpose of facilitating their adjustment and integration into the Canadian community and of qualifying them for Canadian citizenship; **"Citizenship instruction."**

(b) "newcomers" means persons, exclusive of young persons in regular attendance at schools, who have been granted permanent admission into Canada but who have not yet acquired Canadian citizenship; and **"Newcomers."**

(c) "teaching costs" means the salaries and remuneration paid to teachers, instructors and principals for their contribution to the immediate carrying out of citizenship instruction. **"Teaching costs."**

3. Subject to this Ordinance, the Commissioner may enter into and execute on behalf of the Territory an agreement with the Government of Canada, covering such period from the date of the coming into force of this Ordinance as may be agreed upon, providing for the payment by the Government of Canada for each fiscal year during the term of such agreement to the Government of the Territory for assistance in carrying out citizenship instruction, a contribution towards the teaching costs of citizenship instruction, whether these costs have been borne directly by the Government of the Territory or indirectly through grants to local school boards. **Commissioner may execute agreement.**

4. An agreement made under this Ordinance may be varied or amended from time to time by agreement between the Government of Canada and the Commissioner. **Variation of amendment.**

5. The Commissioner is hereby authorized to do all lawful acts and exercise all lawful powers necessary for the purpose of implementing the obligations assumed by the Government of the Territory under the agreement entered into pursuant to this Ordinance. **Powers of Commissioner.**

CHAPTER 18.

AN ORDINANCE RESPECTING THE COLLECTION OF JUDGMENT DEBTS.

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as the *Collection Ordinance*.

INTERPRETATION.

Definitions. **2.** In this Ordinance,
 "Clerk." (a) "Clerk" means the Clerk of the Court;
 "Examina- (b) "examination" means an examination under this Ordi-
 tion." nance;
 "Judgment." (c) "judgment" means any adjudication or order directing the
 payment of money, whether debt, damages or costs in any
 court in the Territory;
 "Judgment (d) "judgment creditor" means the person entitled to the
 creditor." amount due on a judgment; and
 "Judgment (e) "judgment debtor" means the person liable to pay the
 debtor." amount due on the judgment.

COLLECTION.

No arrest on **3.** Notwithstanding any Ordinance or law in the Territory,
 execution no person shall be arrested or committed to prison on execution
 except under or final process in a civil action except as provided in this
 Ordinance. Ordinance.

Judgment **4.** (1) Subject to subsection (2), a judgment creditor may,
 summons. either before or after execution, apply to the Clerk to have a
 judgment debtor examined upon oath and upon such application
 the Clerk shall issue a judgment summons in Form A, requiring
 the judgment debtor to appear at the time and place mentioned
 in the summons to be examined under oath touching his estate
 and effects, and as to
 (a) any and what property he has which by law is liable to
 be taken in execution on the judgment;
 (b) the property and means he had when the debt or liability
 was incurred which was the subject of the action in which
 judgment has been obtained;
 (c) the property and means he still has of discharging the
 judgment;
 (d) the disposal he has made of any property since contracting
 the debt or incurring the liability; and
 (e) any and what debts are owing to him.

(2) Where a judgment for a sum exceeding one hundred dollars is obtained in the Court, no judgment summons shall issue before an execution against the goods and chattels of the judgment debtor has been returned *nulla bona*. No judgment summons unless execution returned *nulla bona*.

5. A judgment summons shall be served in the same manner as a writ of summons. Service.

6. Upon application by a judgment creditor to the Clerk for a second or subsequent judgment summons, the Clerk shall issue such judgment summons upon the judgment creditor's filing an affidavit that the judgment is unsatisfied in whole or in part and Application for subsequent judgment summons.

- (a) that the judgment debtor was not examined on the judgment summons that issued immediately previously to the one applied for, or
- (b) that ninety days have elapsed since the judgment debtor was examined in the case in which the judgment summons is being applied for.

7. The judgment debtor may, before being examined, show cause why the judgment summons should be dismissed and upon sufficient cause being shown the judge may dismiss such judgment summons. Dismissal of judgment summons.

8. Unless the judge otherwise directs the examination shall be held in the judge's chambers. Examination to be in chambers.

9. The judge may at an examination examine upon oath the judgment debtor and any other witness he thinks requisite touching the matter. Judge may examine debtor on oath.

10. The judge may, from time to time, adjourn the examination and he may also, unless the judgment debtor enters into a bond in favour of the judgment creditor with securities to the satisfaction of the judge to attend at the time and place to which such examination is adjourned, commit the judgment debtor to gaol until the time fixed for the adjourned hearing. Adjournment of examination.

11. (1) Where a person summoned to appear at an examination Penalty for failure to attend and give evidence at examination.

- (a) does not appear as required by the summons and fails to show sufficient reason for not appearing, or
- (b) appears but refuses to be sworn or to declare any of the things concerning which he is examined under this Ordinance

the judge may, if he thinks fit, order such person to be committed to a common gaol for a period not exceeding sixty days.

(2) Where it appears to the judge, either on examination or by other evidence, that Committal of debtor in certain cases.

- (a) the debt which forms the subject of the judgment was fraudulently contracted,

- (b) the credit was obtained under false pretences,
 - (c) the judgment debtor contracted such debt without having at the time any reasonable expectation of being able to pay it,
 - (d) any other fraudulent circumstances have occurred in connection with the contracting of the debt,
 - (e) that the judgment debtor has made any fraudulent disposition of any property, or
 - (f) that the debt arose out of any tort,
- the judge may, if he thinks fit, order the judgment debtor to be committed to a common gaol for a period not exceeding sixty days.

Judge may order debtor to pay debt immediately by instalment, etc.

12. (1) Upon the conclusion of an examination, or at any stage thereof with the consent of the parties, the judge may, in his discretion, order the judgment debtor to pay the debt, together with any costs of examination which may be awarded against him forthwith or at a fixed future time, or to pay the same by instalments of such amounts and at such times as the judge may determine.

No order where debt incurred outside Territory.

(2) Where upon examination it appears to the satisfaction of the judge that the debt was incurred outside the Territory, no order shall be made against the judgment debtor.

Costs.

(3) The costs of and incidental to a judgment summons shall be costs in the cause, unless the judge otherwise directs.

Judge may make order without examination with consent of parties.

13. A judge may, at any time after judgment with the consent of the judgment creditor and judgment debtor, make an order under section 12 without examination of the judgment debtor.

Debtor may be committed for failure to comply with order.

14. Where the judgment debtor fails to comply with an order made under section 12 or section 13, the judgment creditor may upon affidavit or the affidavit of another person on his behalf who has full knowledge of the facts, obtain *ex parte* from the judge an order committing the judgment debtor to a common gaol for a period not exceeding sixty days.

Sheriff to arrest debtor.

15. (1) Where an order of commitment has been made under section 14, it shall be delivered to the sheriff and the sheriff or any one authorized by him shall arrest the judgment debtor and convey him to the common gaol and the gaoler or keeper of such common gaol shall receive and keep the judgment debtor until such debtor is discharged pursuant to this Ordinance or otherwise by due course of law.

Time when order of commitment in force.

(2) Except where the absence of the debtor from the Territory makes it impossible to execute, no order of commitment shall have any force or effect after the expiration of three months from the date it was made unless it has been duly executed during that period.

(3) The cost of maintenance of any judgment debtor who is committed to a common gaol under this Ordinance shall be borne by the judgment creditor who shall deposit the amount, not to exceed four dollars and fifty cents per day, with the sheriff before the order of commitment is executed and such cost of maintenance shall be added to the judgment debt.

Creditor to pay cost of maintenance of debtor.

16. (1) Where a judgment debtor imprisoned under this Ordinance has satisfied the judgment debt and a certificate of such satisfaction signed by the Clerk is presented to the gaoler or keeper who has him in custody, the gaoler or keeper shall discharge him.

Committed debtor to be released on satisfying debt.

(2) A judge may, on any ground arising subsequent to an order of commitment that appears to him sufficient, direct that the judgment debtor be discharged from custody.

Judge may discharge on sufficient grounds.

17. No imprisonment under this Ordinance shall impair the judgment or extinguish the debts or deprive the judgment creditor of any right to take out execution against the judgment debtor.

Imprisonment not to affect other remedies.

18. No counsel fee shall be allowed on any judgment summons or a proceeding thereon.

No counsel fee allowed on judgment summons.

19. Upon the issuing of a judgment summons the action or proceeding in which the judgment was obtained becomes for the purposes of this Ordinance an action in the Territorial Court, and except as otherwise provided in this Ordinance the practice and procedure and the costs and fees payable in connection therewith shall be those now in force in the Court under the lowest scale of costs and fees.

On issue of judgment summons action becomes action in Territorial Court.

SCHEDULE.

FORM A.

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 gaol.

Dated at in the Yukon Territory this day of A.D. 19 .

Clerk of the Territorial Court.

CHAPTER 19.

AN ORDINANCE RELATING TO
JOINT-STOCK COMPANIES.

SHORT TITLE.

1. This Ordinance may be cited as the *Companies Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance, Definitions.
- (a) "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 in Table A in the First Schedule to this Ordinance, and including the by-laws of any existing company except by-laws made by the directors; "Articles."
- (b) "books and papers" or "books or papers" includes accounts, deeds, writings and documents; "Books and papers."
"Books or papers."
- (c) "charter" of a company means the statute, ordinance or other law by or under which the company is incorporated, and any amendments thereto applying to such company, whether of Canada or of the United Kingdom or 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, the letters patent or charter of incorporation, and the licence or certificate of registration of the company, as the case may be; "Charter."
- (d) "charter and regulations" of a company means the charter of the company and the articles of association, and all resolutions and contracts relating to or affecting the capital and assets of the company; "Charter and regulations."
- (e) "company" means a company formed and registered under this Ordinance, or an existing company; "Company."
- (f) "company limited by shares" includes a company incorporated under Part V of this Ordinance; "Company limited by shares."
- (g) "Council" means the Council of the Yukon Territory; "Council."
- (h) "Court", in relation to a company, means the Territorial Court; "Court."
- (i) "debenture" includes debenture stock; "Debenture."

- "Director." (j) "director" includes any person occupying the position of director by whatever name called;
- "Document." (k) "document" includes summons, notice, order and other legal process and registers;
- "Existing company." (l) "existing company" means a company formed and registered under a former public Ordinance of the Territory;
- "Extra-territorial company." (m) "extra-territorial company" means any duly incorporated company other than a company incorporated under the laws of the Territory;
- "General rules." (n) "general rules" means general rules made under this Ordinance, and includes forms;
- "Memorandum." (o) "memorandum" means the memorandum of association of a company as originally framed or as altered in pursuance of the provisions of this Ordinance;
- "Prescribed." (p) "prescribed" means prescribed by general rules or by the Commissioner or other lawful authority;
- "Prospectus." (q) "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." (r) "real estate" or "land" includes all messuages, lands, tenements, hereditaments of any tenure, leaseholds and all immovable property of every kind;
- "Land."
- "Registrar." (s) "Registrar" means the Registrar of Joint-Stock Companies or other officer performing under this Ordinance the duty of registration of companies;
- "Share." (t) "share" means a share in the share capital of a company, and includes stock except where a distinction between stock and shares is expressed or implied;
- "Shareholder." (u) "shareholder" means every subscriber to or holder of shares in a company, and includes the personal representatives of such shareholder; and
- "Subscriber." (v) "subscriber" means any person who subscribes for shares in the memorandum of association of a company.

PART I.

GENERAL.

Powers of Commissioner.

3. The Commissioner from time to time may, by order,

Appointment of Registrar and Deputy Registrar of Companies.

- (a) appoint such person or persons as he thinks proper to act as the Registrar or Deputy Registrar of Joint-stock Companies;

- (b) make and establish such general rules and orders, not inconsistent with this Ordinance, as 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; and ^{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, and in the forms in the Second Schedule, or make such additions to the last-mentioned forms as may be requisite; except that no alteration made by the Commissioner in Table A in the First Schedule shall affect any company registered prior to the date of such alteration or repeal, as regards any such company, any portion of that table. ^{Alterations in forms.}
4. 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. ^{Registrar's duty to enforce compliance.}
5. The forms set forth in the Second Schedule, or forms as near thereto as circumstances admit, shall be used in all matters to which such forms refer. ^{Forms to be used.}
6. 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. ^{Railway and insurance companies not to be incorporated.}
7. 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. ^{Definition of insurance company.}
8. 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. ^{Prohibition of partnership exceeding a certain number.}
9. 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. ^{Issue of bank-notes prohibited.}
10. This Ordinance does not apply to a company carrying on the business of insurance only. ^{Ordinance does not apply to certain companies.}

PART II.

CONSTITUTION AND INCORPORATION.

Memorandum of Association.

Mode of forming incorporated company.

11. Any five or more persons or, where the company to be formed is to 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”);
- (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”);
- (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.

Memorandum of company limited by shares.

12. In the case of a company limited by shares, the memorandum shall 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 is to be situated;
- (c) the objects of the company;
- (d) the amount of share capital with which the company proposes to be registered, and the division thereof into shares of a fixed amount; and
- (e) that the liability of the members is limited.

Memorandum of company limited by guarantee.

13. In the case of a company limited by guarantee, the memorandum shall 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 is to be situated;
- (c) the objects of the company;

- (d) in the case of a company having a share capital, the amount of share capital with which the company proposes to be registered, and the division thereof into shares of a fixed amount;
- (e) that the liability of the members is limited; and
- (f) 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 the 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 contributaries among themselves, such amount as may be required, not exceeding a specified amount.

14. In the case of an unlimited company, the memorandum shall state Memorandum of unlimited company.

- (a) the name of the company;
- (b) the city or town in the Territory in which the registered office of the company will be situated; and
- (c) the objects of the company.

15. (1) In the case of a company limited by shares, a company limited by guarantee and having a share capital, and an unlimited company having a share capital, Execution of memorandum.

- (a) each subscriber of the memorandum shall write opposite his name the number of shares he takes; and
- (b) no subscriber may take less than one share.

(2) The memorandum shall be signed by each subscriber in the presence of at least one witness, who shall attest the signature.

16. 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. Restriction on alteration of memorandum.

17. (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. Name of company and change of name.

(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.

(3) Any company may 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 in the *Yukon Gazette* and in some newspaper or newspapers published or circulated in the locality in which the registered office of the company is situated, 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 licence or registration, for a period of fourteen days or any extended period he may allow, not exceeding in the whole thirty days.

Alteration of
objects of
company.

18. (1) Subject to 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 may be required to enable it

- (a) to carry on its business more economically or more efficiently;
- (b) to attain its main purpose by new or improved means;
- (c) to enlarge or change the local area of its operations;
- (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 shall 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;

except 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, subject to the condition 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 *Yukon Gazette*.

(8) Where a company makes default in delivering to the Registrar any document required by this section to be delivered to him, the company is liable to a fine not exceeding fifty dollars for every day during which it is in default.

Articles of Association.

Registration
of articles.

19. (1) 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, shall 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 shall 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.

Application
of Table A.

20. In the case of a company limited by shares and registered after the 1st 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.

Form and
signature of
articles.

21. Articles shall

- (a) be printed or typewritten;
- (b) be divided into paragraphs numbered consecutively; and
- (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.

Alteration of
articles by
special
resolution.

22. (1) Subject to this Ordinance and 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.

(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.

General Provisions.

Effect of
memorandum
and articles.

23. (1) 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 this Ordinance.

(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.

24. The memorandum and the articles, if any, shall be delivered to the Registrar, and he shall retain and register them. Registration of memorandum and articles.

25. (1) On the registration of the memorandum of a company the Registrar shall issue a certificate under his seal of office, showing Contents of certificate of registration.

- (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; and
- (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.

(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, once in the *Yukon Gazette* or in a newspaper published in the Territory at or nearest the place that is to be the chief place of business of the company.

26. (1) 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. Conclusiveness of certificate of incorporation.

(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.

Copies of memorandum and articles to be given to members.

27. (1) 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) Where a company makes default in complying with the requirements of this section, it is liable for each offence to a fine not exceeding five dollars.

Provisions as to companies limited by guarantee.

28. (1) In the case of a company limited by guarantee and not having a share capital, and registered after the 1st 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.

(2) For the purposes 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 1st 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.

PART III.

DISTRIBUTION AND REDUCTION OF SHARE CAPITAL, REGISTRATION OF UNLIMITED COMPANY AS LIMITED, AND UNLIMITED LIABILITY OF DIRECTORS.

Distribution of Share Capital.

Nature of shares.

29. (1) The shares or other interest of any member in a company shall be personal estate, transferable in the manner provided by the articles of the company, and shall not be of the nature of real estate.

Numbering shares.

(2) Each share in a company having a share capital shall be distinguished by its appropriate number.

Certificate of shares or stock as evidence of title.

30. A certificate, under the common seal of the company, specifying any shares or stock held by any member is prima facie evidence of the title of the member to the shares or stock.

31. (1) 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.

32. (1) Every company shall keep in one or more books a register of its members, and shall 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; and
- (c) the date at which any person ceased to be a member.

(2) Where a company fails to comply with this section it is 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 is liable to the like penalty.

33. (1) Every company having a share capital shall, on or before the first day of March in every year, make a list of all persons who, on the fourteenth day after the first or only ordinary general meeting held during the twelve months immediately preceding the said first day of March, 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. Annual list of members.

(2) The list shall 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 shall 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;
- (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 that are required to be registered with the Registrar under this Ordinance.

(3) The summary shall 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.

Return of list
and summary
to Registrar.

(4) The above list and summary shall be contained in a separate part of the register of members, be completed and a copy thereof signed and authenticated by the manager, the secretary or by some other officer of the company, and be forwarded to the Registrar on or before the first day of March as aforesaid.

(5) Where a company makes default in complying with the requirements of this section it is 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 is 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 paragraphs (k) and (l) of subsection (2) and by subsection (3), and such statement shall be certified by the auditors and by the president, vice-president, secretary or other officer of such company; but, except as aforesaid, this section shall not apply to an extra-territorial company.

34. 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. Trusts not to be entered on register.

35. 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. Registration of transfer at request of transferor.

36. 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 the execution of the instrument of transfer. Transfer by personal representative.

37. 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. Executors and pledgors voting.

38. 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. Trustees, etc.

39. 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. Non-personal liability of mortgagee or pledgee of shares.

40. (1) 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. Inspection of register of members.

(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) Where any inspection or copy required under this section is refused, the company is 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 is liable to the like penalty; and a judge of the Territorial Court may by order compel an immediate inspection of the register.

Power to close register.

41. 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.

Power of Court to rectify register.

42. (1) 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,

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 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.

Register to be evidence.

43. The register of members is prima facie evidence of any matter by this Ordinance directed or authorized to be inserted therein.

Share Warrants.

Issue and effect of share warrants to bearer.

44. (1) 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").

(2) A share warrant entitles 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:

- (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.

Differential Shares.

45. A company, if so authorized by its articles, may do any one or more of the following things:

- (a) 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;
- (b) 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; and
- (c) 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.

Power of company to arrange for different amounts being paid on shares.

Reduction of Paid-up Capital out of Profits.

Power to
return
accumulated
profits in
reduction of
paid-up
share
capital.

46. (1) 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 do 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.

Alteration of Share Capital.

47. (1) 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

Power of company limited by shares to alter its share capital.

- (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;
- (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; and
- (e) cancel shares that, 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 shall 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; where a company makes default in complying with this provision it is 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 is 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.

48. 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.

Notice to Registrar of consolidation of share capital, conversion of shares into stock, etc.

49. 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 that 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

Effect of conversion of shares into stock.

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.

Notice of
increase
share
capital or
of members.

50. (1) 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) Where a company makes default in complying with the requirements of this section it is 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 is liable to the like penalty.

Reorganization
of share
capital.

51. (1) 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; except 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.

Reduction of Share Capital.

Special
resolution
for
reduction
of share
capital.

52. (1) 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, may

(a) extinguish or reduce the liability on any of its shares in respect of share capital not paid up;

- (b) either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital that 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 that 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".

53. 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. Application to Court for confirming order.

54. (1) 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. Addition to name of company of "and reduced".

(2) 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".

55. (1) 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 that, 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. Objections by creditors, and settlement of list of objecting creditors.

(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:

- (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; or
- (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.

Order confirming reduction.

56. 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.

Registration of order and minute of reduction.

57. (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.

Minute to form part of memorandum.

58. (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 shall be embodied in every copy of the memorandum issued after its registration.

(2) Where a company makes default in complying with the requirements of this section it is 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 is liable to the like penalty.

59. (1) 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, that is to be deemed to have been paid, on the share, and the amount of the share as fixed by the minute; except 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

Liability of members in respect of reduced shares.

- (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.

(2) Nothing in this section affects the rights of the contributories among themselves.

60. Where 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 where 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 is, for every such violation of this Ordinance, upon summary conviction, liable to a fine not exceeding five hundred dollars.

Concealing name of creditor entitled to object.

61. 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 giving proper information to the public, and, if the Court thinks fit, the causes that led to the reduction.

Publication of reasons for reduction.

Increase and reduction of share capital in case of a company limited by guarantee having a share capital.

62. A company limited by guarantee and registered after the 1st 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.

Reduction of Capital by certain Limited Companies.

Certain land companies empowered to pay dividends out of the net proceeds of sales of land.

63. (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 subdivided 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, 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 *Yukon 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.

Registration of Unlimited Company as Limited.

Registration of unlimited company as limited.

64. (1) Subject to 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 in the case of a company registered in pursuance of that Part.

(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.

65. 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; and
- (b) provide 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.

Power of unlimited company to provide for reserve share capital on registration.

Reserve Liability of Limited Company.

66. 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.

Reserve liability of limited company.

Unlimited Liability of Directors.

67. (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.

Limited company may have directors with unlimited liability.

(2) In a limited company in which the liability of a director or manager is unlimited, the directors or managers of the company 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 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) Where 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 is 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.

Special resolution of limited company making liability of directors unlimited.

68. (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) Where a company makes default in complying with the requirements of this section, it is 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 is liable to the like penalty.

PART IV.

MANAGEMENT AND ADMINISTRATION.

Office and Name.

Registered office of company.

69. (1) Every company shall have a registered office in the Territory to which all communications and notices may be addressed, and may from time to time change the location of its registered office.

(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) Where a company carries on business without complying with the requirements of this section it is liable to a fine not exceeding twenty-five dollars for every day during which it so carries on business.

Publication of name by a limited company.

70. (1) Every limited company shall

(a) 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;

- (b) have its name engraven in legible characters on its seal; and
- (c) 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) Where a limited company does not paint or affix, and keep painted or affixed, its name in manner directed by this Ordinance, it is 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 is liable to the like penalty.

(3) Where 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 is liable upon summary conviction to a fine not exceeding two hundred and fifty dollars, and is further 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

Meetings and Proceedings.

71. (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. Annual general meeting.

(2) When default has been made in holding a meeting of the company in accordance with 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 does not apply to an extra-territorial company.

First
statutory
meeting
of the
company.

72. (1) Every company limited by shares registered after the 1st 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, the 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 the manner provided by Part IX, 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 do not apply in the case of a private company.

(11) Where a company limited by shares makes default in complying with the requirements of this section that apply to it, such company is 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 is liable to the like fine; except 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.

73. (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. Convening
of
extraordinary
general
meeting on
requisition.

(2) The requisition shall state the objects of the meeting, and shall 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.

Provisions
as to
meetings
and votes.

74. 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; and
- (d) every member shall have one vote in respect of each share held by him.

Representation
of companies
at meetings
of other
companies of
which they
are members.

75. A company that 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.

Definitions
of
extraordinary
and special
resolution.

76. (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.

(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 exceeding 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.

77. (1) A copy of every special and extraordinary resolution duly authenticated as provided in section 124 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. Registration and copies of special resolutions.

(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) Where a company makes default in forwarding a copy of a special or extraordinary resolution to the Registrar, it is liable to a fine not exceeding ten dollars for every day during which the default continues.

(5) Where 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 is 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 is liable to the like penalty as is imposed by this section on the company for that default.

Minutes of proceedings of meetings and directors.

78. (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.

Appointment, Qualification, etc., of Directors.

Restrictions on appointment or advertisement of director.

79. (1) A person is not 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 does 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.

80. (1) Without prejudice to the restrictions imposed by section 79, it shall be the duty of every director who is by the regulations of the company required to hold a specified share qualification, and 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) Where after the expiration of the said period or shorter time any unqualified person acts as a director of the company, he is 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.

81. 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.

82. (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) Where default is made in compliance with this section, the company is 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 is liable to the like penalty.

Contracts, etc.

83. (1) Contracts on behalf of a company may be made as follows: Form of contracts.

- (a) any contract that if made between private persons would by law be valid although made by parol only, according to the law of the Territory or Canada 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; and

(c) any contract which if made between private persons would by law be valid although made by parol only, and not reduced into writing, may be made by parol 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.

Bills of exchange and promissory notes.

84. 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.

Contracts generally when made by company, etc.

85. 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.

Power of attorney by company.

86. 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.

Power for company to have official seal for use abroad.

87. (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.

(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.

Prospectus.

88. (1) Every prospectus that 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 subsection (1), 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) Where 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, is 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.

89. (1) Every prospectus issued as mentioned in section 88 shall state: Specific requirements as to particulars of prospectus.

(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; except 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; except 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; except 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;
- (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 applies as though the expression "vendor" included the lessor, 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, is void.

(5) Where the prospectus 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;

except that, in the event of non-compliance with the requirements contained in paragraph (m) of subsection (1) 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 does 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 applies 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 limits or diminishes any liability that any person may incur under the general law or this Ordinance apart from this section.

Obligations of companies where no prospectus is issued.

90. (1) A company that 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.

(2) This section does not apply to a private company or to a company that has allotted any shares or debentures before the 1st day of May, 1914.

Restriction on alteration of terms of contract mentioned in prospectus.

91. 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.

92. (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, is 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;
 - (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; but the director, person named as director, promoter or person who authorized the issue of the prospectus, is 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;
 - (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 is not 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, is 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,

"Promoter."

(a) "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; and

"Expert."

(b) "expert" includes engineer, valuer, accountant and any other person whose profession gives authority to a statement made by him.

Allotment.

Restriction
as to
allotment.

93. (1) 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) Where 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 where any such money is not so repaid within seventy-five days after the issue of the prospectus, the directors of the company are jointly and severally liable to repay that money with interest at the rate of five per cent per annum from the expiration of the seventy-fifth day; except 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), does 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.

(8) Subsection (7) does not apply to a private company or to a company that has allotted any shares or debentures before the 1st day of May, 1914.

94. (1) An allotment made by a company to an applicant in contravention of section 93 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) Where any director of a company knowingly contravenes or permits or authorizes the contravention of any of the provisions of section 93 with respect to allotment, he is 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; except 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.

Restrictions
on com-
mencement
of business.

95. (1) 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;
- (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 that does not issue a prospectus inviting the public to subscribe for its shares, on the shares payable in cash;
- (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 that 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 prevents the simultaneous offer for subscription or allotment of any shares and debentures or the receipt of any money payable on application for debentures.

(5) Where a company commences business or exercises borrowing powers in contravention of this section, every person who is responsible for the contravention is, without prejudice to any other liability, liable to a fine not exceeding two hundred and fifty dollars for every day during which the contravention continues.

(6) Nothing in this section applies to a private company or to a company registered before the 1st day of May, 1914, or to a company that 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.

96. (1) 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 any contract mentioned in subsection (1) 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) Where 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 is liable to a fine not exceeding two hundred and fifty dollars for every day during which the default continues; except 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 thinks proper.

Commissions and Discounts.

97. (1) 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 Power to pay certain commissions, and prohibition of payment of all other commissions, discounts, etc.

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.

(2) Save as mentioned in subsection (1), 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 affects the power of any company to pay such brokerage as 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 has 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 lawful under this section.

Statement in
balance-sheet
as to
commissions
and discounts.

98. 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.

Payment of Interest out of Capital.

Power of
company to
pay interest
out of
capital in
certain cases.

99. 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 that 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, except that

- (a) no such payment shall be made unless the same is authorized by the articles or by special resolution;
- (b) no such payment, whether authorized by the articles or by special resolution, shall be made without the previous sanction of the Commissioner;
- (c) 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;

- (d) 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;
- (e) 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;
- (f) 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; and
- (g) 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.

Certificates of Shares, etc.

100. (1) 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) Where 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, is liable to a fine not exceeding twenty-five dollars for every day during which the default continues.

Information as to Mortgages, Charges, Etc.

101. (1) Every mortgage or charge created by a company after the 1st day of May, 1914, being either

Registration of mortgages and charges.

- (a) a mortgage or charge for the purpose of securing any issue of debentures;
- (b) a mortgage or charge on uncalled share capital of the company;
- (c) a mortgage or charge created or evidenced by an instrument that, if executed by an individual, would require registration as a bill of sale;
- (d) a mortgage or charge on any land, wherever situate, or any interest therein;
- (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; except 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;
- (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;

(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;

(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; except 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; but the deposit of any debentures as security for any debt of the company shall not for the purposes of this subsection 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) 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; and 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.

(7) 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.

(8) 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; except that, in the case of a series of uniform debentures, a copy of one such debenture shall be sufficient.

Registration
of
enforcement
of security.

102. (1) 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) Where any person makes default in complying with the requirements of this section he is liable to a fine not exceeding twenty-five dollars for every day during which the default continues.

Filing of
accounts of
receivers and
managers.

103. (1) 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 is liable to a fine not exceeding two hundred and fifty dollars.

Rectification
of register
of mortgages.

104. 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 mis-statement 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 mis-statement be rectified.

Entry of
satisfaction.

105. 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.

Penalties.

106. (1) Where default is made in the registration of any mortgage or charge or of the issues of debentures of a series requiring registration under this Ordinance, every company, and

every director, manager or secretary of a company, and every person knowingly a party to the default is, on conviction, liable to a fine not exceeding two hundred and fifty dollars for every day during which the default continues.

(2) Where 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 is, without prejudice to any other liability, liable to a fine not exceeding five hundred dollars.

107. (1) 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) Where 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 is liable to a fine not exceeding two hundred and fifty dollars.

108. (1) 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 section 107, 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) Where 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, is 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.

109. (1) 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 reasonable restrictions as the company may in general meeting impose, so that at least two hours in each day are appointed for

Right of debenture-holders to inspect the register of debenture-holders and to have copies of trust deed.

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) Where inspection is refused, or a copy is refused or not forwarded, the company is 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.

Company includes society, etc.

110. The word "company" in sections 101 to 109 means any company, society or association incorporated by or under any public Ordinance of the Territory.

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, is not 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.

Power to reissue redeemed debentures in certain cases.

112. (1) 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, has 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 has 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 has, and shall be deemed always to have had, the same rights and priorities as if the debentures had not previously been issued.

(2) Where with 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 be held to prejudice

- (a) the operation of any judgment or order of a court of competent jurisdiction pronounced or made before the 1st 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.

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.

Specific performance of contract to subscribe for debentures.

114. (1) 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 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 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.

Statement to be published by certain Companies.

Certain
companies
to publish
statement in
Schedule.

115. (1) 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) Where default is made in compliance with this section, the company, association or society is 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 is liable to the like penalty.

Inspection and Audit.

Investigation
of affairs of
company by
government
inspectors.

116. (1) 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; or
- (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) Where 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 is 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.

117. (1) 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.

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. Report of inspectors to be evidence.

119. (1) 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) Where 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 meet-

ing; except 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 section, 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 section, 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.

Powers and
duties of
auditors.

120. (1) 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 is

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) Where any copy of a balance-sheet that 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 published 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, is on conviction liable to a fine not exceeding two hundred and fifty dollars.

121. (1) 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 does not apply to a private company or to a company registered before the 1st day of May, 1914.

Carrying on Business with less than the Legal Minimum of Members.

122. Where 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, is 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.

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. 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. 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.

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, and may alter or add to the forms in the said Second Schedule.

Alterations to be published in *Yukon Gazette*.

127. Any such table or form, when altered, shall be published in the *Yukon 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 First Schedule shall affect any company registered before the alteration, or repeal, as respects that company, any portion of such table.

Arbitrations.

Arbitration between companies and others.

128. (1) 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* apply to arbitrations between companies and persons in pursuance of this Ordinance.

Power to Compromise.

Power to compromise with creditors and members.

129. (1) 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.

Private Companies.

130. (1) For the purposes of this Ordinance, the expression "private company" means a company that by its memorandum or articles Meaning of "private company".

- (a) restricts the right to transfer its shares;
- (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.

PART V.

INCORPORATION OF MINING COMPANIES WITHOUT ANY
PERSONAL LIABILITY.

131. (1) 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 25 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, licences 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; except, however, that the restriction in this subsection as to borrowing without the sanction of a general meeting shall not be deemed to be imperative, and shall in no way 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; except, 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; and
- (m) to do all such other things as are incidental or conducive to the attainment of the foregoing objects.

132. Where a certificate of incorporation incorporating any such company, or a licence or certificate of registration to any extra-territorial company, has been issued containing the provisions mentioned in section 131, 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.

Shares to
be specially
marked.

Charter, prospectuses, and other documents of such company to be specially marked.

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 that 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.

Enforcement of payment of assessment on such shares.

134. (1) 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.

(2) The notice required by this section 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, 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 fails 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; except 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.

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.

136. Wherever any shares have been, prior to the 1st 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 1st 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.

Existing companies incorporated 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.

Shares in companies incorporated under Chapter 60 of Consolidated Ordinances, 1902, to be at all times full-paid and non-assessable.

138. (1) In case a resolution authorizing reincorporation and registration under 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 or hereafter incorporated, subject to section 131 of this Ordinance or 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), is 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* 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

Reincorporation as an ordinary limited company.

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.

(2) After such reincorporation and registration the company shall be governed in all respects by 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 of registration or incorporation in force prior to the passing of this Ordinance.

(3) 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.

(4) 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 shall be paid to the Registrar.

(5) 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; except, 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.

(6) The memorandum of association may be accompanied by articles of association, in accordance with section 19 of this Ordinance, and such articles of association must be authorized by the resolution authorizing registration under this section.

(7) 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 *Yukon Gazette*, or otherwise, as he thinks proper.

(8) The Registrar may, in any case where he thinks it proper so to do, refuse reincorporation and registration; but 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.

(9) Every certificate of registration issued under this section shall be published in one issue of the *Yukon Gazette* and in one issue of a newspaper circulating in the city or district in which the registered office of the company is situate.

PART VI.

LICENSING AND REGISTRATION OF EXTRA-TERRITORIAL COMPANIES.

General.

139. (1) Every extra-territorial company, other than a company incorporated under authority of an Act of the 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 Territory until such extra-territorial company shall have been licensed or registered as aforesaid.

Extra-territorial companies required to become licensed or registered.

(2) This section applies to an extra-territorial company notwithstanding that it was heretofore registered as a foreign company under the provisions of any other Ordinance.

Extra-territorial companies heretofore registered.

(3) Every such company incorporated under authority of an Act of the Parliament of Canada, is also required to be registered under this or some former Ordinance, but the above provisions restrictive of its carrying on business before licensing or registration do not apply to such company.

Dominion companies must be registered.

140. The Registrar may, for good cause shown, dispense with the filing, by an extra-territorial company proceeding to obtain a licence or registration under this Part, of one or more of the documents that 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.

Registrar's power to dispense with filing of documents.

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 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.

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 companies incorporated thereunder; and every such extra-territorial

Rights and duties of registered companies.

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.

Power to issue and transfer shares.

143. (1) Every extra-territorial company registered under this Part shall, in and by the power of attorney hereinafter prescribed empower its attorney to issue and transfer shares of the company.

Register.

(2) 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 32, 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.

Surrender of certificate of registration for licence.

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 1st 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 licence under the provisions of this Part; and for the purpose of obtaining such licence the surrender of such certificate of registration and the filing of the power of attorney prescribed by paragraph (c) of section 152 shall be deemed to be a sufficient compliance with the requirements of this Part.

What certificate of registration or licence to extra-territorial companies to contain.

145. The licence issued in pursuance of section 144 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.

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 that has obtained a licence under some former Ordinance, may obtain a licence

under this Part, 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.

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.

Security for costs by extra-territorial company.

148. The Commissioner may, by order published in three consecutive issues of the *Yukon Gazette*, suspend or revoke and make null and void any licence granted or any registration effected under this or some former Ordinance to any company that refuses or fails to keep a duly appointed attorney within the Territory, or to comply with any of the provisions of this Part; and, notwithstanding such suspension or revocation, the rights of creditors of the company shall remain as at the time of such suspension or revocation.

Commissioner's power to suspend or revoke licence.

149. Sections 101 to 110 of this Ordinance apply to every extra-territorial company.

Application of certain sections to extra-territorial companies.

150. The licence or certificate of registration to any extra-territorial company the objects whereof are restricted as mentioned in subsection (1) of section 131 may, if so applied for in the application for such licence, 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 to 135 apply to such extra-territorial company.

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 the United Kingdom, the former Province of Canada, any province of Canada or the Parliament of Canada that is 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 licence from the Registrar authorizing it to carry on business within the Territory on compliance with this Ordinance, and on payment to the Registrar in respect of the several matters mentioned in the Table B in the First Schedule the several fees therein specified, and shall, subject to the provisions of the charter and regulations of the company and to the terms of the licence, thereupon have the same powers and privileges in the Territory as if incorporated under this Ordinance.

Companies entitled to licence.

Proceedings
to obtain
such licence.

152. Before the issue of a licence 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, 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, 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; and
- (g) the number of shares into which it is divided.

Contents
of licence.

153. (1) The licence 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;

Companies.

- (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; and
- (i) in the case of a mining company, to which the non-personal liability sections in Part V apply, that the liability of the members is so specially limited;

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 once in the *Yukon Gazette* or in a newspaper published in the Territory at or nearest the place that is to be the chief place of business of the company; and such licence shall be conclusive evidence of compliance with all the requirements of this Ordinance. Publication.

(2) 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.

154. The licence, or a copy thereof certified under the hand and seal of the Registrar, or a copy of the *Yukon Gazette* containing such licence, shall be sufficient evidence in any proceeding in any Court in the Territory of the due licensing of the company aforesaid. Evidence of licence.

155. If the power of attorney hereinbefore prescribed becomes invalid or ineffectual for 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. 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 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 this Ordinance. Power for extra-territorial company to register.

Proceedings
by such
company to
obtain
registration.

157. Any extra-territorial company desiring to become registered as a company under this Ordinance may petition therefor under the common seal of the company, and with such petition 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 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.

Powers of
attorney
by extra-
territorial
companies
seeking
registration.

158. (1) The Registrar may accept from any extra-territorial company, proceeding to obtain registration under section 157, a power of attorney which varies in substance from that called for by paragraph (c) of that 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, 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.

(2) The certificate of registration issued to the company under 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; and the company shall thereupon be relieved from compliance with section 143.

159. (1) 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; and
- (i) in the case of a mining company, to which the non-personal liability sections in Part V apply, that the liability of the members of the company is so specially limited;

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 once in the *Yukon Gazette* or in a newspaper published in the Territory at or nearest the place that is to be the chief place of business of the company; and such certificate shall be conclusive evidence of compliance with all the requirements of this Ordinance. Publication.

(2) 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.

160. The certificate of registration or any copy thereof certified under the hand and seal of the Registrar, or a copy of the *Yukon 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. 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 Substitutional service on such company.

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.

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, 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.

Disabilities and Penalties.

Penalty for doing business without licence.

163. Where any extra-territorial company, without being licensed or registered pursuant to this or some former Ordinance carries on in the Territory any part of its business, such company is liable to a penalty of fifty dollars for every day upon which it so carries on business.

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; except, however, that upon the granting or restoration of the licence or the issuance or restoration of the certificate of registration or the removal of any suspension of either licence or the certificate, any action, suit or other proceeding may be maintained as if such licence or certificate had been granted or restored or such suspension removed before the institution of any such action, suit or other proceedings.

Proviso.

Cannot hold land.

165. No extra-territorial company required by this Ordinance to be licensed or registered is 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; except that the granting of a licence or certificate of registration shall operate as a removal of any disability under this section.

Proviso.

Penalty for agent of unlicensed or unregistered company carrying on business.

166. Where 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 carries on any of its business contrary to the requirements of this Part, such company, firm, broker, agent or other person is liable to a penalty of twenty dollars for every day it, he or they shall so carry on such business.

167. The Commissioner may, when or after a licence has been granted or a certificate issued, remit in whole or part any penalty incurred under this Ordinance by the company receiving the licence 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, are not recoverable.

Power to remit penalties.

168. The penalties imposed by this Part are 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; except 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.

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 attacked, 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 become liable to a penalty for neglect to observe any provision of this Ordinance.

Acts of former companies not invalidated by default of directors.

170. The taking of orders by travellers for goods, wares or merchandise to be subsequently imported into the 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 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.

Sales by travellers or by correspondence.

171. Sections 163, 164 and 165 do not apply to any extra-territorial company incorporated under the authority of any Act of the Parliament of Canada.

PART VII.

PROCESS AGAINST UNREGISTERED EXTRA-TERRITORIAL COMPANIES.

172. In this Part, the word "company" means any unlicensed and unregistered extra-territorial company that has done, entered into or made any act, matter, contract or disposition giving to any person or company a right of action in any Court.

Definition of "company" in this Part.

Service of process on unregistered company.

173. Any writ or summons, plaint, injunction or other legal proceeding duly issued at the instance or suit of any person by the Territorial Court or any Police Magistrate's Court, or officer of such Court, may be served as against the company by delivering the same to the clerk of the Territorial Court.

Publication of such process.

174. It shall be the duty of such Clerk to cause to be inserted in the four regular issues of the *Yukon Gazette*, consecutively, following the delivery of such process to him, a notice of 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.

When such service valid.

175. After the advertisement has appeared in such four issues, the delivery of such process to the clerk shall be deemed, as against the defendant company, to be good and valid service of such process.

Procedure on entering a judgment against company.

176. 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 *Yukon Gazette* in which the advertisement shall have appeared; except that when service of process has been effected as hereinbefore mentioned, the plaintiff shall prove the amount of the debt or damages claimed by him 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.

Averment in action against company.

177. 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.

Ordinance not to affect remedies against companies.

178. Nothing in this Part 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.

PART VIII.

PUBLIC UTILITIES.

179. This Part applies 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 that 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.

Applies to public utility companies.

180. With the application for incorporation the applicants shall file with the Registrar and produce to the Commissioner:

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 approving of the undertaking; and
- (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.

181. The Commissioner 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 that may appear to be in the public interest regarding such undertaking.

Reference to engineers or other experts to report.

182. The incorporation of any company hereafter formed for the purpose of operating any public utility under this Part, either solely or in conjunction with other objects, shall be by memorandum and articles of association under Part II.

Public utility companies to be incorporated by memorandum.

183. The provisions of this Part shall, so far as applicable, apply to any such company.

184. The provisions of this Part continue to apply to any company heretofore formed by letters patent.

Power to
pass by-laws.

185. The company may pass by-laws regarding the control and management of its undertakings, 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; except that no such by-laws shall have any force or effect or be acted upon until approved by the Commissioner and, in the case of by-laws affecting its dealings with the public, the fixing and collection of tolls, charges, rates or levies for the public service given by the company, published twice 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 *Yukon Gazette*.

By-laws to
be approved
by Com-
missioner and
published.

Annual
report to
Registrar.

186. In addition to other returns that 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 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.

Books open
to inspection.

187. The books of account of the company shall be at all reasonable times open to the inspection and examination of any shareholder.

Commissioner
may appoint
inspector.

188. The Commissioner, if he has any doubts as to the correctness or truth of any statements furnished by the company, may appoint a person to 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.

189. The Commissioner may extend the term of existence of any company incorporated for a limited period under this Ordinance, for such further period as by order 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. Term of company's existence may be extended.

190. (1) A company incorporated for any of the purposes to which this Part applies has, respectively, 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. Erection of works. Municipal contract. Exemption from taxation.

(2) 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. Terms when roads not within a municipality.

191. 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 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. Powers of companies.

192. 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 mains and wires on streets.

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.

Company's rights regarding mains and pipes.

193. (1) 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.

(2) This section applies to mains, pipes, wires or conductors crossing as well as running or parallel with other mains, pipes, wires or conductors.

Supplying parts of buildings having different owners or tenants.

194. 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.

Breaking up passages, etc.

195. 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.

Compensation.

196. (1) 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.

(2) Every person claiming compensation from the company under this section shall proceed by originating summons. Procedure.

197. 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. Location of works.

198. Nothing in this Ordinance authorizes 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. Limitation of powers of company.

199. Nothing in this Ordinance authorizes any company established under it to interfere with or infringe upon any exclusive privilege granted to any other company. Privileges of other companies.

200. Nothing in this Ordinance prevents 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 licence or fee at any time imposed on any other company or person supplying similar utilities in the same city, town or district. Individual rights.

201. 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. Exemption from distress and seizure.

202. Where 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 afore- Nonpayment of rates, etc.

said 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.

Entry of
premises by
employees
of company.

203. 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 where 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 twenty dollars, and a further penalty of four dollars for every day during which such refusal or obstruction continues, to be recovered with costs as hereinafter provided.

Removal of
fittings, etc.,
where
service
discontinued.

204. 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.

Expropriation.

205. (1) Where 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. Appointment of arbitrators.

(2) Nothing in this section authorizes the company to take or use any house, land or property in contravention of section 198.

206. The arbitrators shall examine all witnesses and administer all necessary oaths or declarations to them and the 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. Powers and duties of arbitrators.

207. 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. Payment of award.

208. 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 three arbitrators or a majority of them shall be binding on all parties concerned. Failure to appoint arbitrator.

209. All companies having the privileges conferred by this Part 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. Company shall supply.

210. This Part, in so far as the same may be applicable, applies to any company heretofore incorporated under any general or special Ordinance for any of the purposes referred to in section 179. Applies to companies heretofore incorporated.

PART IX.

WINDING-UP.

Preliminary.

211. (1) The winding-up of a company may be either Modes of winding-up.

- (a) by the Court;
- (b) by voluntary action; 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 manner mentioned in subsection (1).

(3) This Part applies 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.

Contributories.

Liability as
contributories
of present
and past
members.

212. (1) In the event of a company being wound up, every present and past member shall, subject to 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 cost, charges and expenses of the winding-up, and for the adjustment of the rights of the contributories among themselves, subject to the following:

- (a) a past member is not 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 is not 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 is not 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; and
- (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, is, in addition to his liability, if any, to contribute as an ordinary member, liable to make a further contribution as if he were, at the commencement of the winding-up, a member of an unlimited company; except that

- (a) a past director or manager is not 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 is not liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office; and
- (c) subject to the articles of the company, a director or manager is not 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 that has a share capital, every member of the company is 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.

213. 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. Definition of "contributory".

214. 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. Nature of liability of "contributory".

215. (1) Where a contributory dies either before or after he has been placed on the list of contributories, his personal representatives and his heirs and devisees are liable in a due course of administration to contribute to the assets of the company in discharge of his liability, and are 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) Where 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.

Winding-up by Court.

- 216.** A company may be wound up by the Court Circumstances in which company may be wound up by 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; or
- (e) if the Court is of opinion that it is just and equitable that the company should be wound up.

Provisions as to applications for winding-up.

217. (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; except that

- (a) a contributory is not entitled to present a petition for winding up a company unless
 - (i) 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
 - (ii) 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.

Effect of winding-up order.

218. An order for winding-up a company operates in favour of all the creditors and of all the contributories of the company.

Commencement of winding-up by Court.

219. 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.

Power to stay or restrain proceedings against company.

220. 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,

- (a) where any action or proceeding against the company is pending in the Territorial Court or Court of Appeal, 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.

221. (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.

222. 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.

Actions stayed on winding-up order.

223. 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.

Copy of order to be forwarded to Registrar.

224. 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.

Power of Court to stay winding-up.

225. 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.

Court may have regard to wishes of creditors or contributories.

Liquidators.

226. (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.

Appointment, remuneration, and title of 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, and

- (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; and
- (c) where 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, and a vacancy in the office of a liquidator appointed by the Court shall be filled by the Court.

(5) 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.

(6) 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.

(7) The acts of a liquidator shall be valid notwithstanding any defects that may afterwards be discovered in his appointment or qualification.

Custody of company's property.

227. (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.

(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.

Powers of liquidator.

228. (1) The liquidator in a winding-up by the Court has power, with the sanction either of the Court or of the committee of inspection, if any,

- (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; and
 - (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 has 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; and
 - (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 is 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.

Meetings of
creditors and
contributories
in winding-up.

229. (1) Where 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 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.

Payments of
liquidator in
winding-up
into bank.

230. (1) Every liquidator of a company that 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) Where 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 is 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 that is being wound up by the Court shall not pay any sums received by him as liquidator into his private banking account.

Audit of
liquidator's
accounts in
winding-up.

231. (1) Every liquidator of a company that 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.

232. Every liquidator of a company that 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. Books to be kept by liquidator in winding-up.

233. (1) When a liquidator of a company that 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.

(4) Where the liquidator has not previously resigned or been removed, his release shall operate as a removal of him from his office.

234. (1) Subject to this Ordinance, the liquidator of a company that is being wound up by the Court 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. Exercise and control of liquidator's powers.

(2) The liquidator may summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes, and it is 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 this Ordinance, the liquidator shall use his own discretion in the management of the estate and its distribution among the creditors.

(5) Where 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.

Control of
Court over
liquidators.

235. (1) The Court shall take cognizance of the conduct of liquidators of companies that 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 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.

Committee of Inspection, Special Manager, Receiver.

Committee
of inspection
in winding-up.

236. (1) 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 contributories, 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) Where 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 thereupon becomes 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) Where 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.

237. (1) 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; and shall receive such remuneration as may be fixed by the Court.

Ordinary Powers of Court.

238. (1) 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. Settlement of list of contributories and application of assets.

(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.

Power to require delivery of property.

239. 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.

Power to order payment of debts by contributory.

240. (1) 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) 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.

Power of Court to make calls.

241. (1) 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.

Power to order payment into bank.

242. (1) 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.

(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 are subject in all respects to the orders of the Court.

243. (1) An order made by the Court on a contributory Order on contributory conclusive evidence. is, subject to any right of appeal, conclusive evidence that the money, if any, thereby appearing to be due or ordered to be paid is due.

(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.

244. The Court may fix a time or times within which Power to exclude creditors not proving in time. creditors are to prove their debts or claims, or to be excluded from the benefit of any distribution made before those debts are proved.

245. The Court shall adjust the rights of the contributories Adjustment of rights of contributories. among themselves, and distribute any surplus among the persons entitled thereto.

246. The Court may, in the event of the assets being Power to order costs. 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.

247. (1) When the affairs of a company have been completely Dissolution of company. 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.

(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) Where the liquidator makes default in complying with the requirements of this section, he is liable to a fine not exceeding twenty-five dollars for every day during which he is in default.

248. General rules may be made for enabling or requiring Delegation to liquidator of certain powers of Court. 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; and
- (e) fixing a time within which debts and claims must be proved;

except 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.

Extraordinary Powers of Court.

Power to
summon
persons
suspected of
having
property
of company.

249. (1) 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 has jurisdiction in the winding-up to determine all questions relating to that lien.

(4) Where 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.

Power to
order public
examination
of promoters,
directors, etc.

250. (1) 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; except 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.

251. 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.

Power to
arrest
absconding
contributory.

252. Any powers by this Ordinance conferred on the Court are in addition to and not in restriction of any existing powers of instituting proceedings against any contributory or debtor of the company, or the estate of any contributory or debtor, for the recovery of any call or other sums.

Powers of
Court
cumulative.

Enforcement of and Appeal from Orders.

Power to enforce orders.

253. Orders made by the Court under this Ordinance may be enforced in the same manner as orders made in any action pending therein.

Appeals from order.

254. Subject to the 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 lies 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.

Voluntary Winding-up.

Circumstances in which company may be wound up voluntarily.

255. A company may be wound up voluntarily

- (a) 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;
- (b) if the company resolves by special resolution that the company be wound up voluntarily; and
- (c) 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.

256. A voluntary winding-up is deemed to commence at the times of the passing of the resolution authorizing the winding-up.

Effect of voluntary winding-up on status of company.

257. Where 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; except that the corporate state and corporate powers of the company shall, notwithstanding anything in its articles, continue until it is dissolved.

Notice of resolution to wind up voluntary.

258. Where a company has resolved by special or extraordinary resolution to wind up voluntarily, it shall give notice of the resolution by advertisement in the *Yukon Gazette*.

Consequences of voluntarily winding-up.

259. The following consequences ensue on the voluntary winding-up of the company:

- (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; and
- (i) the Court may, on cause shown, remove a liquidator, and appoint another liquidator.

260. (1) 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) Where the liquidator fails to comply with the requirements of this section, he is liable to a fine not exceeding twenty-five dollars for every day during which the default continues.

261. (1) 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 *Yukon Gazette* and 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. Rights of creditors in a voluntary winding-up.

(2) At the meeting to be held pursuant to subsection (1) 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 lies 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.

Power to fill vacancy in office of liquidator.

262. (1) Where 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.

Delegation of authorities to appoint liquidators.

263. (1) 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.

Arrangement when binding on creditors.

264. (1) Any arrangement entered into between a company about to be, or in the course of being, wound up voluntarily and its creditors is, subject to any right of appeal under this

section, 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.

(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.

265. (1) 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 is binding on the members of the transferor company.

(3) Where 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) Where 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 is not 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, where an order is made within a year for winding up the company by or subject to the supervision of the Court, the special resolution is not 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 apply.

Company given power to dispose of undertaking.

266. Any company now or hereafter incorporated under this Ordinance has and shall be deemed to have had from the date of its incorporation power by resolution of the company to sell or dispose of its assets and whole undertaking for such consideration as the company thinks fit, and in particular for shares, debentures or securities of any other company having objects altogether or in part similar, if such sale or disposition is one of the objects of the company contained in its memorandum of association.

Shares, etc. may form part consideration.

Power to apply to Court.

267. (1) 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.

Power of liquidator to call general meeting.

268. (1) 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.

Final meeting and dissolution.

269. (1) 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 *Yukon 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 is 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; except 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 is 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 is liable to a fine not exceeding twenty-five dollars for every day during which the default continues.

270. All costs, charges and expenses properly incurred in the voluntary winding-up of a company, including the remuneration of the liquidator, are payable out of the assets of the company in priority to all other claims. Costs of voluntary liquidation.

271. The voluntary winding-up of a company does 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. Saving for rights of creditors and contributories.

272. 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. Power of Court to adopt proceedings of voluntary winding-up.

Winding-up subject to Supervision of Court.

273. 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. Power to order winding-up subject to supervision.

274. 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. Effect of petition for winding-up subject to supervision.

275. 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. Court may have regard to wishes of creditors and contributories.

Power for Court to appoint or remove liquidators.

276. (1) 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.

(2) A liquidator appointed by the Court under this section has the same powers, is subject to the same obligations, and in all respects stands 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.

Effect of supervision order.

277. (1) 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 is for all purposes, including the staying of actions and other proceedings, the making and enforcement of calls, and the exercise of all other powers, deemed to be an order for winding-up by the Court.

Supplemental Provisions.

Avoidance of transfers, etc., after commencement of winding-up.

278. (1) 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, are 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, is, unless the Court otherwise orders, void.

Debts of all description to be proved.

279. 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, are 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.

Preferential payments.

280. (1) In every 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;

- (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;
 - (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 except 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 that 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.

281. 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.

Avoidance of certain attachments, executions, etc.

282. 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 is void to all intents.

General scheme of liquidation may be sanctioned.

283. (1) The liquidator may, with the sanction

- (a) in the case of a winding-up by the Court, either of the Court or of the committee of inspection; or
- (b) in the case of a voluntary winding-up, 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; and
- (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 is 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.

Power of Court to assess damages against delinquent directors, etc.

284. (1) 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, 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 applies 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.

285. (1) Where 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. Prosecution of delinquent directors, etc.

(2) Where 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 an 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 are payable out of the assets of the company in priority to all other liabilities.

286. (1) 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.

287. Where any company is being wound up, all books and papers of the company and of the liquidators are, as between the contributories of the company, prima facie evidence of the truth of all matters purporting to be therein recorded. Books of company to be evidence.

288. (1) 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. Inspection of books.

Disposal of
books and
papers of
company.

289. (1) 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:

- (a) in the case of winding-up by or subject to the supervision of the Court, in such way as the Court directs; and
- (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.

Power of
Court to
declare
dissolution
of company
void.

290. (1) 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 is 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 where that person fails so to do he is liable to a fine not exceeding twenty-five dollars for every day during which the default continues.

Information
as to
pending
liquidations.

291. (1) 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 is 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 is guilty of a contempt of Court, and is punishable accordingly on the application of the liquidator.

(3) Where a liquidator fails to comply with the requirements of this section, he is liable to a fine not exceeding one hundred dollars for each day during which the default continues.

(4) Where 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 Yukon Consolidated Revenue Fund with a copy of the statement referred to in subsection (1), and is entitled to the prescribed certificate of receipt for the money so paid, and that certificate is an effectual discharge to him in respect thereof.

(5) Any person claiming to be entitled to any money paid into the Yukon Consolidated Revenue Fund in pursuance of this section may apply to the Commissioner for payment of the same, and the 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 Commissioner in respect of any claim made in pursuance of this section may appeal to the Court.

292. In all proceedings under this Part all courts, judges and persons judicially acting, and all officers 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, or any official copy thereof. Judicial notice of signature of officers.

293. (1) 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 has, in addition to any other powers which he might lawfully exercise, 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.

294. (1) Any affidavit required to be sworn under the provisions or for the purposes of this Part 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.

295. The officers of the courts acting in the winding-up of companies shall make to the Registrar such returns of the business of their respective courts and offices, at such times and in Returns by officers in winding-up.

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.

Proceedings
of Registrar.

296. (1) 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.

(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, is conclusive evidence of the fact so certified.

Rules and Fees.

Rules and
fees for
winding-up.

297. (1) The Commissioner may make general rules for carrying into effect the objects of this Part.

(2) All general rules made under this section shall be laid before the 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.

Removal of Defunct Companies from Register.

Registrar
may strike
defunct
company
off register.

298. (1) Where a company incorporated under any public Ordinance of the 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.

(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 *Yukon 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 *Yukon 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 licence or certificate of registration; except 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) Where 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 apply in like manner as if the Registrar had not within two months after sending the letter first mentioned received any answer thereto.

PART X.

REGISTRATION OFFICE AND FEES.

Appointment
of officers.

299. (1) 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 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 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.

Fees.

300. (1) There shall be paid to the Registrar in respect of the several matters mentioned in Table B in the First Schedule 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 shall be paid into the Yukon Consolidated Revenue Fund.

PART XI.

APPLICATION OF ORDINANCE TO COMPANIES FORMED AND REGISTERED UNDER FORMER COMPANIES ORDINANCES.

301. 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 except that any 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.

Application of Ordinance to companies formed under former Companies Ordinances.

302. Except as hereinbefore provided, this Ordinance applies 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; except that any 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.

Application of Ordinance to companies registered under former Companies Acts or Ordinances.

303. 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.

PART XII.

COMPANIES AUTHORIZED TO REGISTER UNDER THIS ORDINANCE.

- 304.** (1) With the exceptions and subject to the provisions mentioned and contained in this section,
- (a) any company consisting of three or more members that was in existence on the 1st 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 Territory other than this Ordinance, or of letters patent, or being otherwise duly constituted by law, and consisting of five or more members,

Companies capable of being registered.

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) Notwithstanding subsection (1),
- (a) a company having the liability of its members limited by Ordinance of the Territory or letters patent, and not being a joint-stock company as hereinafter defined, shall not register in pursuance of this section;
 - (b) a company having the liability of its members limited by Ordinance of the Territory or letters patent shall not register in pursuance of this section as an unlimited company or as a company limited by guarantee;
 - (c) 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;
 - (d) 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;
 - (e) where a company not having the liability of its members limited by Ordinance of the Territory 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; and
 - (f) 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.

Definition of
"joint-stock
company".

305. For the purposes of this Part, 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.

306. Before the registration in pursuance of this Part of a joint-stock company, there shall be delivered to the Registrar the following documents: Requirements for registration by joint-stock companies.

- (a) 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;
- (b) a copy of any private Ordinance of the Territory, charter, letters patent, deed of settlement, contract of copartnery, memorandum and articles of association and by-laws or any other instrument constituting or regulating the company; and
- (c) if the company is intended to be registered as a limited company, a statement specifying the following particulars:
 - (i) 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;
 - (ii) the number of shares taken and the amount paid on each share;
 - (iii) the name of the company, with the addition of the word "limited" as the last word thereof; and
 - (iv) in the case of a company intended to be registered as a company limited by guarantee, the resolution declaring the amount of the guarantee.

307. Before the registration in pursuance of this Part of any company not being a joint-stock company, there shall be delivered to the Registrar Requirements for registration by other than joint-stock companies.

- (a) a list showing the names, addresses and occupations of the directors or other managers, if any, of the company;
- (b) a copy of any Ordinance of the Territory, letters patent, deed of settlement, contract of copartnery or other instrument constituting or regulating the company; and
- (c) 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.

308. 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. Authentication of statements of existing companies.

Registrar may require evidence as to nature of company.

309. 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.

Exemption of certain companies from payment of fees.

310. No fees shall be charged in respect of the registration in pursuance of this Part 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.

Addition of "limited" to name.

311. When a company registers in pursuance of this Part with limited liability, the word "limited" shall form and be registered as part and the last word of its name.

Certificate of registration of existing companies.

312. On compliance with the requirements of this Part with respect to registration, and on payment of such fees, if any, as are payable under Table B of the First Schedule, 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 is incorporated, and has perpetual succession and a common seal, with power to hold lands.

Vesting of property on registration.

313. All property, real and personal (including choses in action), belonging to or vested in a company at the date of its registration in pursuance of this Part 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.

Saving for existing liabilities.

314. Registration of a company in pursuance of this Part does 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.

Continuation of existing actions.

315. All actions and other legal proceedings that at the time of the registration of the company in pursuance of this Part 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.

Effect of registration under Ordinance.

316. (1) Where a company is registered in pursuance of this Part,
(a) all provisions contained in any Ordinance of the Council, deed or settlement, contract of copartnership, letters patent or other instrument constituting or regulating the com-

pany, 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;

- (b) all the provisions of this Ordinance 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:
 - (i) the regulations in Table A of the First Schedule do not apply unless adopted by special resolution;
 - (ii) the provisions of this Ordinance, relating to the numbering of shares do not apply to any joint-stock company whose shares are not numbered;
 - (iii) subject to this section, the company does not have power to alter any provision contained in any Ordinance of the Council, relating to the company;
 - (iv) subject to this section, the company does not have power, without the sanction of the Commissioner, to alter any provision contained in any letters patent relating to the company;
 - (v) the company does not have power to alter any provision contained in a charter, or letters patent with respect to the object of the company; and
 - (vi) 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 apply; and
- (c) the provisions of this Ordinance with respect to
 - (i) the registration of an unlimited company as limited;
 - (ii) 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; and

- (iii) 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, apply, notwithstanding any provisions contained in any Ordinance of the Council, charter, deed of settlement, contract of copartnership, letters patent or other instrument constituting or regulating the company.

(2) Nothing in this section authorizes the company to alter any such provisions contained in any deed of settlement, contract of copartnership, 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.

(3) Nothing in this Ordinance derogates from any power of altering its constitution or regulations which may, by virtue of any Ordinance of the Council, deed of settlement, contract of copartnership, letters patent or other instrument constituting or regulating the company, be vested in the company.

Power to substitute memorandum and articles for deed of settlement.

317. (1) Subject to this section, a company registered in pursuance of this Part 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 "deed of settlement" includes any contract of copartnership or other instrument constituting or regulating the company, not being an Ordinance of the Council, a royal charter or letters patent.

318. 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, in the case of a company registered in pursuance of this Part, where the application to stay or restrain is by a creditor, extend to actions and proceedings against any contributory of the company. Power of Court to stay or restrain proceedings.

319. Where an order has been made under this Ordinance for winding up a company registered in pursuance of this Part, 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. Actions stayed on winding-up order.

PART XIII.

MISCELLANEOUS AND SUPPLEMENTAL.

Legal Proceedings, Offences, etc.

320. All violations of the provisions of this Ordinance made punishable by any fine may be prosecuted under the provisions regarding summary convictions contained in the *Criminal Code*. Prosecution of offences.

321. 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 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 Yukon Consolidated Revenue Fund. Court may apply fine to payment of costs: otherwise pay into Y.C.R.F.

322. 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. Insolvent plaintiff. Judge may order security for costs.

323. 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. Relief against breach of trust.

No one to use "limited" as part of name unless incorporated.

324. Where 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 are, unless duly incorporated with limited liability or licensed or registered, and entitled to use the word "limited" as the last word of their name, liable to a fine not exceeding twenty-five dollars for every day upon which that name or title has been used.

Applications to the Court.

325. 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.

Power to adjourn.

326. A judge in chambers may adjourn any matter before him into Court for further argument and consideration.

Power to relieve from penalties.

327. A judge in chambers has 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.

Authentication of Documents issued by the Commissioner.

Authentication of documents issued by Commissioner.

328. Any approval, sanction or licence, or revocation of licence, 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.

Offices.

Existing offices to be continued.

329. Registers of companies kept in any existing office shall be deemed part of the registers of companies to be kept under this Ordinance.

Rules and Regulations.

Power to make rules.

330. 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.

Power to make rules.

331. 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.

Sections applicable to all companies.

332. Sections 33, 73, 82, 119 and 120 apply to all companies heretofore or hereafter incorporated by any public Ordinance of the Territory.

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 95 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 93 and 96 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 con-

ditions 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 evidence 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 entitled 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 47 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 72 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 73 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 80 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.

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 80 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
- (a) 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
 - (b) 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
- (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.

PART I.

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.
 4. For a licence 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 which employs a portion only of its capital in the Yukon Territory and satisfies the Registrar by affidavit or statutory declaration as to the amount of capital so employed in the Yukon Territory, the amount of capital so employed shall be deemed to be the nominal capital of the company and the fee payable by such company shall be computed thereon in the manner set out in paragraphs 1 and 2 hereof; in case such company at any time or times increases the amount of capital so employed an additional fee shall be payable equal to the difference between the fee or fees previously paid and the fee payable computed on the sum of all the capital of the company employed in the Yukon Territory.
 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 310.)
 6. For a license to or registration under this Ordinance of any extra-territorial company already registered in this Territory as a foreign company. 10.00

And in addition thereto, if the license or certificate of registration under this Ordinance is issued pursuant to section 131, the same fees as are payable for registering a new company hereunder, allowing credit as a part of such fees for the amount of fees paid by such extra-territorial company in respect of its original registration in this Territory.

- | | |
|--|-------|
| 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 <i>Yukon Gazette</i> , according to the scale of charges paid by the Government for printing therein. | |
| 10. For each and every search | .25 |
| <p>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 <i>Companies Ordinance</i>, dealt with in the office of the Registrar after the 1st day of May, 1914.</p> <p>Fees to be paid on Registration of Mortgage or charge.</p> | |
| 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 |
| <p>Provided that in the case of a series of debentures registered in accordance with subsection (3) of section 101 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 101 is one that also requires to be registered under the provisions of the <i>Land Titles Act</i> or of the <i>Bills of Sale Ordinance</i>, the fee for registering the same shall be one dollar.</p> | |

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 |
| 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. | |
| 6. For registering any document hereby required or authorized to be registered, other than the memorandum of association | 1.00 |
| 7. 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.

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 _____, 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 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 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 _____ } shares of \$ _____ each.
 into¹ _____ } 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 pay- }
 ments 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 deben- }
 tures 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 sur- }
 rendered respectively since date of last sum- }
 mary..... } \$

Number of shares or amount of stock comprised }
 in each share warrant..... } \$

Total amount of debt due from the Company in respect of all mortgages and charges which are required to be registered with the Registrar of Companies, or which would require registration if created after the 12th day of March, 1906. } \$

¹When there are shares of different kinds or amounts (e.g., preference and ordinary, or \$10 or \$5), state the numbers and nominal values separately.
²Where various amounts have been called or there are shares of different kinds, state them separately.
³Include what has been received on forfeited as well as on existing shares.
⁴State the aggregate number of shares forfeited (if any).

Statement in the form of a balance-sheet made up to the day of _____, 19____, containing the particulars of the capital, liabilities, and assets of the Company.

The Return must be signed at the end by the manager or secretary of the Company.

Presented for filing by

List of persons holding shares in the _____ Company, Limited, on the _____ day of _____, 19____, and of persons who have held shares therein at any time since the date of the last Return, showing their names and addresses, and an account of the shares, so held.

Folio in Register Ledger containing Particulars.	NAMES, ADDRESSES AND OCCUPATIONS.				ACCOUNT OF SHARES.				
	Sur-name.	Chris-tian Name.	Ad-dress.	Occu-pation.	*Num-ber of Shares held by Existing Mem-bers at Date of Return.	†Particulars of Shares trans-ferred since the Date of the Last Return by Per-sons who are still Members.		†Particulars of Shares trans-ferred since the Date of the Last Return by Per-sons who have ceased to be Mem-bers.	
						Num-ber. ‡	Date of Regis-tration of Trans-fer.	Num-ber. ‡	Date of Regis-tration of Trans-fer.

Names and addresses of the persons who are the Directors of the _____, Limited, on the _____ day of _____

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 90).

The nominal share capital of the company	\$
Divided into.....	Shares of \$ each. Shares of \$ each. Share 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 89(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 89(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..... 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.

<p>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).</p>	
<p>Time and place at which the contracts or copies thereof may be inspected.</p>	
<p>Names and addresses of the auditors of the Company (if any).</p>	
<p>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.</p>	
<p>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.</p>	<p>Nature of the provisions.</p>

(Signatures of the persons above named as directors or proposed directors, or of their agents authorized in writing.) }

CHAPTER 20.

AN ORDINANCE RESPECTING HIRE RECEIPTS
AND CONDITIONAL SALE OF GOODS.

- Short Title. **1.** This Ordinance may be cited as the *Conditional Sales Ordinance*.
- Definitions. **2.** In this Ordinance,
- “Buyer.” (a) “buyer” means the person who buys or hires the goods covered by a conditional sale, or any legal successor in interest of such person;
- “Conditional sale.” (b) “conditional sale” means
- (i) any contract for the sale of goods under which possession is or is to be delivered to the buyer and the property in the goods is to vest in him at a subsequent time upon payment of the whole or part of the price or the performance of any other condition, or
- (ii) any contract for the hiring of goods by which it is agreed that the hirer shall become, or have the option of becoming, the owner of the goods upon full compliance with the terms of the contract;
- “Goods.” (c) “goods” means all chattels personal other than things in action or money, and includes emblements, industrial growing crops, and things attached to or forming part of the land that are agreed to be severed before sale or under the contract of sale;
- “Proper officer.” (d) “proper officer” means the officer with whom bills of sale and chattel mortgages are registered or filed;
- “Registration district.” (e) “registration district” means a registration district established under the *Bills of Sale Ordinance*; and
- “Seller.” (f) “seller” means the person who sells or lets to hire the goods covered by a conditional sale, or any legal successor in interest of such person.
- Conditional sales. **3.** (1) After possession of goods has been delivered to a buyer under a conditional sale, every provision contained therein whereby the property in the goods remains in the seller, unless the requirements of this Ordinance are complied with, is void as against subsequent purchasers or mortgagees claiming from or under the buyer in good faith, for valuable consideration and without notice, and as against creditors of the buyer who at the time of becoming creditors have no notice of the provision and who subsequently obtained judgment, execution, or an attaching order, under which the goods, if the property of the buyer, might have been seized; and for the purpose of enforcing the rights

of such creditors but not otherwise, is void as against a creditor suing on behalf of himself and other creditors, and as against an assignee for the general benefit of creditors, and as against a trustee under the *Bankruptcy Act*, a receiver of the estate and effects of the buyer, and a liquidator of a company under the *Winding-up Act* or under any statute or ordinance for the winding-up of companies, without regard to whether or not the creditor so suing had at the time of becoming a creditor notice of the provision, or whether or not the assignee, trustee, receiver or liquidator at the time of his appointment had notice of the provision, and the buyer shall, notwithstanding such provision, be deemed the owner of the goods.

(2) The provision referred to in subsection (1) shall be evidenced by a writing signed prior to or at the time of, or within ten days after delivery of the goods, by the buyer or his agent, giving a description of the goods by which they may be readily and easily known and distinguished, and stating the amount unpaid of the purchase price or the terms and conditions of the hiring; and the writing or a true copy thereof shall be filed within twenty days after it has been signed, with the proper officer of the registration district in which the buyer resided at the time of the making of the conditional sale, or, in case his residence is outside the Territory of the district where the goods are delivered.

(3) Where the buyer resides in one registration district and the goods are delivered to him in another, an original of the writing made pursuant to this section or a true copy thereof shall be filed in the registration district in which the delivery is made as well as in that of the buyer's residence.

(4) Where the goods are after delivery removed by the buyer into another registration district, the original of the writing made pursuant to this section or a true copy thereof shall, within twenty days after such removal has come to the knowledge of the seller, be filed in the district into which the goods are removed.

(5) Where the goods, having been delivered at a place outside the Territory, are subsequently removed into the Territory by the buyer, the writing made pursuant to this section or a true copy thereof shall be filed in the registration district to which the goods are removed, within twenty days after such removal has come to the knowledge of the seller.

(6) Where the buyer is a corporation, the residence of that buyer shall for the purposes of this section be deemed to be at the place where the principal place of business of the corporation in the Territory is situated.

4. (1) Where a writing or a true copy thereof referred to in section 3 has been filed in accordance with that section, a renewal statement and an affidavit in respect thereof shall be filed in accordance with this section within three years after the day of the filing of the writing. ^{Renewal statement.}

Contents of
renewal
statement.

(2) A renewal statement filed pursuant to this section shall set out the interest of the seller in the goods comprised in the conditional sale and the amount still owing for principal and interest under the conditional sale and of all payments made on account thereof, and shall be accompanied by an affidavit by the seller or his agent stating that the statement is true and that the conditional sale has not been kept in force for any fraudulent purpose or to defeat, delay or prejudice the creditors of the buyer.

Place of
filing.

(3) The renewal statement and affidavit referred to in subsection (2) shall be filed,

(a) in the case of goods still situate in the registration district in which the writing evidencing the conditional sale or a true copy thereof was filed in accordance with subsection (2) or (3) of section 3, with the proper officer of that registration district, and

(b) in the case of any goods comprised in the conditional sale that have been removed to a registration district other than that mentioned in paragraph (a) where the writing evidencing the conditional sale or a true copy thereof has been filed pursuant to subsection (4) or (5) of section 3, with the proper officer of the registration district where the goods were removed.

Further
renewal
statement.

(4) A further renewal statement accompanied by an affidavit shall be filed in accordance with subsections (2) and (3) within the period of three years from the filing of the first renewal statement and thereafter within each succeeding period of three years from the filing of the last preceding renewal statement.

Correcting
mistake.

(5) Where any mistake is made in a renewal statement filed pursuant to this section, the seller may file an amended statement clearly pointing out the mistake therein and correcting it.

Effect of
interest
intervening
before filing
amended
statement.

(6) Where before the filing of an amended statement and affidavit referred to in subsection (5) a person has in good faith made an advance of money or given valuable consideration to the buyer or has incurred costs in proceedings taken relying on the accuracy of the renewal statement as first filed, the conditional sale as to the amount so advanced or the valuable consideration given or costs incurred by such person shall, as against him, stand good only for the amount stated in the renewal statement as first filed.

Sale in
course of
business.

5. Where the goods are delivered to a trader or other person and the seller expressly or impliedly consents that the buyer may resell them in the course of business, and such trader or other person resells the goods in the ordinary course of his business, the property in the goods shall pass to the purchaser notwithstanding the other provisions of this Ordinance.

6. The seller shall deliver a copy of the writing evidencing a conditional sale to the buyer within twenty days after the execution thereof, and if, after request, he neglects or refuses to do so a judge may, on summary application, make an order for the delivery of such copy. Copy of contract to be delivered to buyer.

7. (1) The proper officer shall make an entry of every writing that is filed in his office under this Ordinance in an index book to be kept for that purpose. Index books to be kept.

(2) The Commissioner may by regulation prescribe that separate index books shall be kept by the proper officer of any registration district for the entries of writings respecting conditional sales of any certain class of goods.

8. An error of a clerical nature or in an immaterial or non-essential part of the copy of the writing, that does not mislead, does not invalidate the filing or destroy the effect of it. Errors.

9. (1) The seller shall, within five days after the receipt of a request from any person proposing to purchase the goods or from any actual or intending creditor of the buyer or from any other interested person, accompanied by a sufficient amount in money or postage stamps to pay the postage on a reply by registered letter, furnish particulars of the amount remaining due to the seller and the terms of payment and in default he is liable, on summary conviction, to a fine not exceeding fifty dollars. Seller supplying statement.

(2) The person making the request referred to in subsection (1) shall give a name and post office address to which a reply may be sent, and it is sufficient if the information is given by registered letter, postage prepaid, deposited in a post office within the prescribed time addressed to the name and post office address so given.

10. (1) Except for temporary purposes for a period of not more than twenty days, the buyer shall not remove the goods into another registration district unless he has, at least ten days before such removal, given the seller personally or by registered mail, written notice of the place to which the goods are to be removed and the approximate time of the intended removal. Buyer to give notice of removal, sale, etc.

(2) The buyer shall not, prior to the complete performance of the contract, sell, mortgage, charge or otherwise dispose of his interest in the goods, unless he, or the person to whom he is about to sell, mortgage, charge or otherwise disposed of same, has notified the seller in writing, personally or by registered mail, of the name and address of such person, not less than ten days before such sale, mortgage, charge, or other disposal.

(3) Where the buyer removes the goods or disposes of his interest in them contrary to this section, the seller may retake possession of the goods and deal with them as in case of default in payment of all or part of the purchase price.

Procedure if
goods are
taken
possession
of by seller.

11. (1) Where the seller retakes possession of the goods pursuant to any condition in the contract, he shall retain them for twenty days, and the buyer may redeem the same within that period by paying or tendering to the seller the balance of the contract price, together with the actual costs and expenses of taking and keeping possession, or by performance or tender of performance of the condition upon which the property in the goods is to vest in the buyer and payment of such costs and expenses; and thereupon the seller shall deliver up to the buyer possession of the goods so redeemed.

(2) Where the goods are not redeemed within the period of twenty days, and subject to the giving of the notice of sale as prescribed by this section, the seller may sell the goods, either by private sale or at public auction, at any time after the expiration of that period.

(3) Where the price of the goods exceeds thirty dollars and the seller intends to look to the buyer or any person guaranteeing payment of the amount due under the contract for any deficiency on a resale, the goods shall not be resold until after notice in writing of the intention to sell has been given to the buyer and such other person guaranteeing payment of the amount due under the contract.

(4) The notice referred to in subsection (3) shall contain:

- (a) a brief description of the goods;
- (b) an itemized statement of the balance of the contract price due and the actual costs and expenses of taking and keeping possession up to the time of the notice;
- (c) a demand that the amount as stated in the notice shall be paid on or before a day mentioned, not less than five days from the delivery of the notice, where it is personally delivered, or not less than seven days from the mailing of the notice, where it is sent by mail; and
- (d) a statement that, unless the amount as stated in the notice is paid within the time mentioned, the goods will be sold either at private sale or advertised and sold by public auction.

(5) The notice may be given by personal delivery to the buyer or by mailing it by prepaid registered mail addressed to the buyer at his last-known address.

(6) The notice may be given during the twenty days mentioned in subsection (1).

(7) This section applies notwithstanding any agreement to the contrary.

Memorandum
of satisfaction
of seller.

12. (1) Upon payment or tender of the amount due in respect of the goods or performance of the conditions of sale, and upon written demand delivered personally or by registered mail by the buyer or any other person having an interest in the goods, the seller shall sign and deliver to the person demanding it a memor-

andum in writing stating that his claims against the goods are satisfied, and such memorandum shall be accompanied by an affidavit of execution of an attesting witness, and may on payment of the prescribed fee be filed.

(2) If for ten days after the receipt of the demand mentioned in subsection (1), the seller unreasonably fails to mail or deliver the required memorandum, he is liable for the damages suffered by the person demanding it in consequence of his default.

(3) Upon the filing of the memorandum pursuant to subsection (1) the proper officer with whom the writing evidencing the conditional sale agreement or copy thereof is filed under section 3 shall enter satisfaction upon the writing or copy so filed.

13. A valid assignment in writing of a conditional sale transfers the assignor's rights of property in the goods therein comprised, his right of seizure, removal, and sale, and all other rights that he possesses for enforcement of the conditional sale. Transfer of property in goods.

14. A copy of any instrument filed under this Ordinance, certified by the proper officer, shall be received as prima facie evidence of the contents of the original instrument and also as prima facie evidence of the execution of the original instrument according to the purport of the copy; and the proper officer's certificate shall be received as prima facie evidence of the date and hour of filing. Copies of instrument as evidence.

15. (1) For services under this Ordinance the proper officer is entitled to the following fees: Fees.

- (a) for each filing, including stamping original or duplicate, if any, with filing stamp, seventy-five cents;
- (b) for searching each name, fifty cents;
- (c) for each certificate or abstract of search, one dollar; and
- (d) for copies of documents, including certificate thereof, every one hundred words, twenty cents.

(2) The fees mentioned in subsection (1) shall be paid to the Territorial Treasurer and shall form part of the Yukon Consolidated Revenue Fund.

CHAPTER 21.

**AN ORDINANCE RESPECTING LIABILITY IN
ACTIONS FOR DAMAGES FOR NEGLIGENCE
WHERE MORE THAN ONE PARTY
IS AT FAULT.**

- Short Title. **1.** This Ordinance may be cited as the *Contributory Negligence Ordinance*.
- Apportionment of damage or loss. **2.** (1) Subject to subsections (2) and (3), where by the fault of two or more persons damage or loss is caused to one or more of them, the liability to make good the damage or loss is in proportion to the degree in which each person was at fault.
- Equal apportionment in certain cases. (2) Where, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally.
- Where no fault. (3) Nothing in this section renders a person liable for damage or loss to which his fault has not contributed.
- Degree of fault. **3.** Where damage or loss has been caused by the fault of two or more persons, a judge or a jury, as the case may be, shall determine the degree in which each was at fault, and where two or more persons are found at fault they are jointly and severally liable to the person suffering damage or loss, but as between themselves, in the absence of any contract express or implied, they are liable to make contribution to and to indemnify each other in the degree in which they are respectively found to have been at fault.
- Apportionment of costs. **4.** Unless a judge otherwise directs, the liability for costs of the parties in an action under this Ordinance is in the same proportion as their respective liability to make good the damage or loss.
- Questions of fact. **5.** In an action, the amount of damage or loss, the fault, if any, and the degrees of fault are questions of fact.
- Restriction of questions. **6.** At the trial of an action, a judge shall not take into consideration or shall not submit to the jury, as the case may be, any question as to whether, notwithstanding the fault of one party, the other could have avoided the consequences thereof, unless in the opinion of the judge there is evidence that the act or omission of the latter was clearly subsequent to and severable from the act or omission of the former so as not to be substantially contemporaneous with it.

7. Where it appears that a person who is not a party to an action is or may be wholly or partly responsible for the damages claimed, that person may be added as a party defendant or may be made a third party to the action upon such terms as a judge deems just.

Adding party defendant.

8. Where no cause of action exists against the owner or the person operating a motor vehicle by reason of section 137 of the *Motor Vehicles Ordinance*, no damages or contribution or indemnity are recoverable from any person for the portion of the damage or loss caused by the negligence of the owner or the person operating a motor vehicle, and the portion of the damage or loss so caused shall be determined although such owner or person is not a party to the action.

Contribution where plaintiff is a passenger.

9. In an action founded upon negligence and brought for damage or loss resulting from bodily injury to or the death of a married person, where one of the persons found to be negligent is the spouse of the married person, no damages or contribution or indemnity are recoverable for the portion of damage or loss caused by the negligence of the spouse, and the portion of the loss or damage so caused shall be determined although the spouse is not a party to the action.

Contribution where plaintiff is spouse of negligent person.

CHAPTER 22.

AN ORDINANCE RESPECTING CONTROVERTED ELECTIONS.

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as the *Controverted Elections Ordinance*.

INTERPRETATION.

Definitions. **2.** In this Ordinance,
 "Clerk." (a) "Clerk" means Clerk of the Court;
 "Election." (b) "election" means the election in respect of which the respondent named in a petition was declared elected as a member of the Council;
 "Electoral district." (c) "electoral district" means an electoral district within the meaning of the *Elections Ordinance*;
 "Petition." (d) "petition" means a petition brought under this Ordinance;
 "Petitioner." (e) "petitioner" means a person who brings a petition; and
 "Respondent." (f) "respondent" means a person against whom a petition is brought.

APPLICATION OF RULES OF COURT.

Judicature Ordinance and rules of Court to apply to proceedings. **3.** (1) A petition and all proceedings thereunder shall be deemed to be a civil proceeding to be dealt with as such by the Court, and all provisions of the *Judicature Ordinance* and the rules of Court under that Ordinance shall, in so far as they are not inconsistent with this Ordinance, apply *mutatis mutandis* to such petition and proceedings.

Procedure on appeals. (2) Practice and procedure on appeals from the judgment of a Court under this Ordinance shall be as prescribed by section 35 of the *Yukon Act*.

Application to Court to be made in chambers by notice of motion. **4.** Unless authorized to be made *ex parte* by a provision of this Ordinance, all applications to the Court in connection with proceedings under a petition shall be made in chambers by notice of motion.

PETITIONS.

When and by whom petition may be brought. **5.** Any person who was a duly qualified elector at an election may, at any time within thirty days after publication in the *Canada Gazette* of the name of a person declared elected as a member of the Council for an electoral district at such election, bring a petition against the election of such person.

6. A petition shall be in Form A and shall set forth
- (a) the right of the petitioner to petition,
 - (b) a brief statement identifying the holding and results of the election,
 - (c) a brief summary of the facts and grounds that the respondent was not eligible for election as a member of the Council relied upon by the petitioner, and
 - (d) the prayer that the election of the respondent be declared void and set aside.
7. (1) The petition shall be filed within the time prescribed in section 5 with the Clerk.
- (2) The petitioner shall, at the time of filing the petition deposit with the Clerk the sum of five hundred dollars as security for the costs of the respondent in respect of proceedings under the petition.
8. (1) Subject to subsection (2), a copy of the petition shall be served, within twenty days after it has been filed, upon the respondent.
- (2) The Court may, upon *ex parte* application by the petitioner and upon being satisfied from his affidavit that he has been unable to effect service of the petition upon the respondent after making all reasonable effort to do so, extend the time for effecting service, not exceeding ten days for each extension, or may order substitutional service in such manner as the Court deems expedient.
9. (1) The petition shall have endorsed thereon an address at which service may be made on the petitioner of any documents arising out of proceedings under the petition.
- (2) The respondent shall, within ten days after service of the petition under section 8, file with the Clerk an address at which service may be made on the respondent of any documents arising out of any proceedings under the petition.
- (3) Where any documents are required to be served on the petitioner or the respondent, they shall be lawfully served by leaving them with a responsible adult person at the respective addresses referred to in this section and, where no address is given or where the address given is distant more than three miles from the office of the Clerk, they shall be lawfully served by filing them with the Clerk.
10. A petitioner may withdraw his petition at any time by filing a written notice of such withdrawal with the Clerk and by serving a copy thereof on the respondent and the Court shall, in such case, upon application by the respondent, order the petitioner to pay the respondent's costs.

Form and contents of petition.

Filing of petition.

Security for costs.

Service of petition.

Extension of time for service, etc.

Address for service on petitioner.

Address for service on respondent.

How service is effected.

Withdrawal of petition.

APPLICATION ARISING OUT OF PETITIONS.

Application to set aside petition.

11. The respondent may, within twenty days after service of the petition upon him, apply to the Court to set the petition aside on any of the following grounds:

- (a) that the petitioner is not qualified to bring the petition;
- (b) that the petition was not filed or served within the time prescribed;
- (c) that the prescribed security for costs was not deposited; or
- (d) that the petition does not disclose sufficient facts and grounds for declaring void and setting aside the election of the respondent.

Application for particulars.

12. (1) The respondent may, within twenty days after service of the petition upon him or, if he has made application under section 11 to set it aside, within five days after the disposal of such application, apply to the Court for an order for particulars or for further and better particulars of the facts and grounds relied upon to support the petition.

Order.

(2) The Court may order such particulars or such further and other particulars as it deems necessary to ensure a fair trial and may, in such order, prescribe the time in which such particulars shall be delivered to the applicant and that, in default of delivery, the petitioner shall be precluded from adducing evidence at the trial of the petition with respect to the facts and grounds of which such particulars are ordered.

TRIAL OF PETITIONS.

When petition ready for trial.

13. Where a petition is not withdrawn or set aside and all applications that may be made with respect thereto have been disposed of or the time for making such applications has expired, the petition shall be at issue and may be set down for trial.

Setting down for trial by petitioner.

14. The petitioner may, at any time after a petition is at issue, apply to the Court to appoint a time and place for trial of the petition and the Court shall, on being satisfied that the petition is at issue, appoint a time and place for trial.

Application to dismiss for want of prosecution order.

15. (1) Where a petitioner does not, within thirty days after the petition is at issue, make an application to set it down for trial, the respondent may apply to the Court to dismiss the petition.

Dismissal or setting down for trial of petition.

(2) The Court may, upon application under this section, dismiss the petition or appoint a time and place for trial of the petition, as it deems advisable.

Open court.

16. A petition shall be tried in open court.

Directions and reasons for and entry of judgment.

17. (1) The Court shall file with the Clerk its directions as to the judgment to be entered and its reasons therefor and thereupon the petitioner or respondent may, subject to approval of its terms by the Court, enter a formal declaratory judgment pursuant to such directions.

(2) A judgment under this section shall include such provisions as to recovery of costs as the Court has directed. Order as to costs.

(3) The Court shall, within fourteen days after filing its directions as to judgment, make and forward to the Commissioner a report of the judgment and directions and reasons therefor. Report to Commissioner.

(4) The Court shall, as soon as possible, report to the Commissioner any stay of proceedings after judgment or any appeal taken from its judgment. Report of stay or appeal.

18. (1) Where the judgment dismisses the petition, the respondent shall continue to be a member of the Council as if the petition had never been brought. Where petition dismissed.

(2) Where the judgment declares that the respondent's election is void and should be set aside, the Commissioner shall, after receiving the report of the Court under section 17, make an order declaring that the respondent's election is void and set aside, and thereupon the respondent's election is void and set aside. Where petition is allowed.

(3) Where there is a stay of proceedings after judgment or an appeal taken from the judgment, this section shall not apply until the stay of proceedings is vacated or the appeal dismissed. Not to apply during stay or appeal.

19. (1) A respondent may file a written notice, supported by his affidavit containing his reasons therefor, admitting that the petition should be allowed and that his election should be declared void and set aside. Written admission of wrongful election.

(2) A copy of the notice and affidavit shall be served upon the petitioner. Service.

(3) Where the Court is satisfied with the bona fides of the notice under subsection (1), it may permit the petitioner to enter, subject to approval of its terms by the Court, a formal declaratory judgment that the respondent's election is void and should be set aside. Entry of judgment.

(4) The provisions of sections 17 and 18 as to entry, report and effect of judgments apply to judgments under this section. Effect.

APPEALS.

20. Where an appeal, as provided in section 35 of the *Yukon Act*, is taken from the judgment of a Court given under this Ordinance, the Court shall, as soon as possible, send the Commissioner a report of the judgment on appeal and the reasons, if any, given therefor and, upon receipt of the report by the Commissioner, the consequences of such judgment on appeal shall take effect in the same manner as in the case of the judgment of a Court under section 18. Effect of judgment on appeal.

COSTS.

21. (1) Unless otherwise provided in this Ordinance, costs of a petition and any proceedings thereunder may be awarded as the Court may in its discretion decide. Costs in discretion of Court.

Chap. 22.

Controverted Elections.

Costs may
be paid out
of security
deposited.

(2) The Court may order that any costs to be paid by the petitioner be paid, after final determination of the petition, out of the security for costs deposited by the petitioner, but such an order shall not be construed as prohibiting the respondent from recovering costs or any portion thereof by any other lawful means.

NO COUNTING OF BALLOTS.

No power
to count
ballots.

22. Nothing in this Ordinance shall be construed as authorizing the Court in proceedings under this Ordinance to count or recount the ballots cast in an election.

SCHEDULE.

FORM A.

PETITION.

In the Territorial Court
of the Yukon Territory.

BETWEEN
Petitioner,

AND
Respondent.

The petition of, of
....., showeth:
(residence) *(occupation)*

1. An election was held on the day of,
19.... (*state day of general polling day*) for the electoral district of
..... at which,
....., and
were candidates for election as members of the Council of the Yukon
Territory and the said has been
returned as the person elected at the said election.

2. The petitioner was a duly qualified elector at the said election
because (*state qualifications*).

3. The petitioner says (*state
facts and grounds on which the petitioner relies*).

WHEREFORE the petitioner prays that it may be declared that the
election of the said is void and that it be
set aside.

Dated the day of A.D., 19....

CHAPTER 23.

AN ORDINANCE FOR THE INCORPORATION OF CO-OPERATIVE ASSOCIATIONS AND TO PROVIDE FOR THEIR REGULATION.

- Short Title. **1.** This Ordinance may be cited as the *Co-operative Association Ordinance*.
- Definitions. **2.** In this Ordinance,
- "Association." (a) "association" means an association incorporated under this Ordinance;
- Call." (b) "call" includes instalment and any other sum paid or payable or agreed to be paid in respect of a share;
- "Court." (c) "Court" means the Territorial Court;
- "Director." (d) "director" includes trustee, officer and any person occupying such position by whatever name called;
- "Document." (e) "document" includes notice, order, summons and other legal process and registers;
- "Extraordinary resolution." (f) "extraordinary resolution" means a resolution 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;
- "Land." (g) "land" includes all messuages, lands, tenements, hereditaments of any tenure, leaseholds and all immovable property of any kind;
- "Member." (h) "member" means a member of an association;
- "Memorandum." (i) "memorandum" means the memorandum of association of an association with all amendments thereto;
- "Officer." (j) "officer" includes treasurer, secretary, director or manager;
- "Registrar." (k) "Registrar" means the Registrar of Companies or other duly authorized person performing his duties; and
- "Rules." (l) "rules" means the rules, regulations or by-laws of an association for the time being in force.
- Formation of association. **3.** Any five or more persons may form an incorporated association under this Ordinance for the purpose of carrying on any lawful industry, trade or business, except the construction and operation of railways or the business of banking or insurance, or of a trust company provided that where an association is being formed for the purposes of a club, the Registrar may require evidence to his satisfaction that the club has been carried on for at least one year imme-

diately preceding the application for incorporation and has been conducted in a proper manner, and the association may not be formed unless such evidence is furnished.

4. (1) Every association formed under this Ordinance shall include in its name the word "co-operative" and also one of the words "association", "society", "union" or "exchange", or some similar word approved by the Registrar, but shall not include in its name either the word "company" or the word "limited"; and every association that changes its name shall comply with this section.

Name to include certain words.

(2) No person, firm or corporation shall commence business under any name that includes the word "co-operative", or adopt any new name including that word, except:

Use of word "co-operative" prohibited.

(a) an association to which this Ordinance applies; or

(b) an extra-territorial corporation exempted from the provisions of this subsection by the approval in writing of the Commissioner.

(3) Every person, firm or corporation that violates the provisions of subsection (2) is liable, on summary conviction, to a penalty not exceeding one hundred dollars.

Penalty.

5. (1) The capital of an association shall consist of an unlimited number of shares of such denomination as may be fixed by the memorandum.

Capital to consist of unlimited number of shares.

(2) The liability of a member shall be limited to the amount unpaid on the shares held by him.

Limited liability.

6. (1) The persons desiring to form an association shall make and subscribe, in duplicate, a memorandum according to the form in Schedule A and rules agreed upon for the government of the association, and shall transmit the same with the proper fees to the Registrar; where any rule in Schedule B is adopted without alteration, it shall be sufficient to refer to it by number for the purpose of incorporating it in the rules transmitted as aforesaid.

Memorandum and rules.

(2) There shall at the same time be filed with the Registrar a list of the persons named as the first directors of the association under section 28, stating their full names, addresses and occupations, and the period for which they will so act; and a notice setting forth the address of the association as required by section 32.

List of directors and notice of address.

(3) If the memorandum and rules appear to the Registrar to comply with this Ordinance he shall issue under his seal of office a certificate showing that the association is incorporated, the place where its registered office will be situate and the denomination of its shares; and shall, at the cost of the applicants, publish the certificate with a statement of the objects of the association for two weeks in the *Yukon Gazette*; and one

Certificate of incorporation.

copy of the memorandum and rules shall be retained and registered by the Registrar and the other copy returned to the applicants certified as having been filed with him.

Conclusiveness of certificate.

(4) A certificate of incorporation given by the Registrar in respect of an association shall be conclusive evidence that the requirements of this Ordinance in respect of incorporation have been complied with, and that the association is duly incorporated according to the provisions of this Ordinance.

Incorporation as from date of certificate.

7. From the date of the certificate of incorporation the subscribers to the memorandum, and such other persons as may from time to time become members of the association, shall be a body politic and incorporate by the name therein described, having perpetual succession and a common seal, with the powers and subject to the provisions of this Ordinance.

Power to sue and contract.

8. (1) An association may sue and be sued, contract and be contracted with, in its corporate name.

(2) An association may alter or change its common seal at its pleasure; but shall in all cases have its name engraved in legible characters on its seal.

Power to acquire and dispose of land.

9. An association may hold, purchase, lease or otherwise acquire such land as is required for the purposes of its business, and may sell, exchange, mortgage, lease, improve, develop and manage the same.

Borrowing power.

10. For the purposes of its business, an association may borrow or raise or secure the payment of money in such manner as it thinks fit, and in particular by the issue of debentures charged upon all or any part of its property, including its uncalled capital; but this power shall be exercised only under the authority of its rules, and in no case shall debentures be issued without the sanction of an extraordinary resolution.

Ancillary powers.

11. (1) For the purposes of its business, an association shall, in addition to any other power conferred by this Ordinance, be deemed to have the following powers:

- (a) to buy, sell, grow, produce, manufacture, repair, alter, exchange, hire and deal in all articles and things within the scope of its business;
- (b) to construct, improve, maintain, develop, work, manage, carry out or control any roads, ways, wharves, manufactories, warehouses, shops, stores and other works and conveniences;
- (c) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, warrants and other negotiable or transferable instruments;
- (d) to distribute any of its property among its members in specie;

- (e) to enlarge the local area of its operations by establishing branches or otherwise;
- (f) to subscribe to, become a member of and co-operate with, or to acquire, take and hold shares in, any incorporated company or association having limited liability and objects in whole or part similar to its own objects;
- (g) to invest its funds in or upon any security in which trustees are for the time being authorized by law to invest;
- (h) to acquire or undertake the whole or any part of the business, property and liabilities of any person or company or any other association carrying on any business which the association is authorized to carry on;
- (i) to sell or dispose of the undertaking of the association or any part thereof for such consideration as the association may think fit, and in particular for shares, debentures or securities of any other association having objects similar to its own;
- (j) generally to carry on and undertake any business within the scope of this Ordinance that may seem capable of being conveniently carried on in connection with the business of the association, or calculated, directly or indirectly, to enhance the value of or render profitable any property or rights of the association; and
- (k) to do all or any of the above things as principals, agents, contractors or otherwise, and by or through trustees, agents or otherwise.

(2) The powers specified in paragraphs (e) to (i) of sub-section (1) may only be exercised in each case by extraordinary resolution of the association.

Sanction of general meeting in certain cases.

12. Subject to the provisions of the rules, an association may

(a) redeem and reissue its own shares; and

Redemption and reissue of shares.

(b) advance money to its members on the security of real and personal property.

Loans to members.

13. (1) The profits from the business of an association shall be apportioned as follows:

Distribution of profits.

(a) by setting aside such sum as its rules shall provide, not being less than ten per cent of the net profits of each year as a reserve fund until that fund is equal to the following percentages of the share capital paid up at the date of apportionment, namely:

- (i) where the paid-up share capital is twenty-five thousand dollars or less, thirty per cent;
- (ii) where the paid-up share capital exceeds twenty-five thousand dollars but does not exceed fifty thousand dollars, twenty per cent;

- (iii) where the paid-up share capital exceeds fifty thousand dollars but does not exceed one hundred thousand dollars, ten per cent; and
 - (iv) where the paid-up share capital exceeds one hundred thousand dollars, such percentage, if any, as the rules require;
 - (b) by payment of such dividend as its rules may provide, not exceeding eight per cent per annum, on the share capital paid up at the date of the apportionment; and
 - (c) by distributing among such patrons or such class or classes of its patrons as the association may, subject to its rules, determine, whether members or not, and whether vendors to or purchasers from the association, the whole or any portion of its remaining profits.
- (2) Profits not so apportioned may be devoted to the propagation of co-operative principles or the general purposes of the association.

Change of name.

14. (1) An association may, by extraordinary resolution and with the approval of the Registrar signified in writing, change its name.

Registrar to issue certificate.

(2) Where an association changes its name, the Registrar shall enter the new name on the register in place of the former name, and shall issue under his seal of the office a certificate that the association has changed its name, stating therein the new name, and, if he thinks it advisable, shall, at the cost of the association, publish in the *Yukon Gazette* a notice of the change.

Effect of change.

(3) The change of name shall not effect any rights or obligations of the association, or render defective any legal proceedings by or against the association, 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.

Alteration of objects.

15. An association may, by extraordinary resolution, alter its objects so as to include some object or objects within the scope of this Ordinance which may conveniently or advantageously be combined with the existing objects of the association, or so as to restrict or abandon any objects specified in the memorandum.

Alteration of denomination of shares.

16. An association may, by extraordinary resolution, alter the denomination of its shares by consolidation and division into shares of larger amount or by subdivision into shares of smaller amount than is fixed by the memorandum, so, however, that the proportion between the amounts, if any, paid and unpaid on any existing share shall be the same as it was before the alteration.

Registrar's certificate.

17. No resolution under section 15 or 16 shall take effect until it is filed with and registered by the Registrar, and a certificate issued by him under his seal of office setting forth particulars

of the alteration; a notice of any such alteration shall, if the Registrar thinks it advisable, be published in the *Yukon Gazette* by him at the cost of the association.

18. Any certificate issued by the Registrar pursuant to section 14, 15 or 16 shall be conclusive evidence that the requirements of this Ordinance with respect to the provisions of that section have been complied with. Conclusiveness of certificates.

19. An association may by extraordinary resolution reduce its share capital in any way authorized by the *Companies Ordinance*, for the reduction of share capital with the sanction of the Court by a company having a share capital, and the provisions of the *Companies Ordinance* relating thereto shall *mutatis mutandis* apply. Reduction of capital.

20. (1) Contracts on behalf of an association may be made as follows: Contracts.

- (a) any contract that, if made between private persons, would be by law required to be in writing and under seal may be made on behalf of the association in writing under the common seal of the association, and may in the same manner be varied or discharged;
- (b) any contract that, if made between private persons, would be by law required to be in writing, signed by the persons to be charged therewith, may be made on behalf of the association in writing by any person acting under its authority, express or implied, and may in the same manner be varied or discharged; and
- (c) any contract that, if made between private persons, would by law be valid although made by parol only and not reduced into writing on behalf of the association by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

(2) All contracts made, varied or discharged according to this section shall, so far as concerns the form thereof, be effectual in law and binding on the association and all other parties thereto. Effect in law.

(3) A bill of exchange or promissory note shall be deemed to have been made, accepted or endorsed on behalf of an association if made, accepted or endorsed in the name of, or by or on behalf of, or on account of the association by any person acting under its authority, express or implied. Bill of exchange or promissory note of association.

21. (1) In this section, Interpretation.

- (a) "co-operative marketing contract" means any contract entered into by a person with an association to deliver to or sell through the association any product grown, made or produced by him, or on his behalf, or in which "Co-operative marketing contract."

he has an interest, such person being one of a number of persons with whom the association has entered into contracts of a like nature; and

“Producer.” (b) “producer” means any person who has entered into a co-operative marketing contract with an association.

Liquidated damages for breach of contract.

(2) A co-operative marketing contract may fix, as liquidated damages, which shall not be regarded as penalties, specific sums to be paid by the producer to the association upon the breach of any provision of the co-operative marketing contract in respect of the sale or delivery of any product, and may further provide that the producer who breaks his contract shall pay all costs, expenses and fees in case any action in respect of such breach is brought by the association.

Injunction and specific performance.

(3) In the event of any breach or threatened breach of any provision of a co-operative marketing contract by a producer in respect of the sale or delivery of any product, the association shall be entitled to an injunction to restrain the producer, his agents and servants, from selling or delivering the product otherwise than in accordance with the contract, and to an order for specific performance of the contract by the producer; pending the adjudication of any action brought by the association under this section, and upon *ex parte* application to the Court or any judge thereof showing the breach or threatened breach and upon the giving of such undertaking or security as may be approved by the Court or judge, the association shall be entitled to an interim injunction.

Penalty for procuring breach of contract.

(4) Every person who, having knowledge or notice of the existence of a co-operative marketing contract between a producer and an association, solicits or persuades or aids or abets the producer to sell or deliver any product otherwise than in accordance with the terms of the co-operative marketing contract, or accepts or receives for sale, or for auction, or for display for sale any product of the producer delivered by the producer otherwise than in accordance with the terms of the co-operative marketing contract, is liable, on summary conviction, to a penalty not exceeding five hundred dollars.

Membership.

22. (1) The members of an association shall be the subscribers of the memorandum and those persons admitted to membership therein according to the rules.

Admission of minors and corporations as members.

(2) Subject to the provisions of the rules:

(a) a person under the age of twenty-one years but above the age of sixteen years may be admitted as a member, and shall be subject to all the obligations and enjoy all the rights of membership, except the right to be an officer of the association; and

(b) a corporation may be admitted to membership and may be represented by some person authorized on its behalf.

Memorandum and rules binding on members.

(3) The memorandum and rules shall bind the association and its members to the same extent as if they had respectively 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 rules, subject to the provisions of this Ordinance.

(4) All money payable by a member to an association under the memorandum or rules shall be a debt due from him to the association of the nature of a specialty debt. Debts of members to association.

23. (1) Subject to the provisions of the rules: Termination of membership by withdrawal or expulsion.

(a) a member may withdraw from an association or transfer his shares; and

(b) where a member is charged with conduct detrimental to the association, he may be expelled from membership by an extraordinary resolution of the association; the member making the charge shall lodge with the directors full particulars thereof in writing signed by him, and the member charged shall be furnished by them with a copy of the particulars at least two weeks previous to the meeting; the notice calling the meeting shall state that the charge has been made and specify the names of the members concerned.

(2) A member so expelled shall be entitled to a refund of the amount paid up on his shares, but shall not be again admitted to membership, except by an extraordinary resolution of the association. Refund to expelled member.

24. (1) Subject to the provisions of the rules, a member may hold any number of shares in the association, but no shares shall be issued jointly. Member may hold any number of shares.

(2) The shares or other interest of a member in an association shall be personal estate. To be personal estate.

(3) All shares shall be paid for in cash, except where shares are issued for the purposes of paragraph (h) of subsection (1) of section 11, and no shares shall be issued at a discount. To be paid in cash.

(4) The shares may be payable on call and forfeited for default in payment, as may be determined by the rules. Payment by instalments and forfeiture.

(5) No member shall receive any dividend or interest on his shares, except in proportion to the amount paid up thereon. Dividends and interest.

(6) An association shall have a lien on the shares of a member for a debt due to it by him, and such lien shall extend to any dividend or interest credited to the member in respect of such shares. Lien.

(7) Every person whose name is entered in the register of members shall without payment be entitled to a certificate under the seal of the association, specifying the shares held by him and the amount paid up thereon, and such certificate shall be prima facie evidence of his title to the shares. Certificate.

One vote per member.

25. (1) No member shall have more than one vote, except that in the case of an equality of votes the chairman at any general meeting shall, both on a show of hands and a ballot, have a casting or second vote.

By proxy.

(2) Votes for the election of directors may be given either personally or by proxy, and the rules may provide for voting by proxy in other cases, but every proxy must be a member of the association at whose meeting he claims to vote.

When member in arrears.

(3) No member in arrears with a call on his shares may vote for directors or at any general meeting, either personally or by proxy or as proxy for another member.

In agricultural associations.

(4) In the case of an association dealing in agricultural products, no member shall be entitled to vote at any general meeting or be appointed a director of the association, unless he has sold his main crop or produce of the year through such association; or he has given a written undertaking to the association so to do during the ensuing year; or he has received the consent of the directors, signed by the secretary, to dispose of such crop or produce otherwise.

Rules.

26. (1) The rules of an association formed under this Ordinance shall be the rules in Schedule B, save in so far as such rules are excluded or modified, but the rules of every such association shall contain provisions in respect of the several matters mentioned in Schedule C.

Alteration of rules.

(2) An association shall alter or add to its rules by extraordinary resolution only, but no new rule or alteration shall take effect until the resolution in duplicate is filed with and registered by the Registrar and he has certified on the duplicate that the new rule or alteration is in conformity with this Ordinance.

Pool associations.

27. (1) The rules of an association may provide for the carrying-on of its business, subject to this section, as a pool association, in which case its rules, in addition to or in modification of the provisions required by subsection (1) of section 26, shall provide for the following matters:

- (a) the division of the territory in which the association has members into districts, and the formation in each district of a local organization comprising all members of the association resident within the district, or of two or more local organizations comprising respectively the members of the association resident within the area of the local organization;
- (b) the number of directors to be elected from each district, and the election of those directors either directly by the members of the local organizations or by district delegates;
- (c) the election of district delegates by each local organization to attend general meetings of the association as delegates from the district, and the number to be so elected by each local organization;

- (d) the delegation to the district delegates of all or any of the powers that could be exercised by the members of the association at a general meeting;
- (e) the method of forming new districts, either as additions to or substitutions for the old districts, and redetermining the number of directors and of local organizations;
- (f) the method of summoning district delegates to attend general meetings of the association, the number of delegates to constitute a quorum, and the persons by whom meetings may be called, including a provision for the calling of special general meetings at any time by or at the request of not less than twenty-five per cent of the district delegates; and
- (g) the obtaining the opinion of the members of the association on any question of general concern to the members, and the mode of obtaining that opinion by a vote of the members.

(2) In the case of a pool association under this section, the rules may provide for the formation of an executive committee and the exercise by that committee of all or any of the functions and powers of the directors, subject to the general direction and control of the directors, and may provide for the remuneration of district delegates and members of the executive committee.

(3) In the case of a pool association under this section, each member shall vote only at the meetings of the local organization of which he is a member; and on questions submitted to the vote of the members pursuant to the rules made under the provisions of paragraph (g) of subsection (1) and the district delegates only shall be entitled to attend and vote at all general meetings of the association, each delegate having one vote.

(4) In applying the provisions of this Ordinance in the case of a pool association under this section, the expression "extraordinary resolution" therein means a resolution passed by a majority of not less than three-fourths of such district delegates as are present in person at a general meeting of the association of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given to the district delegates.

23. (1) The first directors shall be determined in writing by a majority of the subscribers of the memorandum, and shall hold office until the first general meeting, and thereafter the directors shall be appointed in accordance with the rules of the association. Appointment of directors.

(2) Every association shall have at least three directors, and every director must be a member of the association. Number and qualification.

(3) The office of director shall be vacated if a director ceases to be a member, and for such other reasons as the rules may specify. Disqualification.

Chap. 23.

Co-operative Association.

Powers. (4) The business of the association shall be managed by the directors, who may exercise all the powers of the association, subject to this Ordinance and the rules.

Remuneration. (5) The association in general meeting shall from time to time determine the remuneration of the directors, and what amount if any shall be allowed to them for expenses.

Validity of acts. (6) The acts of a director or manager shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification.

Place of meeting. (7) Every meeting of directors shall be held in this Territory.

First general meetings. **29.** (1) The first general meeting of an association shall be held in the third month after the date of incorporation.

Annual. (2) A general meeting of every association shall thereafter be held in such month of every calendar year as the rules provide, and in default of any such provision, on the last Tuesday in January in each year.

Periodical. (3) The rules may provide for semi-annual or other periodical meetings.

Special. (4) The directors may, whenever they think fit, and shall, upon a written requisition, signed by not less than one-fifth in number of the members of an association, call a special general meeting; a requisition shall set forth the object of the meeting and be deposited at the registered office, and if the directors do not within seven days after the deposit of the requisition call the meeting, the requisitionists may themselves convene a meeting.

Notices. (5) Fourteen days' notice at the least of every annual general meeting and of every general meeting at which an extraordinary resolution is to be proposed shall be given to every member, and, in the case of any other general meeting, seven days' notice at the least, or such longer notice as is prescribed by the rules, shall be given to every member; the notice shall specify the place, the day and the hour of meeting, and, in the case of special business, shall specify the general nature of that business.

To be held in Territory. (6) Every general meeting shall be held in the Territory.

Security by officers. **30.** Every officer of an association who receives or has charge of money of the association shall before entering on his duties give such security as may from time to time be deemed necessary by the directors according to the rules.

Arbitration of disputes. **31.** Every dispute arising out of the affairs of an association, between a member thereof, or any person aggrieved who has for not more than six months ceased to be a member, or any person claiming through such member or person aggrieved, or claiming under the rules, and the association or a director thereof, shall be decided by arbitration, which arbitration shall be under the *Arbitration Ordinance* unless the rules prescribe some other

method; and the decision so made shall be binding on all parties and may be enforced on application to the Territorial Court, and, unless the by-laws otherwise provide, there shall be no appeal from such decision.

32. Every association shall have a registered office in the Territory to which all communications and notices may be addressed, and shall file with the Registrar notice of every change in its situation. ^{Registered office.}

- 33.** Every association shall, ^{Publication of name.}
- (a) 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 place, in letters easily legible;
 - (b) have its name engraved in legible characters on its seal; and
 - (c) have its name mentioned in legible characters in all notices, advertisements and other official publications of the association, and in all bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the association, and in all bills of parcels, invoices, receipts and letters of credit of the association.

34. Every association shall keep at its registered office a register of members, and shall enter therein the following particulars, which shall be prima facie evidence of the facts so stated: ^{Register of members.}

- (a) the names, addresses and occupations of the members, the number of shares held by them respectively, and the amount paid on any such share;
- (b) the date at which the name of any person, company or association was entered in such register or list as a member; and
- (c) the date at which any such person, company or association ceased to be a member.

35. Every association shall keep at its registered office a register containing the names, addresses and occupations of its directors or managers, showing the dates on which they respectively commenced and ceased to act; and, upon request of the Registrar at any time, shall furnish him with particulars of its directors. ^{Register of directors.}

36. Every association shall, within three weeks after its annual general meeting, file with the Registrar a report signed by its manager or secretary, and showing as of the day after the date of the meeting ^{Annual report.}

- (a) the nominal value of the shares;
- (b) the number of shares issued and outstanding;
- (c) the amount called on each such shares;
- (d) the total amount of such calls received;

- (e) the total amount of such calls unpaid;
- (f) the number of shares forfeited during the year;
- (g) the number of shares redeemed during the year;
- (h) the number of existing members; and
- (i) the number of persons who have respectively become members or ceased to be members since the date of the last report, or, in the case of the first report, since the date of incorporation;

and including a list of the directors with their addresses and occupations, and a copy of the balance-sheet certified by the auditors.

Appointment of auditors.

37. (1) Every association shall appoint one or more auditors at its first general meeting and at every annual general meeting thereafter, but a casual vacancy in the office of auditor may, subject to the rules, be filled by the directors; no director or officer shall be appointed or act as auditor.

Auditors entitled to examine books.

(2) Every auditor shall have a right of access at all times to all the books, documents, accounts and vouchers of the association, and shall be entitled to require from the directors and officers any information or explanation necessary for the performance of his duty as auditor.

Auditor's report.

(3) The auditors shall make a report to the members on the accounts examined by them, and on every balance-sheet laid before the association 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 association's affairs according to the best of their information and the explanations given to them, and as shown by the books of the association;

and the auditors shall specially report in what respects they find the books, documents, accounts or vouchers incorrect, unvouched or not in accordance with law.

Information for annual meeting.

(4) At every annual general meeting the directors shall lay before the association,

- (a) a balance-sheet in the form in Schedule D or other form fully disclosing to the satisfaction of the Registrar the financial position of the association, and signed on behalf of the board by two of the directors and made up to a date not more than four months before such meeting;
- (b) a general statement of income and expenditure for the financial period ending upon the date of the balance-sheet;
- (c) the report of the auditors of the association, which shall be read before the meeting, and a reference to the report shall be inserted at the foot of the balance-sheet;
- (d) a report of the directors on the affairs of the association, which shall be read before the meeting; and

(e) such further information as the rules may require; and the reports of the auditors and directors shall be open to inspection by any member.

(5) Every member of the association and person interested in its funds shall be supplied free of charge by the association with a copy of the last balance-sheet for the time being, and also with copies of the reports of the directors and auditors and the profit and loss account, subject to payment therefor, if the rules so require, of a charge not exceeding ten cents for every hundred words. Members entitled to copy of balance-sheet.

(6) A copy of the last profit and loss account and balance-sheet for the time being, together with the reports of the directors and auditors, shall be continuously displayed in a conspicuous place in the registered office of the association. Balance-sheet to be displayed in registered office.

38. The directors shall cause minutes to be made in books provided for the purpose Minutes to be kept.

- (a) of all appointments of officers made by them;
 - (b) of the names of the directors present at each meeting of directors or of any committee of directors; and
 - (c) of all resolutions and proceedings at all meetings of the association, the directors or any committee of directors;
- and every director present at a meeting of directors or committee of directors shall sign his name in a book kept for the purpose.

39. (1) The directors shall cause true accounts to be kept Books of account to be kept.

- (a) of all sums of money received and expended and the matter in respect of which such receipt and expenditure takes place; and
- (b) of the assets and liabilities of the association.

(2) The books of accounts shall be kept at the registered office of the association, or, if the rules permit, may for temporary purposes be kept at such other place or places as the directors think fit. At registered office.

40. Every association shall file with the Registrar, in duplicate, every extraordinary resolution passed for any purpose mentioned in this Ordinance, and he shall register one copy and return the other certified as having been filed. Extraordinary resolutions to be filed.

41. Every notice, return or resolution required to be filed with the Registrar shall be authenticated by an officer of the association. Authentication of returns.

42. Every member shall have a right to inspect at all reasonable times the registers and books required to be kept by an association under this Ordinance, and the register of members and the register of directors shall be open to the inspection of any other person on payment of twenty-five cents for each inspection. Inspection of books.

Copies of memorandum and rules to be furnished.

43. Every association shall furnish to a member, at his request and on payment of a sum not exceeding fifty cents, a copy of its memorandum and rules.

Revocation of incorporation.

44. On sufficient cause being shown and upon such conditions and subject to such provisions as may be deemed proper, the Commissioner in Council may revoke and cancel the incorporation of any association and declare the association to be dissolved.

Winding-up.

45. The provisions of the *Companies Ordinance* relating to the winding-up of companies shall, *mutatis mutandis*, apply to an association under this Ordinance; but wherever those provisions prescribe a special resolution, an extraordinary resolution shall be sufficient under this Ordinance.

Surrender of certificate.

46. An association may, by extraordinary resolution, surrender its certificate of incorporation, and the Registrar may, after being satisfied that sufficient notice of the association's intention has been given, and that no debts or liabilities of the association are outstanding, accept the surrender of the certificate and cancel it, and fix a date from which the association shall be dissolved.

Removal of association from register.

47. The provisions of the *Companies Ordinance* relating to the removal from the register of companies defunct or in default shall apply, *mutatis mutandis*, to an association which has failed for any period of two years to send or file any return, notice or document required to be made, filed or sent to the Registrar pursuant to this Ordinance, or where the Registrar has reasonable cause to believe that an association is not in operation.

Amalgamation.

48. (1) Any two or more associations may amalgamate and form a new association by passing extraordinary resolutions which shall authorize their respective directors, or some of them, to subscribe jointly a memorandum according to the form in Schedule A, and to comply in other respects with section 6, and may for that purpose authorize such alterations in regard to name, objects and capital as may be necessary.

Effect on property and creditors.

(2) After the issue of a certificate of incorporation to the new association the former associations shall stand dissolved, and all property and rights of such associations shall pass to and be vested in the new association without any further act or deed, but no amalgamation under this section shall affect the rights of any creditor, and the new association shall be liable for all debts and obligations of the former associations.

Application of *Land Titles Act*.

(3) Upon production of such evidence as may be required, the estate and interest of the former associations in any land as registered under the *Land Titles Act* shall be registered in the name of the new association.

49. (1) Any person may inspect the documents kept by the Registrar relating to an association under this Ordinance on payment of a fee of twenty-five cents for each inspection, and may require a copy or extract of any document or part thereof on payment for the copy or extract of ten cents for each folio, and of a further fee not exceeding one dollar if such copy or extract is required to be certified as a true copy. Inspection of documents at Registrar's office.

(2) A copy of or extract from any document kept and filed or registered at the office of the Registrar, certified to be a true copy under the hand and seal of the Registrar, shall in all legal proceedings be admissible in evidence as of equal validity with the original document, and it shall not be necessary to prove the handwriting, seal of office or official position of the person certifying the same. Copies.

50. A document may be served on an association by leaving it at or mailing it by registered post to the registered office of the association as recorded under this Ordinance, or by serving an officer of the association. Service of documents.

51. Every association which fails, refuses or neglects to observe or perform any duty or obligation created or imposed by this Ordinance is guilty of an offence against this Ordinance. Offences.

52. Every association guilty of an offence against this Ordinance is liable, on summary conviction, to a fine not exceeding one hundred dollars. Penalties.

53. There shall be paid to the Registrar in respect of the several matters mentioned in Schedule E the several fees therein specified; the said fees shall inure to the benefit of the Territorial Government and shall from time to time be transmitted by the said Registrar to the Territorial Treasurer and shall form part of the Yukon Consolidated Revenue Fund. Fees.

54. The Commissioner in Council 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. Rules.

55. The Commissioner in Council may alter or add to the forms in the Schedules. Forms.

SCHEDULE A.

(Section 6)

MEMORANDUM OF ASSOCIATION OF THE

- 1. The name of the Association is
- 2. The registered office of the Association will be at
- 3. The objects for which the Association is formed are:
(Example:
 - (a) to carry on the business of a storekeeper in all its branches, and, in particular, to buy, sell, manufacture and deal in goods, stores, articles of consumption, or personal use or adornment, and chattels and effects of all kinds, both wholesale and retail, to transact agency business, and to provide services of various kinds for the convenience and advantage of its members;
 - (b) to make arrangements with persons engaged in trade, business or profession and others, for the concession to the Association's members, ticket-holders and others of any special rights, privileges and advantages, and in particular in regard to the supply of goods;
 - (c) to own and operate hotels, rooming houses, restaurants, lunch counters, libraries, gas stations, garages, repair shops and machine shops;
 - (d) to buy, sell, rent, lease, mortgage or otherwise acquire and dispose of any lands, building, machinery and merchandise of every description. To erect, pull down, alter or otherwise deal with any building thereon.)
- 4. The liability of the members is limited.
- 5. The capital of the Association consists of an unlimited number of shares of each.

We, the several persons whose names, addresses and occupations are subscribed, desire to be formed into an incorporated association under the above Ordinance, and respectively agree to take the number of shares set opposite our respective names.

Dated this day of, A.D. 19.....
 Full Name. Address. Occupation. No. Shares.

- 1. Witness:
- 2. Witness:

(Names and addresses of Directors to accompany this instrument.)

SCHEDULE B.

(Sections 6 and 26)

RULES OF THE

Preliminary.

1. In these rules, unless the context otherwise requires, words importing the singular include the plural, and vice versa, and words importing the masculine gender include females, and words importing persons include corporations;

“Ordinance” means the *Co-operative Associations Ordinance*; and “call”, “director”, “extraordinary resolution”, memorandum”, “officer”, and “rules”, have the meanings respectively assigned to them by the Ordinance. “Purchase dividend” means an amount credited to a purchaser patron in proportion to the amount of his purchases from the Association. “Bonus” means an amount credited to a vendor patron in proportion to the amount of his sales to the Association.

Membership.

2. Any person over the age of sixteen years may be admitted to membership. The application shall be made in writing to the directors, who may refuse or postpone it. No member may hold less than one or more than twenty shares in the Association.

3. Every person making application for shares shall pay a deposit on the purchase price of his shares, should he not be paying for same in full. The minimum amount of such deposit and the terms of paying the balance of such purchase price shall be determined by resolution of the directors. Any person proposed and not admitted to the Association shall have his deposit returned.

4. A member may withdraw from the Association with the consent of the directors if he ceases to reside in the territory covered by it, and shall be entitled on surrender of his certificate, to a refund of the amount paid up on his shares; but the directors may withhold such refund until the financial standing of the Association permits it without hurting the position of other members. The directors may also consent to a withdrawal in any other case where it seems just and equitable.

5. If a member dies or becomes insane or bankrupt, or makes an assignment for the benefit of creditors, the directors may either register the person entitled to his shares as a member or redeem the shares by paying to the party entitled thereto the amount paid up on the shares.

Shares.

6. All shares in the Association shall be paid for in full in cash, and no part of the funds of the Association shall be employed in loans upon the security of the shares.

7. The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares, and a call shall be deemed to have been made at the time when the resolution of the directors authorizing the call was passed.

8. If a call is not paid before or on the day appointed for payment thereof, the person from whom the call is due shall pay interest thereon at the rate of six per cent per annum from the day appointed for the payment thereof to the time of actual payment, but the directors shall be at liberty to waive payment of that interest wholly or in part.

9. No member shall receive any dividend on his shares except in proportion to the amount paid up thereon.

10. Every person whose name is entered in the register of members shall without payment be entitled to a certificate under the seal of the Association, specifying the shares held by him and the amount paid up thereon. No shares shall be issued jointly.

Lien.

11. The Association shall have a lien on a member's shares for a debt due to it by him, and such lien shall extend to any purchase dividend credited to him, and to any dividend credited to him in respect of such shares.

Forfeiture of Shares.

12. If a member fails to pay any call on the day appointed for the payment thereof, the directors may at any time thereafter serve a notice on him requiring payment within fourteen days from the date of the notice of so much of the call as is unpaid, together with any interest which may have accrued.

13. 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.

14. 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.

15. 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 the Association for all moneys which at the date of forfeiture were presently payable by him to the Association in respect of the shares, but his liability shall cease if and when the Association receives payment in full of the nominal amount of the shares.

Transfer of Shares.

16. The instrument of transfer of any shares in the Association shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of any shares until the name of the transferee is entered in the register of members in respect thereof.

17. Shares in the Association shall be transferred in the following form, or in any usual or common form approved by the directors:

I,, of, in consideration of the sum of \$ paid to me by, of (hereinafter called the "transferee") do hereby transfer to the transferee share(s) in the Co-operative Association, to hold unto the 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 transferee, hereby agree to take the said share(s) subject to the conditions aforesaid.

As witness our hands the day of, 19.....
(Signature of witness) (Signature of the "transferor" and "transferee")

18. The instrument of transfer must be accompanied by the certificate of the shares to which it relates.

General Meetings.

19. The first general meeting shall be held in the third month from the date of incorporation at such time and place as the director may determine.

20. An Annual General Meeting shall thereafter be held once in every year in the month of March, on a date, and at such hour and place as may be prescribed by the Association in general meeting, or, in default, be determined by the directors.

21. In addition to the Annual General Meeting held in March there shall be general meetings held in the months of June, September and January of each year to consider the financial position of and progress of the Association, and the acts of the directors, and such other business as may properly be brought before the meeting.

22. The directors may, whenever they think fit, and shall upon a written requisition signed by not less than twenty per cent in number of the members, call a special general meeting. Such requisition shall set forth the object of the meeting and be deposited at the registered office. If the directors do not within seven days after the deposit of the requisition call the meeting, the requisitionists may themselves convene a meeting.

23. Fourteen days' notice in writing at the least of every general meeting, specifying the place, the day and the hour of

meeting, and in the case of special business, the general nature of that business, shall be mailed to every member. The non-receipt of a proper notice by a member shall not invalidate any proceedings.

24. No business shall be transacted at any general meeting unless twenty-five per cent of the members are present in person at the time when the meeting proceeds to business, and unless at all times not less than twenty per cent are personally present.

25. The president or, failing him, the vice-president shall preside as chairman at every general meeting.

26. If there is no such chairman present within thirty minutes after the time appointed for holding the meeting, or willing to act, the members present shall choose some one of their number to be chairman.

27. If within one hour from the time appointed for a general meeting a quorum is not present, the meeting, if convened upon a requisition, 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 one hour from the time appointed the members present shall form a quorum.

28. 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.

29. The order of business at a general meeting shall, according to circumstances, be as follows:

- (a) meeting to be called to order;
- (b) notice convening meeting to be read;
- (c) minutes of preceding meeting to be read and disposed of;
- (d) business arising out of the minutes;
- (e) reports of standing and special committees;
- (f) reports of directors and auditors;
- (g) election of directors and auditors;
- (h) special business;
- (i) unfinished business;
- (j) new business; and
- (k) good and welfare.

Voting.

30. On a show of hands or on a poll, every member present in person shall have one vote only, but he shall also be entitled to vote as proxy for not more than two other members in case of a poll for the election of directors.

31. The instrument appointing a proxy shall be in writing under the hand of the appointer, or, if the appointer is a corporation, under its common seal, and shall be deposited at the registered office of the Association not less than forty-eight hours before the time for holding the meeting at which the member named in the instrument proposes to vote, and in default the instrument of proxy shall not be valid.

32. An instrument appointing a proxy may be in the following form, or in any other form approved by the directors:

I,, of, being a member of the Co-operative Association, hereby appoint, of, also a member of the said Association, as my proxy to vote for me and on my behalf for the election of directors at the general meeting of the Association to be held on the day of, 19....., and at any adjournment thereof.

Signed this day of, 19.....
(Signature)

33. In the event of a tie, the chairman at any general meeting shall, both on a show of hands and a ballot, have a casting or second vote.

34. No member in arrears with a call on his shares may vote for directors or at any general meeting.

35. In the case of voting by a show of hands, the declaration of the chairman of the meeting shall be conclusive evidence of the result, unless three or more members before or on the declaration of the result demand a poll, when a poll shall be forthwith taken.

36. The number of directors shall be seven, but may be increased or reduced from time to time in general meeting so that the number is never less than three.

37. At the first general meeting, and at each annual general meeting thereafter, the directors shall be elected by the members by ballot, but any casual vacancy may be filled up by the directors. The directors shall hold office for a period of two years, provided however, that at the first general meeting four directors shall be elected for a term of one year, and three shall be elected for two years, or until their successors are elected. Any directors compulsorily retired under this rule may accept nomination for re-election on the Board. In the event of a lesser number of directors than seven, the length of term of their office as directors shall be determined at the time of their election; but such term shall in no case be for more than two years.

38. The first directors shall be the persons appointed by the subscribers to the memorandum, and shall hold office until the first general meeting.

39. 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 shall be deemed to have been re-elected at the adjourned meeting.

40. The Association may, by extraordinary resolution, remove any director before the expiration of his term of office, and may appoint another person in his stead.

41. Every director must be a member of this Association and hold at least one share, and must, after the close of the year 1945 have been a member for at least five months prior to his nomination for office. Likewise after the close of the year 1945 no person shall be eligible for election to the office of director who has not purchased from the Association, in the twelve-month period immediately preceding his nomination, goods or services to the amount of one hundred dollars in the case of a married person, and one hundred dollars in the case of a single person, widow or widower. No person who is bankrupt is eligible to become a director.

42. The office of director shall be vacated if the director

- (a) ceases to be a member or hold one share;
- (b) holds any other office of profit under the Association, except that of secretary or treasurer;
- (c) is concerned or participates in the profits of any contract with the Association;
- (d) is absent from three consecutive regular meetings of the directors without the consent of the directors;
- (e) ceases to purchase goods or services at the rate of one hundred dollars per twelve months if a married person, or one hundred dollars if a single person, widow or widower; or
- (f) becomes a bankrupt;

except that (1) 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 this Association; but the director shall disclose the fact of such membership to the other directors, and shall not vote in respect of any such contract or work, and if he does so vote his vote shall not be counted; and (2) a director shall have the right at all times to sell or consign for sale to the Association agricultural or manufactured products grown or made by him or in which he has an interest.

43. The business of the Association shall be managed by the directors, who may pay from its funds the expenses of its incorporation and may exercise all its powers, subject to the Ordinance and these rules.

44. The directors shall elect a president and vice-president from their number, and may appoint a manager, secretary, treasurer or secretary-treasurer, whether from their own body

or otherwise as they think fit, and may prescribe their duties and fix their remuneration and from time to time dismiss them. The vice-president shall exercise the powers of the president in his absence.

45. 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 upon them by the directors.

46. The directors shall cause minutes to be made in books provided for the purpose

- (a) of all appointments of officers made by them;
- (b) of the names of the directors present at each meeting of directors or committee; and
- (c) of all resolutions and proceedings at all meetings of the Association, the directors or any committee;

and every director present at a meeting of directors or committee shall sign his name in a book kept for that purpose.

47. The directors shall cause proper registers of the members and directors to be kept at the registered office, and shall in all other respects duly comply with the Ordinance or any statutory modification thereof for the time being in force.

48. The Association in general meeting shall determine from time to time the remuneration (if any) of the directors, and what amount (if any) shall be allowed to them for expenses.

49. All meetings of the directors shall be held in the Territory, and the quorum necessary for the transaction of business may be fixed by the directors, and unless so fixed shall be five.

50. 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. Three directors may, and the secretary, on the requisition of three directors, shall, at any time summon a meeting of directors.

51. A resolution signed by all the directors shall have the same force and effect as if passed at a duly constituted meeting of the directors.

Financial.

52. Every officer of the Association having receipt or charge of money shall before entering upon his duties give such security as may from time to time be deemed necessary by the directors.

53. The directors shall not invest any part of the funds of the Association exceeding the sum as set in the by-laws.

54. The Board of Directors may apply any moneys for which it cannot find profitable investment to the reduction of Loan and Share Capital by the sanction of the members attending a special or general meeting.

55. The directors may, at their discretion, raise or borrow or secure the payment of money for the purposes of the Association, but no debentures shall be issued nor shall the amount at any one time owing in respect of money so raised, borrowed or secured exceed the amount of capital subscribed without the sanction of an extraordinary resolution.

56. The directors shall cause true accounts to be kept

(a) of all sums of money received and expended and the matter in respect of which such receipts and expenditure takes place; and

(b) of the assets and liabilities of the Association.

57. The books of accounts shall be kept at the registered office of the Association, and may for temporary purposes be kept at such other place or places as the directors think fit and shall at all reasonable times be open to the inspection of the directors and members.

58. One or more auditors shall be appointed by the Association at its first general meeting and at every annual general meeting thereafter, but a casual vacancy in the office of auditor may be filled up by the directors. No director or officer may be appointed or act as auditor.

59. At every Annual General Meeting the directors shall cause to be laid before the Association the profit and loss account and balance-sheet prepared by the directors in accordance with the Ordinance for the period to the first day of March last preceding, and cause to be read their report and the auditor's report thereon, all of which shall be open to inspection by any member. Every member shall be supplied free of charge with a copy of such balance-sheet.

60. The directors shall report to such meeting the state of the Association's affairs and the percentage which they recommend for the purchase dividend, if any; also the amount of bonus they recommend, if any.

61. The directors shall, before recommending any purchase dividend, set aside out of the surplus of the Association, in accordance with the Ordinance, such sum as they think proper, and not being less than ten per cent of the net surplus, toward the reserve fund, which shall be applicable for meeting contingencies; also such further sum as they think proper to reserve and apply for educational purposes; and pending such application, said reserve funds may, at the like discretion, either be employed in the business of the Association or be invested in such manner as the Ordinance permits and the directors may deem advisable.

62. The Association in general meeting shall declare purchase dividends or bonuses, but no purchase dividend or bonus, if any, shall exceed the amount recommended by the directors.

63. No dividend or bonus shall be paid otherwise than out of net surpluses, and no dividend on shares shall be at a rate in excess of three per cent per annum.

64. A copy of the balance sheet shall be sent to every member at least fourteen days before the meeting at which it is to be presented.

Notices.

65. A notice under the Ordinance of these rules shall be in writing, and may be given by the Association to any member either personally or by sending it by post to his registered address.

66. 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.

The Seal.

67. The seal of the Association shall not be affixed to any instrument except by the authority of a resolution of the directors or of the Association, and in the presence of the president and the secretary or such other person as the directors may appoint for the purpose; and those two shall sign every instrument to which the seal of the Association is so affixed in their presence.

68. The directors shall provide for the safe custody of the seal of the Association which shall be deposited at its registered office.

Disputes.

69. Any dispute arising out of the affairs of the Association between a member thereof, or any person aggrieved who has for not more than six months ceased to be a member, or any person claiming through such member or person aggrieved, or claiming under the rules, and the Association or a director thereof, shall be referred to a committee of three members of the Association. The president and the member or person aggrieved shall each nominate one member, and the third shall be chosen by the two so nominated. The decision of the committee shall be final and binding on all parties and may be enforced on application to a Territorial Court.

Alteration of Rules.

70. These rules may only be altered or added to by extraordinary resolution.

71. Each member on being registered shall be furnished on his request and on payment of fifty cents, with a copy of the memorandum and the rules of the Association.

Dated this.....day of....., A.D. 19.....

Signatures of Subscribers to the Memorandum.

Witness.

- | | |
|----|----|
| 1. | 1. |
| 2. | 2. |
| 3. | 3. |

Co-operative Association.

SCHEDULE C.

(Section 26)

MATTERS TO BE PROVIDED FOR BY THE RULES OF AN ASSOCIATION
UNDER THIS ORDINANCE.

1. Terms of admission to membership.
2. Determination of the number of shares of the Association which a member may hold.
3. Determination whether and how shares in the Association shall be transferable, and, if so, provision for a form of transfer.
4. Determination whether and on what terms shares in the Association may be withdrawn and redeemed.
5. The appointment and removal of directors, managers or other officers, and their respective powers.
6. Provisions as to borrowing.
7. Mode of convening and holding general meetings, and right of voting.
8. Provision for the audit of accounts and appointment of auditors.
9. Mode of application of profits.
10. Provision for the use and custody of the seal.
11. Provisions as to the alteration of the rules.

SCHEDULE D.

(Section 36)

Dr. BALANCE-SHEET OF THE ,MADE UP TO THE 31ST DAY OF DECEMBER, 19 Cr.

Capital and Liabilities				Property and Assets			
I. Capital		Showing: 1. The number of shares subscribed and par value..... 2. The amount paid per share..... 3. The arrears of calls..... 4. The amount paid on forfeited shares.....		III. Property held by the Association		Showing: 7. Immovable property (stating the basis of valuation): (a) Freehold land..... (b) Freehold buildings..... (c) Leasehold buildings..... 8. Movable property: (d) Stock-in-trade..... (e) Plant..... (Costs to be stated with deductions for deterioration in value)	
II. Debts and Liabilities of the Association		Showing: 5. The amount of loans on mortgages and debentures..... 6. The amount of debts owing by the Association, distinguishing: (a) Debts for which acceptances have been given..... (b) Debts for supplies of stock-in-trade or other articles..... (c) Debts for interest on debentures or other loans..... (d) Unclaimed dividends..... (e) Debts not enumerated above.....		IV. Debts owing to the Association		Showing: 9. Debts considered good for which the Association holds bills or other securities 10. Debts considered good for which the Association holds no security..... 11. Debts considered doubtful and bad (Any debt due from a director or officer of the Association to be separately stated)	
Reserve fund		Showing: The amounts set aside from profits to meet contingencies.....		V. Cash and Investments		12. Showing: The nature of investment and rate of interest..... 13. The amount of cash, where lodged, and if bearing interest.....	
Profit and Loss		Showing: The disposable balance for payment of dividends, etc.....					
Contingent Liabilities		\$ Claims against the Association not acknowledged as debts..... Moneys for which the Association is contingently liable..... \$					\$

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Co-operative Association.

Chap. 23.

SCHEDULE E.

(Section 53)

TABLES OF FEES.

1. For filing or registering:		
Memorandum of Association	\$	10.00
Original rules		1.50
Any resolution, notice, list, return, or other document required by this Ordinance		.50
2. For every certificate, other than certificate of incorporation		.50
3. For each search		.25
4. For publication in the <i>Gazette</i> , according to the scale of charges in force from time to time.		

(See also Section 49)

CHAPTER 24.

AN ORDINANCE RESPECTING CORONERS.

SHORT TITLE.

1. This Ordinance may be cited as the *Coroners Ordinance*. Short Title.

APPOINTMENT AND REMOVAL.

2. The Commissioner may appoint one or more coroners Appointment and removal. for the Territory and may at any time remove, supersede or dispense with any or all of them and appoint others in their stead.

3. (1) A coroner shall, before entering upon the duties Oaths to be taken. of his office, take and subscribe to, before a judge of the Court, police magistrate, justice of the peace or a person authorized by the Commissioner to administer oaths, an oath of allegiance and an oath of office.

(2) The oath of allegiance to be taken by a coroner is as Oath of allegiance. follows:

“I,, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors according to law. So help me God.”

(3) The oath of office to be taken by the coroner is as Oath of office. follows:

“I,, do solemnly and sincerely promise and swear that I will faithfully and honestly fulfill the duties that devolve upon me by reason of my appointment as a coroner and that I will not, without due authority on that behalf, disclose or make known any matter that comes to my knowledge by reason of my duties or office. So help me God.”

JURISDICTION.

4. (1) The coroner residing nearest the place where the death Nearest coroner usually has jurisdiction. occurred or the place at which the body is found or nearest the route of travel by which such place can be most readily reached has jurisdiction to act as coroner respecting a deceased person.

(2) Notwithstanding subsection (1), a coroner has jurisdiction Any coroner may be directed to hold inquest, etc. throughout the Territory and the Commissioner or a judge may at any time direct a coroner to make an investigation or hold an inquest at any place in the Territory, in which case the jurisdiction of other coroners, whether they are within subsection (1) or not, is suspended respecting such investigation or inquest.

DISQUALIFICATION.

Where disqualified.

5. (1) A coroner shall not conduct an inquest or make an investigation into the circumstances connected with the death of a person

- (a) on whom he has attended in his professional capacity as a medical practitioner at any time during the period of thirty days immediately prior to the day of that person's death;
- (b) on whose body he has, otherwise than in the course of an inquest or investigation in his capacity as coroner, performed an autopsy or post mortem examination; or
- (c) whose death has been caused at, on or in or in connection with a railway, mine or other work in respect of which the coroner is the owner, part owner, director, etc., or employed as a medical attendant or in some other capacity by the owner or manager or under any agreement or understanding, direct or indirect, with the employees at, on or in such work.

CORONERS.

To notify commissioner of disqualification.

(2) Where a coroner who would normally exercise jurisdiction under section 4 or is directed pursuant to that section to exercise jurisdiction is disqualified from so doing under subsection (1) of this section, he shall immediately notify the Commissioner and the nearest available coroner of his disqualification.

NOTICE TO CORONER.

Duty to notify coroner.

6. A medical practitioner, undertaker, embalmer, peace officer or any person residing in the house in which the deceased resided immediately prior to his death or any other person who has reason to believe that a deceased person died as a result of violence, misadventure or unfair means, from any cause other than disease or sickness, as a result of negligence, misconduct or malpractice on the part of others or under such other circumstances as require investigation shall immediately notify the coroner, who ordinarily has jurisdiction in the locality in which the body of the deceased person is found, of the circumstances relating to the death.

WARRANTS AND INVESTIGATIONS.

Duty of coroner to issue warrant, view body, etc.

7. (1) Subject to subsection (3), where a coroner is notified that there is, within his jurisdiction, the body of a deceased person respecting whom there is reason to believe that death resulted from violence, misadventure or unfair means from a cause other than disease or sickness, as a result of negligence, misconduct or malpractice on the part of others or under such other circumstances as require investigation, he shall, unless disqualified from acting under this Ordinance issue his warrant, in Form A in the Schedule, to take possession of the body and shall view the body and make such further inquiry as may be required to satisfy himself whether or not an inquest is necessary.

(2) Unless otherwise directed by the Commissioner or a judge, where a coroner has issued a warrant under this section, no other coroner shall issue a warrant or interfere in the case. Other coroners not to interfere.

(3) Where a coroner is notified of a death occurring without the attendance of a duly qualified medical practitioner, he is not required to issue his warrant to take possession of the body or view the body, if, after inquiry into all the circumstances connected with the death, he is satisfied that it is unnecessary to hold an inquest. Where unnecessary to issue warrant.

(4) For the purposes of making inquiries under this section, a coroner may request the assistance of one or more constables or other peace officers who shall, upon such request, make immediate inquiries into the circumstances of the death and submit a detailed report of the results of such inquiries to the coroner. Assistance of peace officers.

(5) A coroner may, with the approval of the Commissioner, employ experts to assist him in an inquiry. Employment of experts.

8. (1) Where the coroner, after investigation, is satisfied that an inquest is unnecessary, he shall Burial warrant, etc., when no inquest.

- (a) issue his warrant to bury the body, in Form B in the Schedule;
- (b) forthwith transmit to the Commissioner an affidavit, in Form C in the Schedule, setting forth briefly the result of the inquiry and the grounds on which he issued the burial warrant; and
- (c) forthwith transmit to the funeral director or undertaker or other person having charge of the body the information and particulars required under the *Vital Statistics Ordinance*.

(2) Notwithstanding the decision of a coroner and transmission of an affidavit under subsection (1), the Commissioner may direct the coroner or some other coroner to hold an inquest on the body and the coroner so directed shall forthwith hold an inquest. Commissioner may direct inquest.

INQUESTS GENERALLY.

9.(1) Where a coroner, after investigation, has good reason to believe that a deceased person came to his death as a result of violence, misadventure or unfair means or as a result of negligence, misconduct or malpractice on the part of others or under such other circumstances as require an inquest, he shall hold an inquest. Duty to hold inquest.

(2) Before holding an inquest, the coroner shall make an affidavit in Form D which shall be returned and filed by the coroner with the inquisition. Affidavit.

(3) Subsection (2) does not apply to an inquest held at the direction of the Commissioner or a judge or an inquest held on the body of a prisoner who died in or about any prison, gaol or lockup or in the custody of a peace officer. Exceptions.

Direction of
Commissioner
or judge to
hold inquest.

10. Where the Commissioner or a judge has reason to believe that a deceased person came to his death under circumstances which, in his opinion, make the holding of an inquest advisable, he may direct any coroner to conduct an inquest into the death of such person and the coroner so directed shall conduct an inquest in accordance with this Ordinance, whether or not he or any other coroner has viewed the body, made an inquiry or investigation, held an inquest into or done any other act in connection with the death.

Where death
of prisoner.

11. Where a prisoner in a prison, gaol or lockup or in the custody of the Royal Canadian Mounted Police or a peace officer dies and notice of his death is given to a coroner by the warden or other official or person in charge or in whose custody the prisoner was, the coroner shall issue his warrant in Form A and hold an inquest on the body.

Inquest
without
exhumation.

12. (1) Where the body of a person respecting whom it is necessary to hold an inquest has been buried and the coroner is of opinion that no good purpose would be affected by disinterring the body for the purposes of the inquest, the Commissioner or a judge may, either upon application to him or otherwise, issue written permission to the coroner concerned to proceed therewith without disinterring the body.

(2) Where the body of a person respecting whom it is necessary to hold an inquest has been transported out of the Territory to be interred, the Commissioner or a judge may, either upon application to him or otherwise, issue written permission to the coroner concerned to proceed therewith without having the body brought back to the Territory.

Inquest
without
viewing
body.

13. Where a coroner is satisfied that a death, respecting which it is necessary to hold an inquest, has occurred within his jurisdiction, but, either due to the cause of death or for any other reason, the body or any part thereof cannot be found or recovered the coroner may, after first obtaining the written consent of the Commissioner or a judge, proceed to hold, without any view of the body, an inquiry as to the cause of death and it shall be conducted in all other respects in the same manner as other inquests held under this Ordinance.

May preserve
scene of
death, etc.

14. Where an inquest is to be held upon the body of a person who met death by violence in the wreck of a building, bridge, structure, embankment, aeroplane, motor vehicle, boat, machine or apparatus, the coroner may take charge of all wreckage and place constables or other peace officers in charge thereof in order to prevent any disturbance of the wreckage until such examinations as are deemed necessary by the coroner have been completed.

Post-mortem
examination.

15. (1) Subject to subsections (2) and (3), a coroner may, where he considers it advisable,
(a) for the purposes of an investigation, or

(b) prior to the termination of an inquest, conduct a post-mortem examination or direct that a post-mortem examination be conducted by a medical practitioner.

(2) Where a coroner proposes to conduct a post-mortem examination or to direct a medical practitioner to do so for the purposes of an investigation and an inquest has not been ordered, the examination shall not be made without the permission of a judge, the Commissioner or a person authorized by the Commissioner. Permission where no inquest ordered.

(3) Where the coroner has reason to believe that the death was directly or indirectly caused by the improper or negligent action of a medical practitioner or other person, that medical practitioner or other person shall not be allowed to perform or assist at the post-mortem examination. Interested medical practitioners excluded.

(4) Where a coroner is of opinion that the body of a deceased person that has been buried should be disinterred for the purposes of an examination or where he is so directed by the Commissioner or a judge, the coroner shall issue a warrant in Form J. Disinterment.

(5) A copy of a coroner's warrant for disinterment shall be sent to the Registrar General of Vital Statistics and a re-burial certificate secured. To notify Registrar General of Vital Statistics.

(6) The coroner shall send to the Commissioner the accounts in respect of a post-mortem examination. Accounts.

16. (1) Where an inquest is held concerning a death caused by an accident at, or in connection with a mine, the coroner shall send reasonable notice of its time and place to a person who is an inspector under the *Mining Safety Ordinance* or a person authorized to act for him and such inspector or other person is entitled to be present and to cross-examine any witness at the inquest. Inquests involving mining accidents.

(2) Where the inspector or other person who receives notice of an inquest fails to appear at the appointed time or place or requests a postponement or adjournment of the inquest, the coroner may postpone or adjourn the inquest if he deems it advisable in the public interest to do so, but no such postponement or adjournment shall exceed twenty-four hours. Postponement.

(3) In the case of an inquest under this section, the jury, if any, shall wherever practicable contain at least three employees of the mine, of whom at least one is familiar with the work in respect of which the accident arose. Jury to contain mine employees.

CORONER'S JURIES.

17. (1) At an inquest held pursuant to this or any other Ordinance, a coroner shall, where he is of opinion that it is practicable to secure a jury, sit with a jury but may, where he is of opinion that it is not practicable to secure a jury, proceed without a jury, and, in the latter case, has full authority to find such verdict as a jury might have found. Coroner to sit with jury where practicable but may otherwise dispense therewith.

- Composition and qualifications. (2) Subject to this Ordinance or any other Ordinance, a coroner's jury shall consist of six male persons who are qualified to serve and liable to serve as jurors under the *Jury Ordinance*.
- Warrant to summon jury. (3) Where in his opinion it is practicable to secure a coroner's jury, the coroner shall, as soon as possible, issue his warrant in Form E to a sheriff, constable or other peace officer to summon six male persons to form the coroner's jury.
- (4) The summons to a person to serve on a coroner's jury shall be in Form F and shall specify the time, place and purpose of the inquest and the name and address of the person upon whom it is to be served.
- Special dis-qualification. (5) Subject to section 16, no person who, whether or not liable or qualified to serve as a juror under the *Jury Ordinance*, is
- (a) an officer, employee or inmate of a hospital, asylum, charitable institution, gaol, prison or lockup in which the death of a deceased person occurred; or
- (b) the owner or an employee of the owner of any building or premises used for any trade or business and in which the death of a deceased person occurred;
- shall serve on the coroner's jury at an inquest respecting the death of such deceased person.
- Report on jury summons. **18.** (1) The sheriff, constable or other peace officer to whom the coroner's warrant is issued under subsection (3) of section 17 shall attend at the time and place appointed for the inquest and make his return as to the summoning of the jurors.
- Attendance of full jury. (2) Where six jurors are present the coroner shall proceed with the inquest.
- Where less than full jury. (3) Where less than six jurors are present upon the return of the summons, the coroner shall order the sheriff, constable or other peace officer to summon, by word of mouth if necessary, a sufficient number of male persons, whether qualified jurors or not, to complete the jury and where a full jury cannot be obtained within one hour from the time fixed for the commencement of the inquest, the coroner may proceed with a jury of not less than three jurors or dispense with a jury.
- Verdict. (4) Where a coroner's jury consists of six persons, five of them may return a verdict but, where the jury consists of less than six persons, the verdict must be unanimous.
- Report where no jury, etc. **19.** Where an inquest is held without a coroner's jury or with a coroner's jury consisting of less than six persons, the inquisition shall state that the inquest has been so held and give the reasons therefor.
- Arrest of juror for failure to appear. **20.** (1) Where a person duly summoned to serve on a coroner's jury does not, after being openly called three times, appear in answer to the summons, the coroner may, after proof upon oath that the summons has been served upon such person,

issue a warrant to a constable or other peace officer commanding him to arrest such person and bring him before the coroner at the time and place specified in the warrant.

(2) Where a person who is referred to in subsection (1) ^{Punishment.} is brought before the coroner and fails to show cause why he did not obey the summons or refuses without reasonable excuse to serve, the coroner may impose upon him a fine not exceeding fifty dollars plus costs or may, in default of payment of such fine, commit him, by warrant in Form G, to prison for a term not exceeding thirty days.

WITNESSES.

21. (1) A coroner may issue a summons respecting any person ^{Summons.} who, in his opinion may be able to give material evidence at an inquest requiring him to appear at the time and place mentioned therein, to testify to all matters within his knowledge relative to the subject matter of the inquest and to bring with him and produce any document, book, paper, article or thing that he has in his possession or under his control relative to the subject matter of the inquest.

(2) The original summons may contain the names of any ^{Service.} number of witnesses and the copy served on each witness may do likewise or may contain only the name of the witness upon whom it is served and shall be served in the same manner as under the *Jury Ordinance*.

(3) Where a person duly summoned to give evidence at an ^{Arrest of witness for failure to appear, etc.} inquest fails to appear or refuses to be sworn or to give evidence at such inquest, the coroner may, after proof upon oath, that the summons has been served upon such person, issue a warrant to a constable or other peace officer commanding him to arrest such person and bring him before the coroner at the time and place specified in the warrant.

(4) Where a person who is referred to in subsection (3) ^{Punishment.} is brought before the coroner and fails to show cause why he did not obey the summons or has refused without reasonable excuse to be sworn or to give evidence, the coroner may impose upon him a fine not exceeding fifty dollars plus costs or may, in default of payment of such fine, commit him, by warrant in Form G, to prison for a term not exceeding thirty days.

PROCEDURE AT INQUESTS.

22. (1) Where a coroner's jury is to sit at an inquest, the ^{Swearing of jurors.} coroner shall, before commencing any other proceedings at the inquest, swear the jurors or cause them to be sworn before him to inquire diligently touching the death in respect of which the inquest is to be held and to render a true verdict according to the evidence.

- View of body and examination of witnesses. (2) The coroner and the jury, if any, shall, at the first sitting of the inquest, view the body, unless a view has been dispensed with under this Ordinance, and the coroner shall examine, upon oath or affirmation, all persons he thinks expedient to examine as witnesses.
- Persons charged or to be charged do not have to give evidence. (3) A person who has been charged or is likely to be charged with an offence relating to the death concerning which the inquest is held is not compellable to give evidence at the inquest and the coroner shall so advise such person before he gives evidence.
- Rights of Crown counsel. (4) Counsel representing Her Majesty may attend at an inquest and may examine or cross-examine the witnesses called and the coroner shall summon any witness required on behalf of Her Majesty.
- Interpreter. (5) A coroner may employ the services of an interpreter at an inquest.
- Evidence in writing. **23.** (1) Subject to subsection (2), the coroner shall put into writing the evidence of each witness, or so much thereof as he deems material and each deposition shall be signed by the witness concerned and by the coroner.
- Shorthand evidence. (2) With the consent of the Commissioner, a judge or counsel representing Her Majesty, the evidence or any part thereof may be taken in shorthand by a stenographer appointed for that purpose by the coroner and duly sworn to truly and faithfully report the evidence, and, where so taken, the signatures of the witnesses are unnecessary but the transcript shall be signed by the coroner and certified by the stenographer that it is a true report of the evidence.
- Where transcript prepared. (3) Shorthand evidence need not be transcribed into English unless the Commissioner, a judge or counsel representing Her Majesty so directs or any person requests a transcript and pays the stenographer therefor.
- Verdict and inquisition. **24.** (1) After viewing the body, unless a view is dispensed with under this Ordinance, and after hearing the evidence and the summing up by the coroner, the coroner's jury shall render their verdict, or the coroner shall in the absence of a jury pronounce his verdict, and the verdict shall be certified by an inquisition in writing, in Form H, setting forth, so far as the evidence indicates, the identity of the deceased and how, when and where he came to his death.
- Signing. (2) An inquisition shall be signed by the jurors who concur in the verdict and by the coroner.
- Where jury disagree. **25.** (1) Where in a coroner's jury of six members five of them cannot agree on a verdict or where in a coroner's jury of less than six members there is not unanimous agreement, the coroner may discharge the jury after having first taken the findings that have been agreed upon.

(2) The coroner shall then submit the evidence, the findings ^{Report.} agreed upon, if any, and a report of the inquest to the Commissioner or a judge, either of whom may order the coroner to summon another jury and hold a second inquest or take such other action as the Commissioner or judge deems proper.

26. (1) A coroner may, in order to obtain further evidence, ^{May adjourn.} adjourn an inquest from time to time and for such period as he thinks necessary and may, upon an adjournment take the recognizances of jurors and witnesses for their appearance at the adjourned sittings.

(2) Where an inquest is adjourned and a juror who had attended is unable to attend, by reason of death, illness or ^{May resume with one juror absent.} other good cause, at the resumed sittings, the coroner may proceed with the inquest if at least three jurors are present or proceed without a jury.

PROCEDURE AFTER INQUEST.

27. As soon as possible after the conclusion of an inquest ^{Reports.} held by him, a coroner shall

- (a) forward to the Commissioner or a judge, as the case may be, the following:
 - (i) the inquisition in Form H,
 - (ii) the affidavit, if any, in Form D,
 - (iii) any depositions of witnesses taken pursuant to subsection (1) of section 23,
 - (iv) a transcript of the evidence taken pursuant to subsection (2) of section 23 where the Commissioner, a judge or counsel representing Her Majesty has ordered it to be transcribed and, where no such order has been given, the stenographer's notes of the evidence, and
 - (v) such exhibits as may be forwarded or, where they are too bulky or cannot otherwise be moved, a description thereof; and
- (b) forward to the undertaker or other person having charge ^{To undertaker, etc.} of the body or to the district registrar of the registration district in which the death occurred, as the case may require, such information as is required to be furnished under the *Vital Statistics Ordinance*.

OFFENCES AND PENALTIES.

28. Every person who, under section 6, is required to ^{Failure to notify coroner.} notify a coroner of the death of a person and, unless some other person referred to in that section has already given the necessary notice fails to do so is guilty of an offence and liable upon summary conviction to a fine not exceeding one hundred dollars.

Where coroner acts when disqualified.

29. A coroner who makes an investigation or conducts an inquest when he is, pursuant to section 5, disqualified from so doing is guilty of an offence and liable upon summary conviction to a fine not exceeding two hundred dollars.

Disturbing scene of death.

30. Where, except for the purpose of saving life or relieving suffering, a person, without authority from the coroner, interferes with, destroys, carries away or alters the position of wreckage or anything connected therewith resulting from the wreck of a building, bridge, structure, embankment, aeroplane, motor vehicle, boat, machine or apparatus that has caused death by violence, such person is guilty of an offence and liable upon summary conviction to a fine not exceeding one hundred dollars and where it is shown that the offence was wilfully committed for the purpose of making away with or destroying evidence, the person guilty thereof is liable on summary conviction to imprisonment for a term not exceeding six months.

General offence and penalty.

31. Every person who violates a provision of this Ordinance for which no punishment is elsewhere provided in this Ordinance is guilty of an offence and liable upon summary conviction to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding thirty days or to both fine and imprisonment.

GENERAL.

Annual report.

32. Every coroner shall at the end of each year transmit to the Commissioner a statement, in Form I or in like form, setting forth the investigations, inquests and their particulars made and conducted by him during such year.

Where murder.

33. Where a death occurs as a result of which a person is charged with murder or manslaughter, the Commissioner or a judge may but need not direct that no inquest shall be held or continued concerning that death.

May appoint special coroner to take over.

34. The Commissioner may appoint a special coroner for any inquiry or inquest with power to take over from any other coroner such inquiry or inquest at any stage thereof and the special coroner has, upon so taking over, exclusive jurisdiction in the matter of the inquiry or inquest and may, in his discretion or as directed by the Commissioner, either continue the proceedings at the stage at which they were when he assumed jurisdiction or may commence the proceedings *de novo*, and, in the latter case, everything theretofore done shall have no effect.

Fees, etc.

35. Unless otherwise prescribed in an Ordinance made in that behalf, the fees and allowances payable to coroners, witnesses, jurors, stenographers, interpreters or medical practitioners in connection with their duties or service under this Ordinance are those, from time to time, prescribed by the Commissioner.

SCHEDULE.

FORM A.

WARRANT TO TAKE POSSESSION OF BODY.

Canada }
Yukon Territory }
To Wit:

To and to all constables, sheriffs or other peace officers whom it may concern:

Whereas it has been made to appear to me that has died
.....
.....

(Note: here insert either:

- (a) as a result of violence;
- (b) by misadventure or by unfair means or from a cause other than sickness or disease;
- (c) as a result of negligence or misconduct or malpractice on the part of others; or
- (d) under such circumstances as require an investigation)

and that such body is now lying at a place in which I have jurisdiction as coroner.

Therefore, by virtue of my office, I command you, in the name of Her Majesty, to take possession of the body of the deceased and to safely keep the same and to deal with the same as may be directed by me until a further order is made by me concerning the same.

And for so doing, this shall be your full and sufficient warrant and authority.

Given under my hand at in the Yukon Territory, this day of 19.....

.....
A Coroner for the Yukon Territory

FORM B.

WARRANT FOR BURIAL.

Canada }
Yukon Territory }
To Wit:

To and to all
others whom it may concern:

Whereas I have viewed the body of
..... now lying dead at
and have inquired into the circumstances of the death;

And whereas I (am satisfied that an inquest is unnecessary)
OR (hereby certify that the body has been viewed at an
inquest) (*strike out portion that is not applicable*).

These presents are, therefore, to certify that you may law-
fully permit the body of the said
..... to be buried; and for so doing this shall
be your full and sufficient warrant and authority.

Given under my hand at in the Yukon
Territory, this day of 19.....

.....
A Coroner for the Yukon Territory

FORM C.

AFFIDAVIT WHERE INQUEST UNNECESSARY.

Canada } I, of the
 Yukon Territory } in the
 To Wit: } Yukon Territory, a coroner for the said
 Territory, make oath and say:

1. That from information received by me, I was of opinion that there was reason for believing that..... deceased, died

(Note: here insert either:

- (a) as a result of violence;
- (b) by misadventure or by unfair means or from a cause other than sickness or disease;
- (c) as a result of negligence or misconduct or malpractice on the part of others; or
- (d) under such circumstances as require an investigation).

2. That I have since caused the circumstances of the death of the said to be inquired into, and by reason of such inquiries, I am satisfied that the death was not the result of any wrongful act or omission on the part of any person and that an inquest is unnecessary and that the said deceased came to his (her) death on the day of 19....., at in the said Territory, from
(insert cause of death)

3. I have, in consequence, issued my warrant to bury the body of the said

SWORN before me at in the }
 Yukon Territory, this }
 day of 19..... } *Coroner*

A.....

FORM D.

AFFIDAVIT BEFORE HOLDING INQUEST.

Canada
 Yukon Territory } I, of the
 To Wit: } in the Yukon Territory,
 a coroner for the said Territory make oath
 and say:

That from information received by me, I am of opinion that there is reason for believing that now lying dead at did not come to his death from natural causes or from mere accident or mischance, but that he came to his death from violence or unfair means of culpable or negligent conduct of others or under circumstances requiring investigation by a coroner's inquest.

SWORN before me at
 in the }
 Yukon Territory, this }
 day of 19 } *Coroner*

A

FORM E.

WARRANT TO SUMMON JURY.

Canada }
Yukon Territory }
To Wit:

To: Name

Address

By virtue of my office, I hereby direct you, in the name of Her Majesty the Queen, to summon and warn personally six persons, liable for jury duty in accordance with the *Jury Ordinance* and the *Coroners Ordinance*, to appear before me on the date and at the time and place indicated hereunder to undertake the duties of jurymen on a corner's jury to do and execute such things as shall be then given them.

You are further directed to appear at the time and place given hereunder to make a return of those you shall summon.

Purpose of Inquest
To enquire into
the death of
.....

Particulars of Inquest
Date:
Time:
Place:

.....
A Coroner for the Yukon Territory

FORM F.

SUMMONS.

Canada }
Yukon Territory }
To Wit:

By virtue of a warrant under the hand of the presiding coroner, you are hereby summoned personally to be and appear before him as a jurymen on the day, hour and place indicated hereunder and then and there to enquire on Her Majesty's behalf touching the death of and further to do and execute such other matters and things as may be given to you and not to depart without leave.

Failure to appear will render you liable to a fine or, in default of payment, to imprisonment.

TO: Name:
Address:
Occupation:

Purpose of Inquest
.....

Particulars of Inquest
Place:
Date:
Time:

.....
A constable, sheriff, or

FORM G.

WARRANT OF COMMITMENT.

Canada }
Yukon Territory }
To Wit:

To the Warden of..... at
in the

Whereas was duly summoned
to appear before me on the day of
19, to serve as a juror (or to be a witness) at an inquest
to be held touching the death of

And whereas the said, after
being openly called upon has failed to show cause why he did
not appear as summoned (or, having appeared, refused with-
out reasonable excuse to serve as a juryman or to be sworn
or to give evidence) (*Strike out portion that is not applicable*).

And whereas I did adjudge the said
for his default to pay a fine of dollars
and the costs of his apprehension and in default of immediate
payment that the said be imprisoned for
..... days unless the said several sums be sooner paid.

And whereas the said made default
of payment of the said several sums.

These are therefore to command you to take the said
..... and safely convey him to
..... gaol and there deliver him to the warden
or other person in charge thereof, together with these pres-
ents.

And I do hereby command you, the warden of the said gaol
to receive the said into your custody and
imprison him for the term of days, unless the
said several sums are sooner paid to you; and this shall be
your sufficient warrant and authority for so doing.

Given under my hand this day of
19.....

.....
A Coroner for the Yukon Territory

FORM H.

INQUISITION.

Canada
Yukon Territory }
To wit:

An inquisition taken for Her Majesty the Queen at the house of _____ in the _____ day of _____ on the _____ day of _____ 19 _____, (and by adjournment on the _____ day of _____ 19 _____) before _____ one of Her Majesty's coroners for the Yukon Territory, on view of the body of _____ then and there lying dead, the undersigned and

.....
(Names of jurymen, if applicable)
being duly sworn and charged to inquire for Her Majesty when, where, how and by what means the said _____ came to his (her) death, do upon their oath say:

In witness whereof, the coroner has hereunto set his hand (and, the jurymen have hereunto set their hands) this _____ day of _____ 19 _____.

FORM I.

CORONER'S RETURN.

(Note: This return is required by section 32 of the *Coroners Ordinance*, to be filed and forwarded to the Commissioner at the end of every year. If no inquests or investigations were held by him, the form should be marked "nil" and returned to the Commissioner.

In all cases in which the coroner, after investigation, finds an inquest unnecessary, the words "Inquest deemed unnecessary" will be inserted after the place of death.)

<u>Name of Deceased</u>	<u>Place of Residence</u>	<u>Occupation</u>	<u>Place of Death</u>	<u>Place of Inquest</u>	<u>Date of Inquest</u>	<u>Finding</u>
-------------------------	---------------------------	-------------------	-----------------------	-------------------------	------------------------	----------------

I, the undersigned, one of Her Majesty's coroners in and for the Yukon Territory, do certify the above to be a correct return of all investigations and inquests held by me for the year.....

Dated.....19.....

.....
Coroner

FORM J.

WARRANT TO TAKE UP A BODY INTERRED.

Canada }
Yukon Territory }

To
(person in charge of cemetery)

WHEREAS the body of one
was buried on or about the day of
19 , in the cemetery at which cemetery
is under your direction; and

WHEREAS there exists some doubt as to the cause of death
of the said

Now therefore this warrant given under my hand as one of
Her Majesty's coroners for the Yukon Territory is to charge
and command you to cause the body of the said
to be disinterred and removed from the said cemetery to
..... for the purpose of an inquest to determine
the cause of death. Herein fail not, as you will answer the
contrary at your peril. Given under my hand this
day of 19 .

.....
Coroner

CHAPTER 25.

AN ORDINANCE RESPECTING CREDIT UNIONS.

SHORT TITLE.

1. This Ordinance may be cited as the *Credit Union Short Title Ordinance.*

INTERPRETATION.

2. In this Ordinance, Definitions.
 (a) "Commissioner" means Commissioner of the Yukon Ter- "Commis-
sioner."
 ritory;
 (b) "credit union" means a credit union incorporated under "Credit
union."
 this Ordinance; and
 (c) "Registrar" means the Registrar of credit unions men- "Registrar."
 tioned in section 3.

3. The Territorial Secretary shall be the Registrar of credit Registrar.
 unions.

INCORPORATION.

4. Any ten or more residents of the Yukon Territory who Memorandum
of
association.
 desire to associate themselves together as a credit union for the
 objects hereinafter set forth may, in the presence of a witness,
 sign in duplicate and cause to be filed in the office of the
 Registrar a memorandum of association in accordance with
 Form A, to which shall be attached an affidavit certifying the
 signatures.

5. The memorandum of association shall state the name of the Contents of
memorandum
of
association.
 credit union, the place at which its registered office is to be
 situated, the names and addresses of the subscribers to the
 memorandum and the number of shares subscribed by each.

6. Upon the memorandum of association being filed and the Certificate of
incorporation.
 Registrar being satisfied that the objects stated therein comply
 with the provisions of this Ordinance, the Registrar shall issue
 a certificate of incorporation in Form B.

7. The subscribers to the memorandum and such other people Effect of
certificate of
incorporation.
 and such credit unions as may thereafter become members of
 the credit union shall thereupon become and be a body cor-
 porate and politic under its registered name, and the certificate
 shall be conclusive evidence of incorporation.

8. The Registrar shall cause a notice of incorporation to Publication
of notice of
incorporation.
 be published, at the expense of the credit union, in one issue
 of the *Yukon Gazette.*

NAME.

Restrictions. **9.** (1) No credit union shall be registered under a name identical with that under which any other credit union is registered or so nearly resembling the same as to be likely to deceive.

(2) The words "Credit Union" and the word "Limited" shall form part of the name of every credit union registered under this Ordinance.

(3) The Registrar may refuse incorporation to any credit union whose name or part of whose name includes any of the following words: "Imperial", "Crown", "Kings", "Queens", "Royal", "Dominion", "Yukon" or words of similar import.

BY-LAWS.

By-laws. **10.** (1) The by-laws of a credit union shall in every case contain provisions in respect of the several matters mentioned in the First Schedule, set out as nearly as possible in the order therein specified.

(2) A credit union may pass supplemental by-laws in addition to those in the First Schedule, but such supplemental by-laws shall not be inconsistent with the provisions of this Ordinance.

(3) No by-laws shall become operative until approved by the Registrar.

CAPITAL AND SHARES.

Capitalization. **11.** The capital of every credit union shall be unlimited in amount and shall be divided into shares of a par value of five dollars each.

Purchase of shares. **12.** The shares may be payable by instalments at such time and in such manner as may be determined by by-law.

Interest. **13.** No shareholder shall receive interest on any but the paid up portion of his shares.

Transfer of shares. **14.** (1) Subject to subsections (2) and (3) shares may be assigned or transferred or may be repurchased by the credit union.

(2) No assignment, transfer or repurchase shall be valid unless approved and authorized by the directors.

(3) No assignment, transfer or repurchase shall be approved or authorized by the directors if it would reduce the total number of shareholders below ten.

Liability of shareholders. **15.** Every shareholder shall be individually liable to the creditors of the credit union for debts and liabilities of the credit union to an amount equal to the sum unpaid on the shares for which the shareholder has subscribed in writing, but no shareholder shall be liable to an action in respect of such unpaid

balance until an execution at the suit of the creditors against the credit union has been returned unsatisfied in whole or in part.

OBJECTS AND POWERS.

16. The objects of a credit union shall be the promotion of ^{Objects.} thrift among its members and the creation of a source of credit for its members, at legitimate rates of interest, exclusively for provident and productive purposes.

17. For the purpose of carrying out its objects, every credit ^{Powers.} union may, subject to this Ordinance,

- (a) receive the savings of its members as payment on shares and as deposits either in individual or in joint accounts;
- (b) make loans to its members for provident or productive purposes;
- (c) make loans to credit unions co-operative associations that are members;
- (d) deposit money in chartered banks in Canada, in post office savings banks, with loan companies and trust companies authorized to receive money on deposit;
- (e) invest in any stocks, bonds or securities of the Government of Canada, or securities the principal and interest of which are guaranteed by the Government of Canada;
- (f) borrow money as hereinafter provided;
- (g) draw, make, accept, indorse, execute and issue promissory notes, bills of exchange, bills of lading, warrants and other negotiable or transferrable instruments;
- (h) become a member of an organization, as the Registrar may permit, for the purpose of establishing and supporting or aiding in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit members, employees or ex-employees of the credit union or the dependants or connections of such persons, grant benefits and allowances and make payments towards insurance; and
- (i) do all such other acts and things as are incidental or conducive to or consequential upon the attainment of its objects.

18. (1) A credit union may for its purposes hold, purchase ^{Lands and buildings.} or take on lease in its own name any land and buildings, and may sell, exchange, mortgage or lease the same.

(2) The value of land and buildings so required for the purpose of its business shall not exceed five thousand dollars except by resolution of a general meeting of the members and with the approval of the Registrar.

(3) Subsection (2) does not apply to land and buildings acquired by a credit union as security for or in settlement of a claim, and any property so acquired may be sold, exchanged, mortgaged or leased.

Chap. 25.

Credit Unions.

Entrance fee. **19.** A credit union may charge an entrance fee not exceeding that authorized by the by-laws.

Change of office. **20.** A credit union may change its registered office on written notice to the Registrar.

ORGANIZATION.

First meeting. **21.** Within ten days after receipt of the certificate of incorporation by the provisional secretary, he shall give notice to each of the applicants for incorporation, stating that the certificate has been received, and calling a meeting of the credit union for the organization thereof.

Election of directors and committees. **22.** (1) Subject to subsections (2) and (3), at that meeting the credit union should elect a board of directors of not less than five members, a credit committee of not less than three members and a supervisory committee of three members; and the persons so elected shall hold office until the first annual meeting and until their successors are elected; any one director may also be a member of the credit committee.

(2) No director or member of the credit committee shall be a member of the supervisory committee.

(3) Persons who are directors or other officers of any credit union or association that is a member pursuant to section 45 may be elected as directors or members of the credit committee of a credit union, provided that the number of such persons shall not form a majority of the combined board of directors and credit committee of such credit union.

Appointment of officers. **23.** At their first meeting, which shall be held within ten days after their election, the directors shall choose from their own number a president and vice-president, and shall appoint a secretary and a treasurer or a secretary-treasurer, who may or may not be a director.

Remuneration. **24.** No member of the board of directors or of the credit or the supervisory committee shall, as such, receive remuneration, but the secretary and the treasurer or secretary-treasurer may be paid such salaries or salary as the directors may determine.

Returns to Registrar. **25.** A record of the names and addresses of the directors, the members of the committees and of the officers shall be filed with the Registrar within ten days after their election or appointment.

DUTIES OF DIRECTORS.

Duties. **26.** Subject to this Ordinance, the directors shall have the general management of the affairs of the credit union and in particular shall:

(a) act on each application for membership and on the expulsion of members;

- (b) determine the maximum individual share holdings and the maximum individual loans that may be made with and without security;
- (c) determine the maximum individual loan and the aggregate amount of such loans where terms of repayment extend over a period of more than three years; but the total of all such outstanding loans made by a credit union to the members shall not at any time exceed an amount equivalent to twenty per cent of its combined paid up capital and deposits unless otherwise authorized by supplemental by-law of the credit union;
- (d) determine interest rates on loans and on deposits;
- (e) declare dividends;
- (f) have charge of investments other than loans to members;
- (g) require officers and employees handling money to furnish fidelity bonds issued by a guarantee company in such amounts as the directors shall fix, but in no event shall the amount be less than that set forth from time to time in the standard by-laws governing all credit unions;
- (h) fill vacancies in the board of directors and in the credit committee until the next annual meeting and successors are chosen;
- (i) require that all negotiable securities held by the credit union, whether lodged as collateral or not for safe keeping on behalf of the members, be placed in a suitable safekeeping depository, and in joint custody where feasible;
- (j) designate the depository for lodgment of negotiable securities held by the credit union; and
- (k) perform such other duties as are required by this Ordinance and by the by-laws.

CREDIT COMMITTEE AND LOANS.

27. (1) Subject to sections 31 and 33, the credit committee shall have the general supervision of all loans to members and, subject to any general order of the board and the provisions of this Ordinance, shall fix the amount and rate of interest on each loan. Jurisdiction
of credit
committee.

(2) At least a majority of the credit committee shall be present when a loan is under consideration, and approval of a loan shall be the unanimous decision of the members present.

28. Every loan shall be for a provident or productive purpose. Purpose of
loans.

29. Every application for a loan shall be on a form provided by the credit committee, and shall set forth the purpose for which the loan is desired, the security, if any is offered, and such other information as may be required by the committee. Applications.

Security.

30. (1) The credit committee shall require security to be given on all loans in excess of one hundred dollars and the security to be taken in each case shall be determined by the committee.

(2) An assignment of shares or of deposits or the indorsements of a note may be taken as security.

Authority of treasurer to grant loans.

31. Notwithstanding anything contained in this Ordinance, a majority of the members of the credit committee and board of directors, sitting together, may by unanimous resolution authorize the treasurer to grant loans for provident or productive purposes to members who make application therefor, in each case to an amount not exceeding the value of any paid-up shares in the credit union held by the applicant and assigned as security to the credit union and the market value of any stocks, bonds or securities of the Government of Canada, so held and assigned, and upon such other conditions as may be specified in the resolution, and the treasurer may grant loans in accordance with the resolution without submitting the application to the credit committee.

Restrictions on loans to directors, officers, etc.

32. No director, officer or member of the credit committee or the supervisory committee shall be allowed to borrow in excess of the value of his shares and deposits and accumulated earnings assigned as security to the credit union and the market value of any stocks, bonds or securities of the Government of Canada held by him and so assigned, unless upon the unanimous vote of a majority of the members of the credit committee, two or more directors and one member of the supervisory committee, sitting together, the said director, officer or member not being present when the vote is taken.

Loan to member corporations.

33. (1) In determining the matter of a loan to a member association or credit union, the members of the credit committee and the board of directors shall sit together and a majority of the combined bodies shall be present but no director or other officer of a member association or credit union who is a member of the combined bodies shall vote respecting a loan to the member association or credit union of which he is a director or officer.

(2) Any decision to make a loan to a member association or credit union shall be unanimous and subject to the consent to the Registrar.

Prohibitions.

34. No credit union shall lend money to or accept deposits from any person who is not a member to the credit union.

Interest rates.

35. Interest rates on loans made by a credit union shall not exceed one per cent per month on unpaid balances.

36. A borrower may repay his loan in whole or in part on any day on which the office of the credit union is open for business. Repayment.

SUPERVISORY COMMITTEE.

- 37.** The supervisory committee shall Duties.
- (a) make an examination of the affairs of the credit union at least quarterly, and, if deemed necessary by the committee, call a meeting of the credit union for consideration of the report of the committee;
 - (b) unless an auditor has been appointed under section 38, make an annual audit and submit a report thereon to the annual meeting;
 - (c) fill vacancies in its own membership;
 - (d) if deemed necessary, by unanimous vote of all the members of the committee, suspend any officer, and call a meeting of the credit union to consider the report of the committee on such suspension; and
 - (e) call a special meeting to consider any matter or matters that, in the opinion of the committee, should be placed before the credit union.

38. (1) Where the combined share capital and deposits of a credit union exceed two hundred and fifty thousand dollars the supervisory committee, subject to the approval of the Registrar, may recommend to the annual meeting that a qualified auditor be appointed to conduct an annual audit of the books and accounts of the credit union. Appointment of auditor.

(2) Upon such recommendation the members in annual meeting may appoint as auditor a chartered accountant or any other qualified person approved in either case by the Registrar.

(3) Where an auditor is appointed the supervisory committee shall submit the auditor's report to the next annual meeting.

BORROWING POWERS.

39. Subject to the consent of the Registrar, a credit union may from time to time borrow moneys not exceeding in the aggregate twenty-five per cent of its combined capital, surplus and deposits, upon a vote of at least three-fourths of the members of the board of directors, and may from time to time borrow moneys not exceeding in the aggregate fifty per cent of its combined capital, surplus and deposits, upon a vote of three-fourths of the members present, or one-third of the total membership, whichever is the greater, taken at an annual meeting of the credit union or at a special meeting called for the purpose, with those voting in support of the resolution representing a majority of the shares issued. Powers and procedure.

40. A credit union may charge, hypothecate, mortgage or pledge its real or personal property, rights and powers, undertakings, franchises, including book debts and unpaid calls of Powers of hypothecation.

the credit union, to secure any liability for the repayment of moneys borrowed in pursuance of a resolution passed under section 39.

APPORTIONMENT OF SURPLUS.

Apportionment.

41. After paying all expenses including interest, if any, on deposits and after making proper allowance for depreciation, the directors shall present to the annual meeting for confirmation a resolution respecting the apportionment of the surplus arising from the yearly business of the credit union, which resolution shall provide

(a) that there be set aside as a reserve fund against uncollectable loans and probable future losses, all entrance fees, fines collected from members and, at the end of each fiscal year, at least twenty-five per cent of the surplus, and so from year to year until such reserve fund is equal to at least ten per cent of the assets of the credit union from time to time;

and may provide

(b) that after setting aside such part of the surplus as is required for the reserve fund, a dividend of a specified amount, but not exceeding five per cent per annum, be paid to the shareholders on all fully paid-up shares shown by the books of the credit union as outstanding at the end of the preceding fiscal year;

(c) that there be set aside, if the by-laws so provide, a specified amount, but not exceeding five per cent of the surplus, to be used for such educational purposes as the directors may determine, but the moneys so set aside from time to time shall be expended within three years after they are set aside, or transferred within such period to the reserve fund;

(d) that there be set aside a specified amount for emergencies or estimated losses, or special expenditures needed to achieve the objects of the credit union, but the moneys so set aside shall be expended within three years after they are set aside, or transferred within such period to the reserve fund or paid as dividends on shares or as borrower dividends for the fiscal year preceding the annual meeting at which they are set aside; and

(e) that, after making provision for a reserve fund, the payment of dividends on shares, an educational fund, if any, and an emergency fund, if any, the remainder, if any, of the surplus be divided among the members as a borrower dividend in proportion to the amount of interest paid by them to the credit union on all loans or on specified classes of loans during the preceding fiscal year.

Investment and use of reserve fund.

42. (1) The reserve fund may be invested in the stocks, bonds or securities of the Government of Canada or may be deposited in accordance with paragraph (d) of section 17.

(2) The income received from such investments or deposits shall form a part of the general revenue of the credit union.

(3) The fund shall be held as a reserve against uncollectable loans or losses and shall not be used for any other purpose except on liquidation.

MEMBERSHIP.

43. Every credit union shall have a membership of at least ten. Minimum membership.

44. Subject to section 45, the membership of a credit union shall be limited to groups of persons having a common bond of occupation or association, or to groups within a well defined neighbourhood, community, municipality or district. Members limited to groups.

45. (1) Any other credit union may be a member of a credit union. Certain corporations may be members.

(2) An association incorporated under the *Co-Operative Association Ordinance* may be a member of a credit union if such association is composed for the most part of the same general group as that comprising the membership of the credit union.

(3) A credit union or a co-operative association admitted as a member of a credit union may vote at meetings of the credit union by a duly appointed delegate, in accordance with the supplemental by-laws of the credit union.

(4) The terms and conditions upon which a member credit union or co-operative association may obtain loans shall be those set forth in a supplemental by-law of the lending credit union and not inconsistent with this Ordinance but the total amount of all loans made by a credit union to member credit unions and co-operative associations shall not at any time exceed an amount equivalent to twenty-five per cent of its combined paid up capital and deposits.

46. A minor may be a member but a minor shall not vote until he has reached the age of sixteen years, nor shall he be elected as a director or as a member of the credit committee or supervisory committee until he has attained the age of eighteen years; and upon attaining the age of eighteen years he may enjoy all the rights of a member. Minors.

47. A register, or list of shareholders, shall be kept by every credit union, and such register shall show and shall be prima facie evidence of Register of members.

- (a) the names, addresses and occupations of the shareholders, the number of shares held by them respectively, the numbers of such shares and the amount paid or considered as paid thereon;
- (b) the date on which each shareholder was registered; and
- (c) the date at which any shareholder ceased to be such.

Expulsion
of member.

48. (1) The directors by at least a two-thirds vote, at a meeting duly called and at which a majority of the directors are present, may expel a member from the credit union.

(2) Within five days from the date on which the member is expelled, the secretary shall notify him in writing of the action of the directors.

(3) An appeal from the action of the directors may be taken by the member to the next general meeting of the credit union if written notice of the intention to appeal is given by him to the secretary within thirty days from the date of the receipt of the notice mentioned in subsection (2).

(4) At such meeting a majority of the members present may confirm or rescind the action of the directors.

Withdrawal
of member.

49. A member may withdraw from the credit union at any time on giving such notice of withdrawal as may be required by the by-laws or such additional notice as, in any particular case, the directors may deem necessary and is approved by the Registrar.

Payments to
expelled or
withdrawing
member.

50. All amounts paid in on shares or as deposits by a member who is expelled or withdraws and any relative dividends or interest shall be paid to him as funds become available and after deducting all amounts due from him to the credit union.

Effect of
expulsion on
withdrawal.

51. A member who is expelled or withdraws shall have no further rights in the credit union but shall not be released, by such expulsion or withdrawal, from any remaining liability to the credit union.

Officers, etc.
not to
withdraw or
transfer
shares.

52. No member entrusted with or participating in the direct management of the affairs of a credit union shall withdraw, or transfer or otherwise dispose of his shares, during the exercise of his functions, and in case of insolvency of the credit union any such withdrawal or transfer or disposal made by him within four months preceeding such insolvency shall be null and void, and such member shall remain liable to the creditors of the credit union to the extent of such shares so transferred or disposed of.

Rules
governing
joint
membership
accounts.

53. Subject to this Ordinance, the method of operation of joint membership accounts shall be set forth from time to time in the standard by-laws governing all credit unions in the Yukon Territory.

MEETINGS.

Annual
and special
meetings.

54. (1) The annual meeting shall be held before the end of March at such time as the credit union may determine.

(2) Special meetings may be called in the manner provided by the by-laws.

55. No member shall have more than one vote at any meeting, and no member may vote by proxy. Voting.

FISCAL YEAR.

56. The fiscal year of a credit union shall end on the thirty-first day of December. Fiscal year.

OBLIGATIONS OF OFFICERS AND MEMBERS.

57. Every person appointed to an office touching the receipt, management or expenditure of money for the purposes of a credit union shall, before entering upon the duties of his office, furnish a fidelity bond in accordance with paragraph (g) of section 26. Security.

58. The by-laws of every credit union shall bind the credit union and the members thereof to the same extent as if each member had subscribed his name and affixed his seal thereto and there were in such by-laws a covenant on the part of himself, his heirs, executors and administrators to conform to such by-laws subject to this Ordinance. By-laws binding.

59. (1) All moneys payable by a member of a credit union shall be a debt due from him to the credit union and shall be recoverable as such in any court of competent jurisdiction. Debts due by members.

(2) The credit union shall have a lien on the shares and deposits of a member for any sum due from him to the credit union and for any loan indorsed by him.

RETURNS.

60. Every credit union shall Annual return.

(a) within two weeks after each annual meeting send to the Registrar an audited statement of the receipts and expenditures, assets and liabilities of the credit union and such other information as may be required by the Registrar; and

(b) supply gratuitously to every shareholder, on his application, a copy of the last annual return.

61. Every credit union shall furnish the Registrar with such information as may from time to time be required. Other returns.

62. Every return and other document required for the purposes of this Ordinance shall be made in such form as the Registrar may prescribe. Form of return.

INSPECTION OF CREDIT UNIONS.

63. (1) The affairs of every credit union shall be examined at least annually by or under the direction of the Registrar, and the credit union shall produce all books, documents and other papers required by the person conducting the examination. Duties of Registrar and credit unions.

(2) Such person may examine any officer of a credit union under oath.

OFFENCES AND PENALTIES.

Offences.

64. It shall be an offence against this Ordinance if any credit union

- (a) fails to give any notice, send any return or document, or do or allow to be done any act or thing which the credit union is by this Ordinance required to give, send, do or allow to be done;
- (b) wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Ordinance by the Registrar or any other official or person whose duties require him to obtain the information, or does any act or thing forbidden by this Ordinance; or
- (c) makes a return or wilfully furnishes information in any respect false or insufficient.

Liability of officers and directors.

65. Every offence by a credit union shall be deemed to have been also committed by every officer of the credit union who is bound by the by-laws thereof to fulfil the duties whereof such an offence is a breach or, if there is no such officer, then by each of the directors and members of the credit and supervisory committee, unless such officer, director or member of committee is proved to have been ignorant of or to have attempted to prevent the commission of such offence.

Use of words "credit union" etc.

66. (1) No person, firm, corporation or association doing business in the Territory shall use the words "credit union" or "caisse populaire," or any abbreviation or derivative thereof, as part of its corporate or business name unless incorporated by or under the authority of an Act of Parliament of Canada or an Ordinance of the Territory.

(2) Any person, firm, corporation or association contravening this section is guilty of an offence against this Ordinance.

Penalty.

67. Every person, firm, corporation, association or credit union guilty of an offence under this Ordinance is, on the complaint of any credit union or any member thereof or of the Registrar, liable on summary conviction to a fine of not less than ten dollars nor more than one hundred dollars.

DISSOLUTION.

By consent of members.

68. (1) A credit union may be dissolved by consent of three-fourths of its members, shown by their signatures to an instrument of dissolution.

(2) The instrument of dissolution shall set forth in detail the liabilities and assets of the credit union, the number of members and the nature of their respective interests in the credit union, the claims of creditors, if any, and the provision to be made

for their payment, and the intended appropriation or division of the funds or property of the credit union unless the same is stated in the instrument to be left to the Registrar.

(3) A statutory declaration shall be made by the president and secretary that the provisions of this Ordinance have been complied with, and shall be sent to the Registrar with the instrument of dissolution.

(4) The Registrar shall cause a notice of the dissolution to be published, at the expense of the credit union, in the *Yukon Gazette* and in a newspaper circulating in the district in which the registered office of the credit union is situated.

69. (1) Subject to the approval of the Commissioner, the Registrar by order may dissolve a credit union if satisfied that Dissolution by Registrar.

- (a) the incorporation of the credit union was obtained by fraud or mistake;
- (b) the credit union exists for an illegal purpose;
- (c) the number of members has been reduced to less than ten;
- (d) the credit union is not carrying on business or is not in operation; or
- (e) the credit union has wilfully, after notice by the Registrar, violated any of the provisions of this Ordinance.

(2) The Registrar shall give the credit union not less than two months' notice of proposed dissolution, specifying the reason therefor and stating that, unless cause is shown to the contrary within the said period, the name of the credit union will be struck off the register and the credit union dissolved.

(3) At the expiration of the time mentioned in the notice the Registrar may, unless cause to the contrary is previously shown by the credit union, strike the name of the credit union off the register, and in such case he shall publish notice thereof in the *Yukon Gazette*, whereupon the credit union shall be dissolved.

70. Where a credit union is dissolved under this Ordinance the credit union shall nevertheless be considered as subsisting and be in all respects subject to the provisions of this Ordinance, so long and so far as any matter relating to the same remains unsettled, to the intent that the credit union may do all things necessary to the winding up of the concerns thereof, and the credit union may sue and be sued in respect of all such matters. Settlements in event of dissolution.

71. (1) Where a credit union is wound up under Part IX of the *Companies Ordinance* the liquidation shall, when the affairs of the credit union have been fully wound up and a general meeting has been called for the purpose of having the liquidators' accounts laid before it, forward to the Registrar a duplicate of the return required to be made to the Registrar of Joint-Stock Companies, and the Registrar shall file such return in his office. Return.

(2) Where the liquidators make default in transmitting the return mentioned in subsection (1), they are severally liable on summary conviction to a fine of twenty dollars for every day during which the default continues.

Disposal of surplus.

72. (1) Where a surplus remains after all debts and liabilities of a credit union have been satisfied in full, the liquidator may, subject to the approval of the Registrar, allow a reasonable rate of dividend, not exceeding five per cent on the paid up capital to the shareholders of record as of the date of the instrument of dissolution.

(2) After payment of a dividend under subsection (1), any surplus remaining shall, subject to the approval of the Registrar, be paid to one or more recognized local organizations or associations that have for their objects activities of a benevolent, charitable or educational nature to promote occupational or community group welfare if such organization or association is in operation in the district and is of service to the group served by the credit union.

(3) A receipt from the secretary or some authorized officer of the organization or association to which any payment is made under subsection (2) shall constitute a discharge to the liquidation of the credit union.

GENERAL.

Fees payable to Registrar.

73. The fees payable to the Registrar for services under this Ordinance shall be those set forth in Form C.

Disposal of fees.

74. All fees received by the Registrar under or by virtue of this Ordinance shall be paid by him into and form part of the Yukon Consolidated Revenue Fund.

Registrar supplies by-laws upon request.

75. The Registrar shall upon written request supply a copy of the standard by-laws and prepare such supplemental by-laws as may be required for the regulation, government and management of a proposed credit union.

Inspection of documents.

76. (1) Upon the payment of the prescribed fee, any person may inspect in the office of the Registrar the memorandum of association and the supplemental by-laws of any credit union incorporated under this Ordinance.

(2) A certified copy of the memorandum of association or supplemental by-laws of any credit union incorporated under this Ordinance may be furnished at cost.

(3) Except with the consent of the Registrar, no other document or part thereof relating to any credit union incorporated or registered under this Ordinance shall be available for search.

77. (1) Any five or more credit unions may, in the manner hereinafter mentioned, organize a federation, with or without capital divided into shares, for the furtherance of their common interests and the benefit of their members and, without limiting the generality of the foregoing, for the purpose of

Federation
of credit
unions.

- (a) carrying on, encouraging and assisting educational and advisory work relating to credit unions;
- (b) improving methods of management of credit unions and standardizing their bookkeeping, accounting and other procedure;
- (c) reducing operating costs of credit unions by arranging for group bonding of credit union employees, insuring repayment of loans made by credit unions to their members, and purchasing bookkeeping and other supplies for sale to its members and other credit unions;
- (d) accepting as members credit unions admitted by the directors of the federation;
- (e) encouraging the organization into districts of credit unions that are members and prescribing such by-laws as are necessary for the administration of such districts;
- (f) receiving moneys from its members either as payments on shares or as deposits;
- (g) making loans to credit unions that are members, subject to section 39;
- (h) depositing or investing the savings of members in the manner mentioned in section 17; and
- (i) rendering to its members any other services incidental to its objects.

(2) A memorandum of association, signed in duplicate by one member of each credit union affected who has been appointed by it for the purpose, shall be filed in the office of the Registrar.

(3) The memorandum shall be in such form as the Registrar may require and shall state the name of the federation, the par value of the shares, if any, or the membership fee, if any, the objects of the federation, the place at which its registered office will be situated, the names and addresses of the subscribers to the memorandum and the names of the credit unions which they respectively represent, and shall be accompanied by a copy of the by-laws by which the federation is to be governed and such other documentary evidence as the Registrar may require.

(4) Upon the filing of the memorandum of association and other documents the Registrar may, if satisfied that the registration is economically advisable and that it is otherwise expedient to do so, register the federation and upon registration shall issue a certificate of registration in Form D in the Schedule and publish a notice of registration in the *Yukon Gazette*.

(5) Upon the issue of a certificate of registration the credit unions mentioned in the memorandum of association and such other credit unions as may thereafter become members of the

federation shall thereupon become and be a body corporate and politic under the registered name of the federation, and the provisions of this Ordinance shall in so far as applicable apply *mutatis mutandis* to the federation.

(6) A federation incorporated under this section may pass such by-laws as it deems advisable for its purposes and, without limiting the generality of the foregoing, may pass by-laws providing;

- (a) that the territory in which the federation has members shall be divided into districts and that such number of directors of the federation as may be designated in the by-law shall be elected by delegates representing the members in such districts in such manner as to provide representation for each district on the board of directors and that the other directors in such number as may be designated in the by-law shall be elected by the delegates to represent the members at large;
- (b) that if a vacancy occurs in the board of directors the remaining directors may appoint a member of a member credit union to fill the vacancy until the next annual meeting of the federation when a successor shall be appointed for the unexpired term, if any; and
- (c) the manner in which the retirement of directors may be ordered at meetings of delegates.

(7) No by-law shall become operative until approved by the Registrar.

FIRST SCHEDULE.

(Section 10(1))

MATTERS TO BE PROVIDED FOR IN BY-LAWS.

1. Where registered office will be situate.
2. Terms governing admission to and termination of membership.
3. Provisions as to withdrawal, redemption, forfeiture and transfer of shares.
4. Provisions as to deposits.
5. Provisions respecting applications for and granting of loans.
6. Provisions for the appointment and removal of directors, managers, members of the Supervisory Committee and Credit Committee and other officers and a statement of their respective duties and powers.
7. Provisions as to borrowing.
8. Rules for convening and holding general meetings, and right of voting.
9. Provisions for audit of accounts.
10. Provisions for application of profits.
11. Use and custody of Seal.
12. Method of altering by-laws.

FORM B.

(Section 6)

Credit Union Ordinance.

CERTIFICATE OF INCORPORATION.

The Credit Union
 Limited, having filed a duly executed memorandum of associ-
 ation, is incorporated under the *Credit Union Ordinance*, this
 day of, 19.....

In testimony whereof I,
 have caused my Seal of Office to be hereunto affixed on the date
 first above written.

*Registrar of Credit Unions
 for the Yukon Territory.*

FORM C.

(Section 73)

Credit Union Ordinance.

Table of Fees to be paid to the Registrar under this Ordinance:

Filing application for registration	\$10.00
Filing supplemental by-laws at time of incorporation	1.00
Filing supplemental by-laws after incorporation, each by-law	.25
Filing amendments to supplemental by-laws, for each amendment .....	.25
Advertising notice of incorporation in <i>The Yukon Gazette</i> , payable on filing .....	.....
Search of records .....	.25
Advertising dissolution in the <i>Yukon Gazette</i> .....	.....

FORM D.

(Section 77 (4))

Credit Union Ordinance.

CERTIFICATE OF REGISTRATION.

The having filed the
required documentary evidence, is registered under the *Credit
Union Ordinance*, this day of
....., 19.....

In testimony whereof I,
have caused my Seal of Office to be hereunto affixed on the
date first above written.

*Registrar of Credit Unions
for the Yukon Territory.*

CHAPTER 26.

AN ORDINANCE FOR THE RELIEF OF
EXECUTION CREDITORS.

SHORT TITLE.

1. This Ordinance may be cited as the *Creditors Relief Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance, "sheriff" includes duly appointed bailiffs, coroners and any person discharging the duties of sheriff in the particular case for the time being. Definition of "sheriff".

PRIORITIES ABOLISHED.

3. Subject to the provisions of this Ordinance there is no priority among execution creditors. No priorities.

DISTRIBUTION OF MONEYS LEVIED.

4. When 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, a note or memorandum in a form approved by the Commissioner, the date and the amount of each levy and the date upon which the entry was made; such book shall be open to public inspection, without charge, during office hours. Sheriff's record of levy.

5. Moneys realized by the sheriff as the result of attachment of personal property shall be distributed under the provisions of this Ordinance, and shall be deemed to be moneys levied under execution. Attachment proceeds distributable.

6. Subject to section 9, the money levied by a sheriff upon execution against the property of a debtor shall at the expiration of two months from the levy, unless otherwise ordered by a judge, be distributed rateably among all execution creditors and other creditors whose executions or certificates given under this Ordinance were in the sheriff's hands at the time of the levy, or who have delivered executions or certificates to the sheriff within the said two months or within such further time as may be ordered by a judge; but where money is realized by sale of land for which a certificate of title has been granted under the *Land Titles Act*, the period of two months shall be computed from the date of confirmation of the sheriff's sale under the said Act. Distribution.

Distribution of subsequent levies.

7. (1) Where the sheriff, subsequently to the entry of the note or memorandum but within two months thereof, levies 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 such note or memorandum, pursuant to section 4.

(2) Where, after the two months, a further amount is levied a new note or memorandum shall be entered and the distribution to be made of the amount so levied, and of any further amount levied within two months of such last mentioned entry, shall be governed by the entry thereof in accordance with section 6 and subsection (1) of this section, and so on from time to time but a judge may, on application to be made *ex parte* or upon notice, as the judge may determine, delay any of such distributions or any part thereof to give reasonable time for obtaining judgment or a certificate in Form A, and may fix a date for such distribution.

Equality of all executions.

8. In the distribution of moneys under this Ordinance creditors who have executions against goods and lands, or against goods only or lands only, shall be entitled to share rateably with all others any moneys realized under execution either against goods or lands or against both.

Costs made preference.

9. When the amount levied by the sheriff is not sufficient to pay the executions and certificates with costs in full, the moneys shall be applied to the payment rateably of the debts and costs after retaining the sheriff's fees and after payment in full of the taxed costs of execution, or of obtaining and delivering a certificate and extra costs of seizure and sale incurred by the creditor whose writ of execution or certificate was placed in the sheriff's hands first among those under whose executions or certificates the levy was made.

What creditors share in distribution.

10. No creditor is entitled to share in the distribution of money levied from the property of a debtor unless by the delivery of a writ of execution, or otherwise under this Ordinance, he has established a claim against the debtor either alone or jointly with some other creditor.

INTERPLEADER PROCEEDINGS.

Certain creditors only entitled to share.

11. Where proceedings are taken by the sheriff 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 or certificates, to the expense of contesting any adverse claim, are entitled to share in any benefit that may be derived from the contestation of such claims so far as may be necessary to satisfy their executions or certificates.

Carriage of proceedings.

12. A judge may direct that one creditor shall bear the carriage of the interpleader proceedings on behalf of all creditors interested.

13. The costs of interpleader proceedings shall, as between solicitor and client, be a first charge upon the moneys or goods that may be found by the proceedings to be applicable upon the executions or certificates. ^{Costs.}

CLAIMS FOR WAGES.

14. (1) All persons employed by an execution debtor at the time of the seizure under which money has been levied upon any execution and of which a note of the levy has been made as prescribed in section 4, or within one month before such seizure, who, prior to the expiration of the time fixed for the distribution of their claims for wages or salary with the particulars thereof proved by affidavit in Form B, are, subject to this Ordinance, entitled to be paid out of the money so levied the amount of wages or salary due to them respectively by the execution debtor, not exceeding wages or salary for three months, in priority to the claims of the other creditors of the execution debtor, and are entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims; such wages or salary shall be for arrears only then owing or accrued, and not for any unearned portion. ^{Employees have priority.}

(2) On receipt of any claim mentioned in subsection (1) the sheriff shall forthwith give notice thereof in writing, with particulars, to the execution debtor, either personally or by registered mail, and the sheriff has the same right to interplead in respect thereof as he would have in case of any adverse claim to moneys levied by him under execution.

(3) This section applies to wages or salary, whether the employment in respect of which the same may be payable is by the hour, day, week, month or year.

EXEMPTIONS.

15. (1) Where money levied is the proceeds of the sale of an article under execution upon a judgment rendered in an action for the price of the article, and such article would otherwise be exempt from seizure under the *Exemptions Ordinance*, such money shall not be subject to distribution under the terms of section 6 or 7, but shall be applied upon the execution under which it was levied. ^{Seizure and sale.}

(2) In case the amount levied as mentioned in subsection (1) is more than sufficient to pay the execution debt with costs in full, the balance in the sheriff's hands shall be paid over to the execution debtor.

(3) In case such amount is insufficient to pay the execution debt with costs in full, the execution creditor shall be entitled to share in any money of the execution debtor which may be in the sheriff's hands for distribution under the terms of section 6 or 7 to the extent of the unpaid balance.

CERTIFICATE OF PROOF OF CLAIM PROCEDURE.

Proceedings
by other
creditors
where
execution
unsatisfied.

16. When the sheriff has seized goods and chattels under a writ of execution, or a debtor allows an execution against his lands to remain unsatisfied for nine months after it has been placed in the sheriff's hands, the creditors or claimants in respect of such overdue debts may take the following proceedings:

- (a) an affidavit in Form C of the debt and the particulars thereof may be made in duplicate by the creditor, or by one of the creditors in case of a joint debt, or by a person cognizant of the facts;
- (b) the claimant shall serve on the debtor one of the duplicates and a notice in Form D;
- (c) where the affidavit and notice are to be served out of the Territory, a judge shall, by order, fix the time after which the next step may be taken by the claimant as hereinafter provided;
- (d) where no notice is given under paragraph (g), the affidavit and notice may be personally served upon him, if in the Territory, by forwarding to him by registered mail a duplicate original of the affidavit and a true copy of the notice, and such service shall be deemed sufficient if a receipt from the postmaster for the letter containing such original copy, and a post office receipt for such letter, purporting to be signed by the debtor, are produced as exhibits to the affidavit of service and the affidavit and notice shall be deemed to be served on the day of the date of the receipt which purports to be signed by the debtor, but notwithstanding anything herein contained, a judge may order substitutional or other service, or may direct some act to be done which shall be deemed sufficient service;
- (e) the claimant shall file with the Clerk of the Court one of the duplicate affidavits of claim and a copy of the notice with an affidavit of service thereof in Form E;
- (f) prior to or simultaneously with the filing with the Clerk of the Court of the affidavit there shall be filed with him a certificate of the sheriff or an affidavit showing that such proceedings have been had against the debtor as entitle the creditor to proceed under this Ordinance;
- (g) an execution debtor may give notice in writing to the sheriff that any claims may be served upon a solicitor in the Territory whose name and address shall be given, or by mailing the same to an address stated in the notice;
- (h) the sheriff shall thereupon enter the notice in a book to be kept by him for the purpose, and, so long as any execution that was in the sheriff's hand at the time the notice was given remains in his hands, shall repeat such entry immediately below any entry made in respect of the execution, unless the notice is revoked in writing, in which case the entry thereof shall be marked "revoked";

- (i) so long as the notice is not revoked the affidavit of claim and notice may, where a solicitor is named, be served upon an execution debtor by serving the same upon the solicitor, or if mailing is required then by mailing the same by registered post to the address in the notice given by the execution debtor; and
- (j) where the notice served on a debtor does not state some place within three miles of the office of the Clerk of the Court at which service may be made upon the claimant, or does not give the name and address of some solicitor in the Territory who may be served on the claimant's behalf, service of any notice, paper or document may be made upon the claimant by filing the same in the office of the Clerk of the Court and in such case shall be deemed good service.

ISSUE, EFFECT AND DURATION OF CERTIFICATE.

17. When the claim is not contested as provided in this Ordinance, the Clerk of the Court, after ten days from the day of service, or after the time mentioned in the order provided for by paragraph (c) of section 16, on the application of the claimant and his filing proof of due service of the affidavit and notice, or where the claim is contested, upon the determination of the dispute in favour of the claimant either in whole or in part, shall deliver to the creditor a certificate in Form A; and, where the claim is disputed as to a part only, the claimant may elect by a writing filed with the Clerk to abandon such part and shall be entitled to a certificate as to the residue.

Certificate granted where claim undisputed.

18. (1) Upon delivery of the certificate to the sheriff, the claimant shall be deemed to be an execution creditor within the meaning of this Ordinance and is entitled to share in any distribution as if he had delivered an execution to the sheriff, and the certificate binds the lands and goods of the debtor in the same manner and to the same extent as an execution, subject to the debt being afterwards disputed by a creditor as hereinafter provided.

Effect of certificate.

(2) For the purpose of interpleader proceedings the certificate shall be deemed to be an execution.

(3) Where the certificate is obtained by a solicitor his name and address shall be indorsed thereon; and, if obtained by the claimant in person, there shall be indorsed thereon a statement of some place within three miles of the office of the Clerk of the Court, at which service may be made upon him, and in default thereof service of any notice, paper or document may be made upon the claimant by filing the same in the office of the Clerk of the Court and in such case shall be deemed good service.

(4) On receiving the certificate the sheriff shall make a further seizure of the property of the debtor to the amount of the debt so claimed, and the sheriff's fees; and so from time to time in case further certificates are received.

Duration of certificate.

19. (1) A certificate shall remain in force for six years from the date thereof but may from time to time be renewed in the same manner as an execution.

(2) Notwithstanding the expiry of an execution or certificate before the termination of two months from the date of entry of a note or memorandum under section 4, the execution or certificate, as to any money levied during such two months, shall be deemed to be in full force and effect.

(3) Notwithstanding the expiry of a certificate, it may be renewed in the same manner as if it had not expired, and when renewed it shall, subject to the rights of third parties accrued since the date of expiry, be of the same force and effect as if it had been renewed prior to that date.

CONTESTATION OF CLAIM.

Procedure.

20. (1) The claim may be contested by the debtor or by any creditor of the debtor.

(2) Where the debtor contests the claim he shall file with the Clerk of the Court an affidavit stating that he has a good defence to the claim or to a specified part of it on the merits, but a judge may dispense with the affidavit on terms or otherwise.

(3) The debtor shall file his affidavit within ten days after service upon him of the affidavit of claim and the notice, or within the time mentioned in the order provided for by paragraph (c) of section 16, as the case may be, or within such further time as a judge may allow.

(4) Where the contestation is by a creditor he shall file with the Clerk of the Court an affidavit to the effect that he has reason to believe that the debt claimed is not actually and in good faith due from the debtor to the claimant; but a judge may dispense with the affidavit on terms or otherwise.

(5) Notice of contestation, whether by the debtor or by a creditor, together with a copy of the affidavit, if any, shall be served upon the claimant within five days after filing the affidavit, or after the order of the judge if the affidavit is dispensed with.

(6) The affidavit by a creditor may be filed and a certified copy thereof delivered to the sheriff at any time before distribution is made, and the sheriff shall forthwith give notice of the receipt of such certified copy to the claimant.

(7) The affidavit of the debtor or other contestant shall have indorsed thereon a statement of some place within three miles of the office of the Clerk of the Court at which service may be made upon him, or the address of a solicitor in the Territory who

may be served on his behalf, and in default thereof service of any notice, paper or document may be made upon the debtor or contestant by filing the same in the office of the Clerk of the Court.

(8) Where the address of a solicitor given for service is not within three miles of the Clerk's office, service may be made upon him by mailing papers by registered post to him at the address so given.

(9) The claimant whose claim is contested may apply to a judge for an order allowing his claim and determining the amount; and if he does not make such application within eight days after receiving notice of the contestation or within such further time as the judge may allow, which extension may be granted either before or after the expiration of the time limited, he shall be taken to have abandoned his claim.

(10) Where the contestant is a creditor and there is reason to believe that the contestation is not being carried on in good faith any other creditor may apply for an order permitting him to intervene in the contestation.

21. Where a claim is contested by a creditor after a certificate has been placed in the sheriff's hands the sheriff, unless a judge otherwise orders, shall levy as if such contestation had not been made, and shall until the determination of the contestation retain in a bank the amount that would be apportionable to the claim if valid, and shall as soon after the expiry of the two months as is practicable distribute the residue of the money made amongst those entitled.

Distribution
in case of
contestation.

TRIAL OF CONTESTED CLAIMS.

22. A judge may determine any question in dispute in a summary manner, or may direct an action to be brought or an issue to be tried for the determination thereof and may make such order as to the costs of the proceedings as he deems just.

Procedure.

23. The same proceedings may be had for the production of documents and for the examination of parties or others, either before or at the trial, as may be taken in an ordinary action, and such proceedings may also be taken before the application to a judge and as a foundation therefor.

Production
and
examination.

CLERK TO KEEP RECORDS.

24. (1) The Clerk of the Court shall keep a book in which before giving a certificate or issuing an execution for a claim, he shall, with reference to every claim in respect of which he gives a certificate or issues an execution, enter the following particulars:

Particulars
to be
recorded.

- (a) the name and address of the claimant, and of the debtor;
- (b) the date of the entry;
- (c) the amount of the debt, exclusive of costs;

- (d) the amount of costs; and
 - (e) where the proceedings have been set aside, that fact, and shortly the reason therefor.
- (2) The entry shall, subject to this Ordinance, have the effect of and be a final judgment of the Court for the debt and costs.
- (3) The Clerk shall index the entries in a book alphabetically under the names of the debtors.
- (4) Where the original papers are lost or destroyed, a copy of the entry shall be evidence of the matters therein set forth.

PAYMENTS WITHOUT SEIZURE AND FUNDS IN COURT.

Application of payments by debtor.

25. (1) Where the debtor, without any seizure by the sheriff, pays the full amount owing in respect of the executions and claims in the sheriff's hands at the time of such payment, no note or memorandum shall be entered as required by section 4 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.

(2) Except as provided in subsection (1), after an execution has been filed with the sheriff or a certificate has been delivered to him, the withdrawal or expiry of the execution 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 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*.

(3) Where a debtor, without any seizure by the sheriff, pays to the sheriff part of the amount owing in respect of an execution or certificate in the sheriff's hands and there is at the time no other execution or certificate in the sheriff's hands the sheriff shall apply the same on the execution or certificate so in his hands and sections 4 and 6 shall not apply to the money so received by the sheriff.

Funds in court belonging to execution debtor.

26. Where there is in any court a fund belonging to an execution debtor or to which he is entitled, the same or a sufficient part thereof to pay the executions and certificates 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.

SCHEME OF DISTRIBUTION AND CONTEST.

27. (1) Where, at the time for distribution, the money is insufficient to pay all claims in full, the sheriff shall first prepare for examination by the debtor and his creditors a list of the creditors entitled to share in the distribution, with the amount due to each for principal, interest and costs.

Distribution where amount levied insufficient to meet all claims.

(2) The list shall be so arranged as to show the amount payable to each creditor and the total amount to be distributed; and the sheriff shall deliver, or send by registered post to the debtor and to each creditor or his solicitor, a copy of the list.

(3) Where within ten days after all the copies have been delivered or posted, or within such further time as a judge may allow, no objection is made as provided by this Ordinance, the sheriff shall make distribution forthwith pursuant to such list.

(4) Where objection is made the sheriff shall forthwith distribute rateably so much of the money, and among such persons, as will not interfere with the effect of the objection in case the same should be allowed.

(5) Any person affected by the proposed scheme of distribution may contest the same by giving, within the time mentioned in subsection (3), a notice in writing to the sheriff, stating his objection to the scheme and the grounds thereof.

(6) The contestant shall, within ten days thereafter, apply to a judge for an order adjudicating upon the matter in dispute, otherwise the contestation shall be taken to be abandoned.

(7) The contestant shall, within the time mentioned in subsection (6), obtain from a judge an appointment for hearing and determining the matter in dispute.

(8) A copy of the appointment and a notice in writing in Form F of the objections, stating the grounds thereof, shall be served by the contestant upon the debtor unless he is the contestant, and upon the creditors or such of them as a judge may direct.

(9) A judge may determine any question in dispute in a summary manner, or may direct an action to be brought or an issue to be tried with or without a jury for the determination thereof, and may make such order as to the costs of the proceedings as he deems just.

(10) Where a claimant is held to be not entitled, or to be entitled to part only of his claim, the money retained pending the contestation, or the portion as to which the claimant failed, shall be distributed among the creditors who would have been entitled thereto, as the same would have been distributed had the claim in respect thereof not been made.

28. Where several creditors are interested in a contestation, either for or against the same, a judge shall give such directions for saving the expense of an unnecessary number of parties and trials, and of unnecessary proceedings, as he

Direction by judge to avoid unnecessary parties and trials.

deems just, and shall direct by whom and in what proportions any costs incurred in the contestation or in any proceedings thereunder shall be paid, and whether any and what costs shall be paid out of the money levied.

PROVISIONS AFFECTING SHERIFF.

Sheriff
entitled to
single
poundage
only.

29. Where money is to be distributed under this Ordinance the sheriff is not entitled to poundage as upon separate executions or certificates but only upon the net proceeds distributed by him and at the same rate as if the whole amount had been payable under one writ.

Sheriff's
return after
levy.

30. When money is made under an execution, the same shall be taken for the purposes of the sheriff's return and otherwise to be made upon all the executions and certificates entitled to the benefits thereof, and the sheriff shall, upon payment being made to the person entitled upon such execution or certificate, indorse thereon a memorandum of the amount so paid, but he shall not, except on the request of the party who issued the writ or by direction of a judge, 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.

Compelling
payment by
sheriff.

31. The like proceedings may be taken to compel payment by the sheriff of money payable in respect to an execution or other claim as can be taken to compel the return by the sheriff of a writ of execution.

Sheriff's
record.

32. The sheriff shall, pending the distribution of the moneys levied, keep in the book mentioned in section 4 a statement showing in respect of any debtor on whose property money has been levied the following particulars:

- (a) the amount levied or received and the dates of levy or receipt; and
- (b) each execution or certificate in his hands and the amount thereof;

and such statement shall be amended from time to time as additional amounts are levied or received or further executions or certificates are received.

Sheriff to
give
information.

33. The sheriff shall at all times, without fee, answer any reasonable question that he may be asked orally with respect to the estate of the debtor by a creditor or any one acting on behalf of a creditor, and shall aid him in obtaining full information as to the value of the estate and the probable dividend to be realized therefrom in his district, or any other information in connection with the estate that the creditor may reasonably desire to obtain.

34. Where a sheriff has money in his hands that by reason of this Ordinance or otherwise he cannot immediately pay over, he shall deposit the money in a bank to be designated by the Commissioner and the deposit shall be made in the name of the sheriff in trust. Undisposable money to be placed in bank.

GENERAL PROVISIONS.

35. 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 provided in this Ordinance. One seizure sufficient.

36. (1) A judge may direct the sheriff to levy for an amount sufficient to cover a claim that is in dispute or part thereof, or, if it appears to him that it is improbable that the debtor has other sufficient property, he may direct the sheriff to retain in his hands during the contestation the share that, if the claim is sustained, will be apportionable to it, or a part thereof. Direction by judge to sheriff where claim is disputed.

(2) An order to levy under this section confers on the sheriff the same authority as he would have under an execution.

37. The decision of a judge binds the debtor and all his creditors, unless it appears that the decision was obtained by fraud or collusion. Decisions binding on all creditors.

38. Upon any proceedings before a judge the evidence may be taken orally or by affidavit as the judge may direct. Evidence on proceeding before judge.

39. No proceedings under this Ordinance shall be void for any defect of form, and the Rules of Court for amending or otherwise curing irregularities or defects that may from time to time be in force apply to this Ordinance, and any proceedings wrongfully taken under this Ordinance may be set aside by a judge with or without costs as he may think fit. Irregularities not to void proceedings.

40. The Commissioner may prescribe the fees and costs to be payable for all services under this Ordinance. Fees and costs.

SCHEDULE.

FORM A.

CERTIFICATE OF PROOF OF CLAIM.

A.B. of _____ in the Yukon Territory, claimant,
and C.D. of _____ in the Yukon Territory,
debtor.

I, G.H., Clerk of the Court for the Yukon Territory, do hereby certify:

1. That the above named claimant did on the _____ day of _____, 19____, file with me a claim against the above named debtor, for the sum of \$ _____ together with an affidavit of personal service thereof (*or as the case may require*) and of the notice required by the *Creditors Relief Ordinance*, upon the said debtor, and that it hereby appears that such service was made on the _____ day of _____, 19____.

2. And I further certify that the debtor has not contested the said claim and that claimant is entitled to the amount thereof and to the further sum of \$ _____ for costs.

(Or)

2. And I further certify that the debtor has only contested the sum of \$ _____ part of the said claim (*as the case may be*), and that the claimant having abandoned such part is entitled to the residue of his claim being the sum of \$ _____, and the further sum of \$ _____ for costs.

(*Or, when the claim is contested in whole or in part*):

2. That the claim has been allowed by the Court at the sum of \$ _____ with \$ _____ for costs.

G.H.,
Clerk

FORM B.

AFFIDAVIT OF CLAIM FOR WAGES.

Between A.B. of in the Yukon Territory, claimant for wages and C.D. of in the Yukon Territory, execution debtor.

I, A.B. of in the Yukon Territory (occupation) make oath and say:

1. That I am the above named claimant and was in the employment of the above named execution debtor at the time of the sheriff's seizure herein (or was in the employ of the said execution debtor up to the day of , 19).

2. I claim priority over the execution creditors to the extent of \$ being the amount the said execution debtor is justly and truly indebted to me for wages (or salary) earned by me between the day of and the day of my said employment being at the rate of \$ per day (week or month).

3. In addition to the claim set out in paragraph 2 hereof, I claim to share pro rata with the execution creditors for the sum of \$ being the amount the above named execution debtor is justly and truly indebted to me for wages (or salary) earned between the day of during such period being at the rate of \$ per day (week or month).

Sworn before me at in the Yukon Territory this day of 19 . } A.B.

..... A Commissioner, etc.

FORM C.

AFFIDAVIT OF CLAIM.

A.B. of _____ in the Yukon Territory,
 claimant, and C.D. of _____ in the Yukon
 Territory, debtor.

I, A.B., of _____ in the Yukon Territory,
 (*occupation*), make oath and say:

1. I am the above named claimant (or the duly authorized agent of the claimant in this behalf) and have a personal knowledge of the matter hereinafter deposed to.

2. The above named debtor is justly and truly indebted to me (or to the above named claimant) in the sum of \$ _____ for (*here state shortly the nature and particulars of the claim*).

Sworn before me at _____ }
 in the Yukon Territory this _____ day of _____ 19 . } A.B.

.....
 A Commissioner, etc. (*or as the case may be*)

FORM D.

NOTICE TO BE SERVED WITH CLAIM.

A. B. of _____ in the Yukon Territory,
 claimant, and C.D. of _____ in the Yukon
 Territory, debtor.

To the above (or within) named debtor.

Take notice that the claimant intends to file with the Clerk of the Court of the Yukon Territory, the original affidavit of claim of which a duplicate is served herewith, and that this proceeding is taken by reason of there being in the hands of the sheriff of the said district an execution against your property, and that the claimant intends to call on the sheriff to levy the amount of the said debt from your property under the authority of the *Creditors Relief Ordinance*.

And further take notice that if you desire to contest the said claim, or any part thereof, you must, within ten days⁽¹⁾

⁽¹⁾Note:—*If further time is given by the Court the notice should be varied accordingly.*

after the service of the notice upon you, file with the said Clerk of the Court an affidavit stating that you have a good defence to the said claim on the merits, or that you have such defence to a specified part of the claim. If no such affidavit is filed the claim will be treated as admitted by you. If the affidavit is filed contesting the claim as to part only such claim may be so treated as to the part not contested.

You are further hereby notified that unless you indorse upon such affidavit filed by you a statement of some place within three miles of the said Clerk's office at which service may be made upon you, or the address of some solicitor in the Territory who may be served on your behalf, service may be made upon you of any notice, paper or document, by filing the same in the office of the Clerk of the Court and in such case shall be deemed good service.

Dated the _____ day of _____, 19____

.....
Claimant.

FORM E.

AFFIDAVIT OF SERVICE OF CLAIM.

A.B., claimant, and C.D., debtor.
 I, G.H., of _____ in the Yukon Territory,
 (*occupation*), make oath and say:

That I did on the _____ day of _____ 19____,
 personally service C.D., the above named debtor with an original
 affidavit identical with the annexed affidavit marked exhibit
 A by delivering on the day last aforesaid at

_____ ; (*or as the case may be*) and that
 there was at the time of such service attached to (or indorsed
 upon) the said affidavit so served a true copy of the notice
 addressed to the debtor; now attached to (or indorsed upon)
 the said annexed affidavit and marked exhibit B.

Or

1. That I did on the _____ day of _____ 19____,
 serve the above named debtor with an original affidavit identical

with the affidavit hereunto annexed and marked exhibit A having enclosed such original in an envelope addressed to the debtor at _____ and posted the same by registered mail in the post office at _____

2. Hereunto annexed and marked exhibit A is the receipt from the postmaster at _____ for such registered letter; and hereunto annexed and marked exhibit C is the receipt of the debtor for such registered letter.

FORM F.

NOTICE OF CONTESTATION OF SCHEME OF DISTRIBUTION.

A. B., claimant, and C.D., debtor.
To C.D., debtor, and F.G. and M.N., claimants.

Take notice that I contest the scheme of distribution prepared by the sheriff of the Yukon Territory in respect of the claims of you the said F.G. and M.N., on the following ground (*state distinctly the ground*), and a copy of the judge's appointment to adjudicate upon the matter is served herewith.

Dated the _____ day of _____, 19 _____

X.Y.
Contestant.

CHAPTER 27.

AN ORDINANCE TO PROHIBIT CHILDREN BEING ON STREETS AFTER NIGHTFALL.

1. This Ordinance may be cited as the *Curfew Ordinance*. Short Title.

2. In this Ordinance, Definitions.

(a) "community" means a community of not less than one hundred inhabitants residing in close proximity to each other; and "Community."

(b) "curfew district" means a curfew district established pursuant to section 3. "Curfew district."

3. Upon receiving a petition signed by at least four-fifths of the parents in a community other than a municipality, the Commissioner may establish the community as a curfew district, defining the limits thereof and assigning a name thereto. Establishment of curfew districts.

4. No child shall, without reasonable excuse, be on any street or road or in a public place within a curfew district during night-time unless accompanied by a parent or guardian. Child in curfew district not to be on street during night-time unless accompanied.

5. The Commissioner may make regulations Regulations.

(a) prescribing the age at which a boy or girl shall be deemed to be a child for the purposes of this Ordinance;

(b) prescribing the hours that shall be deemed to be night-time for the purposes of this Ordinance;

(c) prescribing that a bell, whistle or siren shall be rung or sounded as a warning at or near the time appointed for the commencement of night-time; and

(d) prescribing such other matters as may be deemed advisable to carry out the purposes of this Ordinance.

6. A constable or peace officer who finds a child violating this Ordinance may warn him to go home; and if after the warning the child continues to violate this Ordinance any constable or peace officer may take the child to its home. Children on street in contravention.

7. A parent or guardian who permits his child habitually to violate this Ordinance is guilty of an offence and liable upon summary conviction for a first offence, to a fine not exceeding five dollars and for each subsequent offence, to a fine not exceeding ten dollars. Penalty may be imposed on parent.

CHAPTER 28.

AN ORDINANCE RESPECTING ACTIONS
FOR LIBEL OR SLANDER.

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as the *Defamation Ordinance*.

INTERPRETATION.

Definitions. **2.** In this Ordinance,

"Broad-casting." (a) "broadcasting" means the dissemination of any form of radioelectric communication, including radiotelegraph, radiotelephone and the wireless transmission of writing, signs, signals, pictures and sounds of all kinds by means of Hertzian waves;

"Defamation." (b) "defamation" means libel or slander;

"Newspaper." (c) "newspaper" means a paper containing news, intelligence, occurrences, pictures or illustrations, or remarks or observations thereon, printed for sale and published periodically, or in parts or numbers, at intervals not exceeding thirty-six days between the publication of any two of such papers, parts or numbers; and

"Public meeting." (d) "public meeting" means a meeting bona fide and lawfully held for a lawful purpose and for the furtherance or discussion of any matter of public concern, whether admission thereto is general or restricted.

ACTIONS FOR DEFAMATION.

Defamation is actionable *per se*. **3.** An action lies for defamation and may be brought without alleging or proving special damage.

Allegations of plaintiff. **4.** In an action for defamation the plaintiff may allege that the matter complained of was used in a defamatory sense, specifying the defamatory sense without alleging how the matter was used in that sense, and the pleading shall be put in issue by the denial of the alleged defamation; and, where the matters set forth, with or without the alleged meaning, show a cause of action, the pleading is sufficient.

Apology in mitigation of damages. **5.** In an action for defamation in which the defendant has pleaded only a denial of the alleged defamation or has suffered judgment by default or judgment has been given against him on motion for judgment on the pleadings, he may give evidence, in mitigation of damage, that he made or offered a written or printed apology to the plaintiff for the defamation before the commencement of the action, or, if the action was

commenced before there was an opportunity of making or offering the apology, that he did so as soon afterwards as he had an opportunity.

6. The defendant may pay into court, with his defence, a sum of money by way of amends for the injury sustained by the publication of the defamatory matter, with or without a denial of liability, and the payment has the same effect as payment into court in other cases. Payment into court by way of amends.

7. (1) Where an action for defamation is tried with a jury, the jury may give a general verdict upon the whole matter in issue in the action, and shall not be required or directed to find for the plaintiff merely on proof of publication by the defendant of the alleged defamation and of the sense ascribed to it in the action; but the presiding judge shall, according to his discretion, give his opinion and directions to the jury on the matter in issue as in other cases; and the jury may on such issue find a special verdict, if they think fit so to do, and the proceedings after verdict, whether general or special, shall be the same as in other cases. General or special verdict at jury trial.

(2) Where an action for defamation is tried by a judge without jury, the judge may make such finding of a general or special nature as he sees fit. Trial by judge.

8. (1) Upon an application by two or more defendants in two or more actions brought by the same person for the same or substantially the same defamation, a judge may make an order for the consolidation of the actions so that they shall be tried together. Consolidation of actions for same defamation.

(2) Where an order has been made under subsection (1), and before the trial of the actions, the defendants in any new actions instituted in respect of any such defamation are also entitled to be joined in a common action upon a joint application by the new defendants and the defendants in the actions already consolidated. Joining new defendants.

9. (1) In a consolidated action under section 8, the jury or a judge, as the case may be, shall assess the whole amount of the damages, if any, in one sum, but a separate verdict or finding shall be taken for or against each defendant in the same way as if the actions consolidated had been tried separately. Assessment of damages and apportionment of damages and costs in consolidated action.

(2) Where the jury or a judge, as the case may be, makes a verdict or finding against the defendants in more than one of the actions so consolidated, the amount of the damages shall be apportioned between and against the defendants; and, where the plaintiff is awarded the costs of the action, the judge shall make such order as he deems just for the apportionment of the costs between and against the defendants.

PRIVILEGED PUBLICATIONS.

Certain reports and other publications privileged.

10. (1) A fair and accurate report, published in a newspaper or by broadcasting, of

- (a) a public meeting,
- (b) proceedings in the Senate or House of Commons of Canada or the legislating body of a province of Canada or a committee of any such body, except where neither members of the public nor reporters are admitted,
- (c) a meeting of commissioners authorized to act by or pursuant to a statute or other lawful warrant or authority of the Government of Canada or of any province of Canada, or
- (d) a meeting of any board or local authority formed or constituted under any Act of the Parliament of Canada or under any Ordinance or under any Act of a province of Canada, or of a committee appointed by any such board or local authority,

is privileged, unless it is proved that the publication was made maliciously.

Publication at request of public officers, etc.

(2) The publication in a newspaper or by broadcasting at the request of any department, bureau or office or public officer of the Yukon Administration, Council of a municipality, Government of Canada or Government of a province of Canada, of a report, bulletin, notice or other document issued for the information of the public is privileged, unless it is proved that the publication was made maliciously.

Seditious, etc., matter.

(3) Nothing in this section applies to the publication of seditious, blasphemous or indecent matter.

Where defendant fails to publish explanation.

- (4) Subsections (1) and (2) do not apply where,
- (a) in the case of publication in a newspaper, the plaintiff shows that the defendant was requested to insert in the newspaper a reasonable letter or statement of explanation or contradiction by or on behalf of the plaintiff and the defendant fails to show that he has done so, or
 - (b) in the case of publication by broadcasting, the plaintiff shows that the defendant has been requested to broadcast a reasonable statement of explanation or contradiction by or on behalf of the plaintiff and the defendant fails to show that he has done so, from the broadcasting stations from which the alleged defamatory matter was broadcast, on at least two occasions on different days and at the same time of day as the alleged defamatory matter was broadcast or as near as possible to that time.

Continuation of existing privileges.

(5) Any privilege existing by law in the Territory at the time of the commencement of this Ordinance shall continue to apply and is not limited or abridged by this section.

Matters not of public concern or benefit.

(6) This section does not apply to the publication of any matter not of public concern or the publication of which is not for the public benefit.

11. (1) A fair and accurate report, published in a newspaper or by broadcasting, of proceedings publicly heard before any court is absolutely privileged, if

Reports of court proceedings privileged.

- (a) the report contains no comment,
- (b) the report is published contemporaneously with the proceedings that are the subject matter of the report, or within thirty days thereafter, and
- (c) the report contains nothing of a seditious, blasphemous or indecent nature.

(2) Subsection (1) does not apply where,

- (a) in the case of publication in a newspaper, the plaintiff shows that the defendant was requested to insert in the newspaper a reasonable letter or statement of explanation or contradiction by or on behalf of the plaintiff and the defendant fails to show that he has done so, or
- (b) in the case of publication by broadcasting the plaintiff shows that the defendant has been requested to broadcast a reasonable statement of explanation or contradiction by or on behalf of the plaintiff and the defendant fails to show that he has done so, from the broadcasting stations from which the alleged defamatory matter was broadcast, on at least two occasions on different days and at the same time of day as the alleged defamatory matter was broadcast or as near as possible to that time.

Where defendant fails to publish explanation.

12. For the purpose of sections 10 and 11, every headline or caption in a newspaper that relates to any report therein shall be deemed to be a report.

Headlines and captions.

NEWSPAPERS AND BROADCASTING.

13. Sections 14 to 19 apply to actions for defamation against the proprietor or publisher of a newspaper or the owner or operator of a broadcasting station or an officer, servant or employee of the newspaper or broadcasting station in respect of defamatory matter published in the newspaper or broadcast from the station.

Application of sections 14 to 19.

14. (1) No action lies unless the plaintiff has, within three months after the publication of the defamatory matter has come to his notice or knowledge, given to the defendant fourteen days' notice in writing of his intention to bring an action.

Notice of action.

(2) A notice under subsection (1) shall specify the language complained of and shall be served on the defendant in the same manner as a statement of claim.

Contents and service of notice.

15. (1) An action against the proprietor or publisher of a newspaper, or the owner or operator of a broadcasting station, or an officer, servant or employee of the newspaper or broadcasting station for defamation contained in the newspaper or

Limitations of actions.

broadcast from the station shall be commenced within six months after the publication of the defamatory matter has come to the notice or knowledge of the person defamed.

Action may include certain other defamations.

(2) An action commenced within the period prescribed in subsection (1) may include a claim for any other defamation published against the plaintiff by the defendant in the same newspaper or from the same broadcasting station within a period of one year before the commencement of the action.

Place of trial.

16. An action shall be tried in the district where the chief office of the newspaper or of the owner or operator of the broadcasting station is situated or wherein the plaintiff resides at the time the action is brought; but, upon the application of either party, a judge may direct the action to be tried, or the damages to be assessed, in any other district if it appears to be in the interests of justice, and may impose such terms as to payment of witness fees and otherwise as he deems proper.

Mitigation of damages where apology and retraction published.

17. (1) The defendant may prove in mitigation of damages that the defamatory matter was inserted in the newspaper or was broadcast without actual malice and without gross negligence, and that, before the commencement of the action, or at the earliest opportunity afterwards, the defendant

- (a) inserted in the newspaper in which the defamatory matter was published a full and fair retraction thereof and a full apology for the defamation, or, where the newspaper is one ordinarily published at intervals exceeding one week, that he offered to publish such retraction and apology in any newspaper to be selected by the plaintiff, or
- (b) broadcast such retraction and apology, from the broadcasting stations from which the defamatory matter was broadcast, on at least two occasions on different days and at the same time of day as the defamatory matter was broadcast or as near as possible to that time.

Mitigation of damages where plaintiff has received damages.

(2) The defendant may prove in mitigation of damages that the plaintiff has already brought action for, or has recovered damages, or has received or agreed to receive compensation in respect of defamation to the same purport or effect as that for which action is brought.

Where recovery of special damages only.

18. (1) The plaintiff shall recover only special damages where it appears at the trial that

- (a) the alleged defamatory matter was published in good faith;
- (b) there was reasonable ground to believe that its publication was for the public benefit;
- (c) it did not impute to the plaintiff the commission of a criminal offence;
- (d) the publication took place in mistake or misapprehension of the facts; and

(e) a full and fair retraction of and a full apology for any statement therein alleged to be erroneous were published before the commencement of the action

(i) where the alleged defamatory matter was published in a newspaper, in the same newspaper in as conspicuous a place and type as was the alleged defamatory matter, or

(ii) where the alleged defamatory matter was broadcast from the same broadcasting stations on at least two occasions on different days and at the same time of day as the alleged defamatory matter was broadcast or as near as possible to that time.

(2) Subsection (1) does not apply to the case of defamation against any candidate for public office unless the retraction and apology were made editorially in the newspaper in a conspicuous manner or broadcast, as the case may require, at least five days before the day of election for such office. Exception in case of candidate for public office.

19. (1) No defendant in an action for defamation published in a newspaper is entitled to the benefit of section 14, 15 or 18 unless the name of the proprietor and publisher and address of the publication are stated in a conspicuous place in the newspaper. Name of proprietor, etc., to be published.

(2) The production of a printed copy of a newspaper is prima facie evidence of the publication of the printed copy and of the truth of the statements mentioned in subsection (1). Prima facie evidence.

(3) No owner, operator, officer, servant or employee of a broadcasting station who is a defendant in an action for defamation published by broadcasting is entitled to the benefit of section 14, 15 or 18 unless the broadcasting station has, within ten days after receiving a written request from the person bringing such action, supplied that person with the names and addresses of the owner or operator of the station and of the officers, servants and employees of the station who were involved in the broadcast in respect of which the action is brought. Name of owner, etc., of broadcasting station to be supplied.

CHAPTER 29.

AN ORDINANCE RESPECTING THE
PRACTICE OF DENTISTRY.

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as the *Dental Profession Ordinance*.

INTERPRETATION.

Definitions. **2.** In this Ordinance,
 "Dentist." (a) "dentist" means a person who is licensed pursuant to this Ordinance to practise dentistry in the Territory;
 "Dentistry." (b) "dentistry" means the treatment, advice, service or attendance that is usually rendered or performed by dentists in the practice of their profession and includes the practice of dental surgery;
 "Licence." (c) "licence" means a licence to practise dentistry in the Territory issued pursuant to this Ordinance, and "licensed" shall be construed accordingly; and
 "Register." (d) "register" means the Dental Register.

REGISTRATION AND LICENSING.

Licence required to practise. **3.** No person shall practise dentistry in the Territory unless he is licensed pursuant to this Ordinance.

Register of dentists. **4.** (1) The Territorial Secretary shall keep a register, called the Dental Register, in which shall be entered the names of all persons who are, pursuant to this Ordinance, entitled to be registered in the Dental Register, and a licence may be issued to any such person.

(2) A licence issued under this Ordinance expires on the 31st day of March immediately following the day on which such licence came into force.

Qualifications. **5.** A person who
 (a) is a graduate of a school or college of dentistry in Canada;
 (b) has been issued a Certificate of Qualification
 (i) by the Dominion Dental Council of Canada or the National Dental Examining Board of Canada, or
 (ii) under the seal of a dental college, society or association established in any province of Canada, stating that he has been duly registered as a practising dentist and has practised as such in a province of Canada within two years immediately prior to his application for a licence under this Ordinance; or

(c) on the 22nd day of November, 1954, was entitled by law to practise dentistry in the Territory; and who pays the fees required by this Ordinance, is entitled to be registered in the register.

6. The fee payable on registration in the register is fifty dollars.

7. Every person who is registered in the register shall send to the Territorial Secretary at the time his name is registered in the register and subsequently on or before the 31st day of March in each year an annual licence fee of

- (a) twenty-five dollars, in the case of a person who resides in the Territory, and
- (b) seventy-five dollars, in the case of a person who does not so reside.

8. (1) The Territorial Secretary shall remove from the register the name of a person registered therein, who does not on or before the 30th day of June in any year, pay the annual licence fee required by section 6.

(2) A person whose name is removed from the register pursuant to subsection (1) is not entitled to practise dentistry in the Territory until his name has been restored to the register pursuant to subsection (3).

(3) A person whose name is removed from the register under subsection (1) is entitled to have his name restored to the register and to receive a licence if he pays a fee of ten dollars in addition to the annual fee required by section 6.

SPECIAL PERMITS.

9. The Commissioner may issue a permit to practise dentistry in such parts of the Territory, for such periods of time, upon such terms and conditions and upon payment of such fees as the Commissioner may prescribe, to any person who

- (a) has completed at least four years' course of study in dentistry at a college or school of dentistry of recognized standing, and
 - (b) has received a diploma or certificate of qualification from any such college or school,
- if, in the opinion of the Commissioner, such person is of good character and is qualified from the standpoint of his professional proficiency to practise dentistry; and for the purposes of this Ordinance, a person shall, when practising the profession of dentistry pursuant to this section, be deemed to be licensed.

PRACTICE OF DENTISTRY.

10. No person is entitled to receive a fee or remuneration for professional services rendered or materials or appliances

provided by him in the practice of dentistry unless he is licensed under this Ordinance at the time the services are rendered or the materials or appliances are provided.

Board of Inquiry.

11. (1) The Commissioner may appoint two or more persons described in paragraph (a) or (b) of section 5 to act as a Board of Inquiry for the purpose of investigating any complaint made against a person practising as a dentist with respect to an alleged contravention of this Ordinance or any complaint of malpractice or infamous, disgraceful or improper conduct on the part of a person practising as a dentist.

Powers of Board.

(2) A Board of Inquiry appointed pursuant to subsection (1) may make rules and regulations under which the inquiry is to be held and has power

- (a) to summon and bring before it any person whose attendance it considers necessary to enable the Board properly to inquire into the matter complained of;
- (b) to swear and examine all persons under oath;
- (c) to compel the production of documents; and
- (d) to do all things necessary to provide a full and proper inquiry.

Security for costs.

(3) A Board of Inquiry may direct that the person who made the complaint it is appointed to investigate shall deposit with the Board, as security for the costs of the inquiry and to the person complained against, a sum not exceeding five hundred dollars.

Frivolous and vexatious complaint.

(4) Where the Board of Inquiry finds that a complaint is frivolous or vexatious, it may cause to be paid to the Territorial Treasurer out of the deposit for security mentioned in subsection (3) such portion of the costs of the inquiry and to the person complained against as it deems advisable, and where the Board does not so find or where there is any balance of the deposit remaining, the deposit or balance thereof shall be returned to the person who deposited it.

Quorum.

(5) A majority of the members of a Board of Inquiry is a quorum.

Findings and recommendations.

(6) A Board of Inquiry shall, after investigation of a complaint pursuant to this section, make a finding and shall immediately report its finding to the Commissioner, and where it finds that the person complained against is guilty of a contravention of this Ordinance or of malpractice or of infamous, disgraceful or improper conduct, may, in its report to the Commissioner, recommend that such person be

- (a) reprimanded;
- (b) fined in an amount named by the Board, such amount not to exceed five hundred dollars;
- (c) struck off the register and his licence cancelled; or
- (d) struck off the register and his licence suspended for a definite period named by the Board.

(7) The Board of Inquiry shall, at the time it sends its report to the Commissioner pursuant to subsection (6), notify the person complained against of its finding and of the recommendations for punishment, if any, made by it in such report. Notification to person complained against.

- (8) Every person who Offences.
 - (a) fails, without valid excuse, to attend an inquiry under this section,
 - (b) fails to produce any document, book or paper in his possession or under his control, as required under this section, or
 - (c) at an inquiry under this section
 - (i) refuses to be sworn in or affirm, or to declare, as the case may be, or
 - (ii) refuses to answer any proper question put to him by the Board of Inquiry,

is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

12. (1) A person against whom a finding has been made by a Board of Inquiry may, within thirty days after the finding has been made, appeal from such finding to a judge. Appeal to judge.

(2) The judge before whom an appeal is made under subsection (1) may hear the appeal at such time and in such manner as he deems just and he may, by order, quash, alter or confirm the finding of the Board of Inquiry. Powers of judge.

13. (1) Where a dentist has been found guilty of a contravention of this Ordinance or of malpractice or of infamous, disgraceful or improper conduct by a Board of Inquiry and no appeal has been taken from the finding or the time for appeal has expired, the Commissioner shall, after receiving the report from the Board, impose the penalty recommended by it, and Commissioner powers on recommendation by Board.

- (a) in the case of a reprimand, reprimand the dentist in writing and note the reprimand in the register;
- (b) in the case of a fine, make an order fining the dentist, which order shall be filed in the appropriate court and have the same effect as an order of that court;
- (c) in the case of a recommendation to strike off the register and cancel his licence, have the name of the dentist struck off the register and cancel his licence; and
- (d) in the case of a recommendation to strike off the register and suspend his licence, have the name of the dentist struck off the register and suspend his licence for such time as the Board has recommended.

(2) Where a judge on appeal confirms or alters the finding of a Board of Inquiry, his order in the case of a fine shall be carried out in the usual way and in the case of any other punishment. Commissioner to enforce order of judge.

ment referred to in subsection (1) shall be directed to the Commissioner and carried out by him in the same manner as provided by subsection (1).

Application for reinstatement.

14. (1) A dentist whose name has been struck off the register and whose licence has been cancelled or suspended pursuant to section 13 may,

- (a) where he had not taken any appeal from the finding, within one year from the date of the finding of the Board of Inquiry, apply to the Commissioner to have his name restored to the register, or
- (b) where he had appealed from the finding, within one year from the date of an order made under subsection (2) of section 12, apply to a judge for an order directing the Territorial Secretary to have his name restored to the register.

Order by Commissioner or judge.

(2) The Commissioner or a judge may, upon application under subsection (1), order the Territorial Secretary to reinstate a dentist on the register and renew his licence and restore his rights and privileges in such manner and upon such conditions as the Commissioner or judge may decide.

Territorial Secretary to reinstate.

(3) The Territorial Secretary shall, upon receiving an order under subsection (2) to do so, reinstate a dentist on the register and renew his licence and restore his rights and privileges in such manner and upon such conditions as the order directs.

OFFENCES AND PENALTIES.

Person who practises illegally guilty of offence.

15. A person who, not being licensed pursuant to this Ordinance,

- (a) practises dentistry;
- (b) wilfully or falsely pretends to be licensed to practise dentistry; or
- (c) purports by public advertisement, card, circular, sign or otherwise, to practise dentistry or in any way leads people to believe that he is qualified to practise dentistry in the Territory,

is guilty of an offence and liable upon summary conviction to a fine of fifty dollars and for every day on which he commits any such offence he shall be deemed to have committed a separate offence.

Burden of proof.

16. In any prosecution for an offence under this Ordinance, the burden of proof as to the right of the defendant to practise dentistry in the Territory is on the defendant.

Limitation of action.

17. No prosecution for an offence under this Ordinance shall be instituted after two years from the date the offence was committed.

APPLICATION.

18. Nothing in this Ordinance shall be deemed to prohibit a person giving necessary aid to a person who appears to be in urgent need of aid, if the aid is not given for hire or gain and the giving of such aid is not made a business or means of gaining a livelihood. Emergency aid may be given.

19. Nothing in this Ordinance applies to a person who practises dentistry in the Territory in the course of his duties as an employee of the Government of Canada, unless he practises dentistry on his own behalf in the Territory outside the course of his duties as an employee of the said Government. Federal Government employees excepted.

DENTAL HYGIENISTS.

20. The Territorial Secretary shall keep a register of dental hygienists in which he may, upon application, enter the name of any person qualified to practise as a dental hygienist by training at a recognized school or college of dentistry or dental hygiene. Register of dental hygienists.

21. No dental hygienist registered under section 20 is guilty of an offence for anything done by him in practising as a dental hygienist. Saving.

22. No person shall practise as a dental hygienist unless he is registered as a dental hygienist or licensed as a dentist pursuant to this Ordinance. Prohibition.

23. The Commissioner may make regulations Regulations.

- (a) providing for the delegation to dental hygienists of the performance, under the direct control and supervision of a dentist, of the services of cleaning and polishing teeth and the giving of instructions and demonstrations in oral hygiene and mouth care and other specific dental duties of a minor nature;
- (b) prescribing the admission and annual fees payable by dental hygienists; and
- (c) generally for defining, regulating and controlling the practice of dental hygiene.

24. A person who violates section 22 or a regulation is guilty of an offence and liable on summary conviction to a fine of fifty dollars and for every day on which he commits any such offence he shall be deemed to have committed a separate offence. Offences and penalties.

CHAPTER 30.

AN ORDINANCE RESPECTING THE DEVOLUTION OF REAL PROPERTY.

Short Title. 1. This Ordinance may be cited as the *Devolution of Real Property Ordinance*.

Definitions. 2. In this Ordinance, "Lunatic." (a) "lunatic" includes an idiot and a person of unsound mind; and "Personal representative." (b) "personal representative" means the executor, original or by representation, or administrator for the time being of a deceased person.

Devolution of real property upon personal representatives. 3. (1) Real property to which a deceased person was entitled for an interest not ceasing on his death shall on his death, notwithstanding any testamentary disposition, devolve upon and become vested in his personal representative as if it were personal property.

(2) A testator shall be deemed to have been entitled at his death to any interest in real property passing under any gift contained in his will which operates as an appointment under a general power to appoint by will.

Powers of personal representative. (3) The personal representative is the representative of the deceased in regard to his real property to which he was entitled for an interest not ceasing on his death as well as in regard to his personal property.

Probate and letters of administration. (4) Probate and letters of administration may be granted in respect of real property only, although there is no personal property.

Personal representative to hold as trustee. 4. Except as provided in this Ordinance, the personal representative of a deceased person holds the real property as trustee for the persons by law beneficially entitled thereto, and those persons have the same right to require a transfer of real property as persons beneficially entitled to personal property have to require a transfer of such personal property.

Rules of law to apply. 5. Except as provided in this Ordinance, all enactments and rules of law, and any jurisdiction of the Court with respect to the appointment of administrators or to probate or letters of administration, or dealings before probate in the case of personal property, and with respect to costs and other matters in the administration of personal property in force before the 1st day of April, 1955, and all powers, duties, rights, equities, obligations and liabilities of a personal representative in force

on the 1st day of April, 1955 with respect to personal property, apply and attach to the personal representative and have effect with respect to real property vested in him.

6. Without prejudice to the rights and powers of a personal representative, the appointment of a personal representative in regard to real property does not, except as otherwise provided in this Ordinance, affect

Saving provision as to administration of assets.

- (a) any rule as to the marshalling or administration of assets,
- (b) the beneficial interest in real property under any testamentary disposition,
- (c) any mode of dealing with any beneficial interest in real property or the proceeds of the sale thereof, or
- (d) the right of any person claiming to be interested in the real property to take proceedings for the protection or recovery thereof against any person other than the personal representative.

7. In the administration of the assets of a deceased person his real property shall be administered in the same manner, subject to the same liabilities for debts, costs and expenses and with the same incidents, as if it were personal property, but nothing in this Ordinance alters or affects the order in which real and personal assets respectively are now applicable, as between different beneficiaries, in or toward the payment of funeral and testamentary expenses, debts or legacies, or the liability of real property to be charged with payment of legacies.

Administration of real property.

8. When any part of the real property of a deceased person vests in his personal representative under this Ordinance, the personal representative, in the interpretation of any Ordinance or in the construction of any instrument to which the deceased was a party or under which he was interested, shall, while the estate remains in the personal representative be deemed in law the heir of the deceased, as respects such part, unless a contrary intention appears, but nothing in this section shall affect the beneficial right to any property or the construction of words of limitation of any estate in or by any deed, will or other instrument.

Personal representatives to be deemed "heirs".

9. (1) At any time after the date of probate or letters of administration, the personal representative may convey the real property to any person entitled thereto, and may make the conveyance either subject to a charge for the payment of any money which the personal representative is liable to pay, or without any such charge, and on the conveyance being made subject to a charge for all moneys, if any, which the personal representative is liable to pay, all liabilities of the personal representative in respect of the real property shall cease, except as to any acts done or contracts entered into by him before such conveyance.

Orders for conveyance or sale.

(2) At any time after the expiration of one year from the date of probate or of letters of administration if the personal representative has failed, on the request of the person entitled to any real property, to convey the real property to that person, the Court may, if it thinks fit, on the application of that person and after notice to the personal representative, order that the conveyance be made, and in default may make an order vesting the real property in such person as fully and completely as might have been done by a conveyance thereof from the personal representative.

(3) If, after the expiration of one year, the personal representative has failed, either to convey the real property or any portion thereof to the person entitled thereto or to sell and dispose of it, the Court may, on the application of any person beneficially interested, order that the real property or portion be sold on such terms and within such period as may appear reasonable, and, on the failure of the personal representative to comply with such order, may direct a sale of the real property or portion upon such terms as to cash or credit, or partly one and partly the other, as may be deemed advisable.

Powers
of sale.

10. The personal representative may sell the real property for the purpose not only of paying debts but also of distributing the estate among the persons beneficially entitled thereto, whether there are or are not debts, and it shall not be necessary that the persons beneficially entitled shall concur in any such sale except where it is made for the purpose of distribution only.

Sale for
distribution
only.

11. (1) Except as provided in this Ordinance, no sale of real property for the purpose of distribution only is valid as respects any person beneficially interested unless he concurs therein.

(2) Where, in the case of such a sale, a lunatic is beneficially interested or adult beneficiaries do not concur in the sale, or where under a will there are contingent interests or interests not yet vested or the persons who may be beneficiaries are not yet ascertained, the Court may, upon proof satisfactory to it that such sale is in the interest and to the advantage of the estate of the deceased and the persons beneficially interested therein, approve such sale, and any sale so approved is valid as respects such contingent interests and interests not yet vested and is binding upon such lunatic, non-concurring persons and beneficiaries not yet ascertained.

(3) If an adult accepts a share of the purchase money, knowing it to be such, he is deemed to have concurred in the sale.

Where an
infant
interested.

12. No sale, where an infant is interested, shall be valid without the written consent or approval of the Public Administrator or, in the absence of such consent or approval, without an order of the Court.

13. The personal representative may, with the concurrence of the adult persons beneficially interested, with the approval of the Public Administrator on behalf of infants or lunatics if any infants or lunatics are interested, divide or partition and convey the real property of the deceased person, or any part thereof, to or among the persons beneficially interested.

Distribution or division.

14. (1) The personal representative may, subject to the provisions of any will affecting the property,

Other powers of personal representatives.

- (a) lease the real property or any part thereof for any term not exceeding one year;
- (b) lease the real property or any part thereof, with the approval of the Court, for a longer term; and
- (c) raise money by way of mortgage of the real property or any part thereof for the payment of debts, or for payment of taxes on the real property to be mortgaged, and, with the approval of the Court, for payment of other taxes, the erection, repair, improvement or completion of buildings, or the improvement of lands, or for any other purpose beneficial to the estate.

(2) Where infants or lunatics are interested, the approvals or order required by sections 12 and 13 in case of a sale is required in the case of a mortgage, under paragraph (c) of subsection (1) of this section, for payment of debts or payment of taxes on the real property to be mortgaged.

15. (1) A person who purchases real property in good faith and for value from the personal representative, or from a person beneficially entitled thereto to whom it has been conveyed by the personal representative, holds it freed and discharged from any debts or liabilities of the deceased owner except such as are specifically charged thereon otherwise than by his will, and, where the purchase is from the personal representative, freed and discharged from all claims of the persons beneficially interested.

Real property sold or distributed.

(2) Real property which has been conveyed by the personal representative to a person beneficially entitled thereto continues to be liable to answer the debts of the deceased owner so long as it remains vested in such person, or in any person claiming under him not being a purchaser in good faith and for value, as it would have been if it had remained vested in the personal representative, and in the event of a sale or mortgage thereof in good faith and for value by a person beneficially entitled he shall be personally liable for such debts to the extent to which the real property was liable when vested in the personal representative but not beyond the value thereof.

16. (1) Subject to subsection (2), where there are two or more personal representatives, a conveyance, mortgage, lease or other disposition of real property devolving under this Ordinance shall not be made without the concurrence therein of all such representatives or an order of the Court.

Concurrence of personal representatives.

(2) Where probate is granted to one or some of two or more persons named as executors, whether or not power is reserved to the other or others to prove, any conveyance, mortgage, lease or other disposition of the real property may be made by the proving executor or executors for the time being, without an order of the Court, and shall be as effectual as if all the persons named as executors had concurred therein.

Rights hereby conferred to be additional.

17. The rights and immunities conferred by this Ordinance upon personal representatives are in addition to, and not in derogation of, the powers conferred by any other Ordinance or by the will.

Duties on real property.

18. Nothing in this Ordinance shall alter any duty payable in respect of real property or impose any new duty thereon.

CHAPTER 31.

AN ORDINANCE TO PROVIDE FOR ALLOWANCES TO DISABLED PERSONS.

SHORT TITLE.

1. This Ordinance may be cited as the *Disabled Persons Allowance Ordinance*.

INTERPRETATION.

2. In this Ordinance,
- (a) "allowance" means a disabled person's allowance provided under this Ordinance and the regulations to the persons and under the conditions specified in the Federal Act; Definitions.
"Allowance."
 - (b) "application" means an application for an allowance; "Application."
 - (c) "Director" means the person appointed as such by the Commissioner to administer this Ordinance; "Director."
 - (d) "Federal Act" means the *Disabled Persons Act* enacted by the Parliament of Canada together with any regulations made thereunder; and "Federal Act."
 - (e) "recipient" means a person to whom an allowance has been granted and includes an applicant for an allowance. "Recipient."

ALLOWANCES.

3. (1) The Commissioner may on behalf of the Yukon Territory enter into an agreement with the Minister of National Health and Welfare on behalf of the Government of Canada to provide a general scheme of allowances to disabled persons in accordance with this Ordinance and the Federal Act and for payment by the Government of Canada to the Yukon Territory in respect of any recipient of an amount equal to not less than fifty per cent of fifty-five dollars monthly or of the amount of the allowance paid monthly to the recipient, whichever is the lesser.

(2) An agreement made under this Ordinance may be varied or amended from time to time by agreement of the Government of Canada and the Commissioner.

4. From and out of the Yukon Consolidated Revenue Fund there may be paid, Payments and amounts.

- (a) to a recipient whose application has been approved an allowance not exceeding fifty-five dollars monthly under the conditions specified in this Ordinance and the regulations and the Federal Act and any agreement made under section 3; and
- (b) the expenses incurred in the administration of this Ordinance.

Chap. 31.

Disabled Persons Allowance.

Appointment
of Director.

5. (1) The Commissioner may appoint a person as Director to administer this Ordinance.

Substitute
for Director.

(2) The Commissioner may authorize a person to exercise and carry out the powers and duties of the Director during his absence or incapacity or during any period in which the office of Director is vacant.

(3) The Director shall

(a) receive applications, and

(b) determine the eligibility of each applicant for an allowance and approve or reject any application for the grant of an allowance.

Powers of
Director.

(4) The Director may

(a) call for any additional proof of eligibility for an allowance that may be prescribed by the regulations or the Federal Act, and

(b) confirm, amend or reverse any direction or determination made by him under this Ordinance, and, subject to his right to amend or reverse any such direction or determination, every direction or determination made by the Director is final and is not subject to review by any court or otherwise.

Payment
where
recipient
dies.

6. (1) Notwithstanding any other law or Ordinance, in the case of the death of a recipient payment of the allowance for the month in which the death occurs may be made to such person as the Director specifies.

Administration
of estate
in certain
cases.

(2) In any case in which no other legal representative of the estate of a deceased recipient is appointed, a judge shall upon the request of the Director, without fees or the usual forms leading to a grant or requirements of a surety or sureties to the bond, grant administration to the Public Administrator of the judicial district in which the recipient resided.

Exempt
from taxes,
seizure, etc.

7. An allowance granted under this Ordinance is exempt from taxes levied under any Ordinance, is not subject to garnishment, attachment or seizure and is not assignable.

Does not
affect right
to vote.

8. The receipt of allowance does not by itself disqualify any person from voting at any election held in the Territory under any Ordinance or other law.

Recovery of
improperly
paid
allowances.

9. (1) Notwithstanding any other provision of this Ordinance, any sum of money or other payment improperly paid by way of allowance to or on behalf of a recipient, whether as a result of non-disclosure of fact, innocent or false representations or other cause, constitutes a debt due to the Territory and may be recovered as such at any time.

Proceedings
in name of
Commissioner.

(2) Any action, suit or other proceeding for the recovery of a debt due to the Territory may be instituted in the name of the Commissioner.

10. Unless the consent of the Commissioner has been obtained, no action or other proceeding shall be brought against the Director or any officer, clerk or servant for anything done or omitted to be done in the exercise or purported exercise of any duty or power under this Ordinance. No action against Director, etc.

11. The Commissioner may make such regulations, not inconsistent with this Ordinance and the Federal Act, respecting the provision of a scheme of allowances as specified in section 3 as he deems necessary for the proper administration of this Ordinance and, without restricting the generality of the foregoing, may make regulations Regulations.

- (a) governing the manner of making application for allowances;
- (b) respecting the suspension or cancellation of allowances;
- (c) providing for the making of investigations respecting persons to whom allowances may be paid or who are in receipt of allowances or by or on behalf of whom application has been made for any allowance;
- (d) prescribing the material in support of or proof of any fact, including evidence under oath, that shall be furnished as a condition precedent to the payment of any allowance;
- (e) respecting the mode of payment of allowances; and
- (f) prescribing forms for use under this Ordinance.

12. (1) No person shall knowingly obtain or receive an allowance to which he is not entitled under this Ordinance, the regulations and the Federal Act. Unqualified persons not to receive.

(2) No person shall knowingly aid or abet another person to obtain or receive an allowance to which he is not entitled under this Ordinance, the regulations and the Federal Act. Not to aid or abet improper receipt.

(3) Every person who violates this section is guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment. Offence and penalty.

13. No prosecution for any offence against this Ordinance shall be commenced after the expiration of five years from the date of the commission of such offence. Time for prosecution.

CHAPTER 32.

AN ORDINANCE RESPECTING DISTRESS FOR RENT AND EXTRAJUDICIAL SEIZURE.

SHORT TITLE.

Short Title. 1. This Ordinance may be cited as the *Distress Ordinance*.

COSTS.

Charges for distress. 2. No person who makes a distress for rent or who is employed to make a distress or to do any act in the course of a distress or to carry a distress into effect shall levy, take or receive costs in respect of the distress other than the costs set forth in Schedule A.

Charges for extrajudicial seizure. 3. No person who makes a seizure under a chattel mortgage, lien note or other extrajudicial process or who is employed to make a seizure or to do any act in the course of a seizure or to carry a seizure into effect shall levy, take or receive costs in respect of the seizure other than the costs set forth in Schedule B.

Work must be done. 4. No person shall charge for any service, work or thing referred to in Schedules A and B unless that service, work or thing has been actually done, made or provided.

Amendment of schedule. 5. The Commissioner may amend the schedule of fees to this Ordinance from time to time as he sees fit.

Remedy by person who is overcharged. 6. Where costs are charged in respect of a distress or seizure contrary to section 2, 3 or 4, the person against whom such costs are charged may, by notice of motion, summon the person charging such costs before a judge and the judge may order the person charging the costs to pay to the person against whom they were charged any sum not exceeding treble the amount charged together with the costs of the proceedings under this section.

SEIZURES.

Seizure under chattel mortgage. 7. (1) Chattels shall not be seized under a chattel mortgage by any person other than the sheriff or a person duly authorized by the sheriff for that purpose.

Indemnity. (2) The sheriff or other person authorized by him to make the seizure may, upon being requested to make a seizure under subsection (1), require from a person requesting such seizure

(a) a sufficient sum to cover all fees and disbursements set out in Schedule B, and

- (b) indemnification as to damages in an amount considered reasonable under the circumstances by the sheriff or other person making the seizure.

8. (1) The rights of a mortgagee or a vendor of land or their assigns, under a mortgage or agreement of sale, to distrain for interest in arrears or principal due upon the mortgage or agreement of sale are, notwithstanding anything to the contrary in the mortgage or agreement of sale or in any other agreement relating to the mortgage or agreement of sale, limited to the goods and chattels of the mortgagor or purchaser or their assigns that are not exempt from seizure under the *Exemptions Ordinance*.

Right to distrain by vendors and mortgagees of land.

(2) A mortgagee or vendor of land may make an application in writing to the tenant or other person occupying the land or any part of the land for payment to the mortgagee or vendor of the rent or rentable value of the land or part of the land occupied to the extent of interest or principal due and payable to the mortgagee or vendor by the mortgagor or purchaser under the mortgage or agreement of sale and to the extent of the sums paid by the mortgagee or vendor in respect of taxes, levies and insurance premiums, or in respect of any prior mortgage or charge upon the land, for which the mortgagor or purchaser is liable.

Recovery of rent or rentable value.

(3) Rent or rentable value under subsection (2), whether or not the mortgagor or purchaser has attained, is payable to and recoverable by the mortgagee or vendor from the tenant or other person liable to pay the same or occupying the land or any part thereof by any remedy, proceeding or claim available as between a landlord and his tenant under the *Landlord and Tenant Ordinance*.

Method of enforcement.

(4) A second or subsequent mortgagee may exercise the rights conferred by this section only with the consent in writing of all prior mortgagees, or, in the absence of such consent, only where all moneys, other than original principal, due and payable under prior mortgages and all taxes on land are satisfied.

Second mortgages, etc.

(5) A vendor may exercise the rights conferred by this section only with the consent in writing of all prior mortgagees and vendors, or, in the absence of such consent, only where all moneys, other than original principal, due and payable under prior mortgages and agreements of sale and all taxes on the land are satisfied.

Vendors.

(6) No mortgagee or vendor acting under this section is subject to the liabilities of a mortgagee in possession.

Not subject to liabilities of mortgagee in possession.

(7) Goods and chattels distrained under this section shall be sold in the same manner as those distrained and sold for rent by a landlord under the *Landlord and Tenant Ordinance*.

Sale of goods and chattels.

(8) This section applies to the personal representatives, successors and assigns of a mortgagee or vendor and applies to mortgages and agreements of sale made before as well as after the passing of this Ordinance.

Application.

SCHEDULE A.

PART I.

COSTS ON DISTRESS FOR RENT WHERE SUM
DEMANDED AND DUE DOES NOT EXCEED
ONE HUNDRED DOLLARS.

1. Levying distress	\$1.00
2. One man keeping possession, per day	5.00
3. Printed advertisement (if any)	3.00
4. Catalogues, sale and commission and delivery of goods—five cents on the dollar of the net proceeds of the sale.	
5. Where the amount due is satisfied in whole or in part after seizure and before sale—three cents on the dollar of the amount realized.	

PART II.

COSTS ON DISTRESS FOR RENT WHERE SUM
DEMANDED AND DUE EXCEEDS
ONE HUNDRED DOLLARS.

1. Levying distress	\$1.50
2. One man keeping possession, per day	5.00
3. All reasonable and necessary disbursements for advertising.	
4. Actual expenses reasonably incurred in removing and keeping the goods distrained or part thereof where such removal is necessary.	
5. Catalogues, sale and commission and delivery of goods—five cents on the dollar of the net proceeds of the sale.	
6. Where the amount is satisfied in whole or in part, after seizure and before sale—three cents on the dollar of the amount realized.	
7. For actual mileage necessarily travelled in effecting seizure and return for each of the first ten miles, twenty cents per mile, and for each subsequent mile, fifteen cents per mile.	

SCHEDULE B.

COSTS ON SEIZURE UNDER CHATTEL MORTGAGE
OR OTHER EXTRAJUDICIAL SEIZURE.

1. Receiving, entering and return	\$.50
2. Perusal of documents .....	.50
3. Warrant to bailiff .....	.50
4. Seizure	1.00
5. Bond from creditor .....	.50
6. Bond from debtor	1.00
7. Possession fee	2.50
8. Postage .....	.25
9. Keeping possession before sale, appraisalment, advertising and sale of goods—actual expenses and disbursements.	
10. For actual mileage necessarily travelled and sworn to from the place where the warrant is received or the sheriff's office (whichever is the closest) to the place of execution in making seizure or sale of goods and return, for each of the first ten miles, twenty cents per mile, and for each subsequent mile, fifteen cents per mile.	
11. Where the sum realized is less than four hundred dollars—two and one-half per cent of the sum realized.	
12. Where the sum realized is more than four hundred dollars—two and one-half per cent on four hundred dollars and one and one-quarter per cent on the balance.	

CHAPTER 33.

AN ORDINANCE RESPECTING DOGS.

SHORT TITLE.

Short Title. 1. This Ordinance may be cited as the *Dog Ordinance*.

INTERPRETATION.

Definitions. 2. In this Ordinance,

"Dog." (a) "dog" includes a male or female dog and an animal that is a cross between a dog and a wolf;

"Municipality." (b) "municipality" means a municipality as defined in the *Municipal Ordinance*;

"Muzzle." (c) "muzzle" means to secure a dog's mouth in such a fashion that it cannot bite anything;

"Officer." (d) "officer" means a person appointed by the Commissioner to carry out the provisions of this Ordinance and any member of the Royal Canadian Mounted Police;

"Owner." (e) "owner" means a person who owns, harbours, possesses or has control or custody of a dog; and

"Run at large." (f) "run at large" means to run off the premises of the owner either when the dog is not muzzled or when the dog is not under the control of any person.

OFFICERS.

Appointment of officers. 3. The Commissioner may appoint any person to carry out the provisions of this Ordinance.

GENERAL PROVISIONS.

Feed and water. 4. No owner shall allow a dog to remain unfed or unwatered sufficiently long either to amount to cruelty or to cause the dog to become a nuisance.

Punishment. 5. No person shall punish or abuse a dog in a manner or to an extent that is cruel or unnecessary.

Running at large. 6. (1) No owner shall permit a dog to run at large

(a) within an area that may be defined by the Commissioner;

(b) contrary to a by-law made by the council of a municipality;

(c) that is of a vicious temperament or dangerous to the public safety; or

(d) while in heat.

(2) An officer may seize or kill a dog found running at large contrary to paragraphs (c) or (d) of subsection (1).

7. (1) No person shall have a dog in harness within any settlement or within one-half mile of any settlement in the Territory unless the dog has a muzzle or is under the custody and control of a person over sixteen years of age who is capable of ensuring that the dog will not harm the public or create a nuisance. ^{Dogs in harness.}

(2) No person shall drive a dog or dog team on a sidewalk situated on the street or road of a settlement. ^{Driving dogs on sidewalks.}

(3) This section does not apply in a municipality.

SEIZURE.

8. (1) An officer may seize a dog from a person whom he finds violating this Ordinance. ^{Seizure.}

(2) Subject to subsection (6), an officer who has seized a dog under subsection (1) shall restore possession of the dog to the owner thereof where ^{Recovery by owner.}

(a) the owner claims possession of the dog within five days after the date of seizure; and

(b) the owner pays to the officer all expenses incurred in securing, caring for and feeding the dog.

(3) Where, at the end of five days, possession of the dog has not been restored to the owner under subsection (2), the officer may sell the dog at public auction. ^{Sale by public auction.}

(4) The proceeds of the sale of a dog by public auction shall be distributed in the following manner:

(a) all expenses incurred in securing, caring for and feeding the dog shall be paid to the officer;

(b) the expenses of the public auction shall be paid; and

(c) the balance, if any, shall be paid to the owner.

(5) Where a dog has not been reclaimed within five days after seizure under subsection (2) and no bid has been received at a sale by public auction, the officer may destroy or dispose of the dog as he sees fit at any time after the auction and no damages or compensation may be recovered on account of its destruction or disposal by the officer. ^{Where dog not sold.}

(6) Where, in the opinion of the officer, a dog seized under this section is injured or should be destroyed without delay for humane reasons or for reasons of safety, the officer may destroy the dog as soon after seizure as he thinks fit without permitting any person to reclaim the dog or without offering it for sale by public auction and no damages or compensation may be recovered on account of its destruction by the officer. ^{Destruction of injured dogs.}

(7) Where the seizure of a dog is made for contravention of a by-law respecting dogs passed by a council of a municipality, the provisions of the by-law respecting the impounding, selling or killing of dogs shall apply instead of the provisions of this section. ^{By-laws of municipality.}

Nuisance.

9. (1) For the purposes of this section it is declared to be a nuisance where in the vicinity of any hospital, an owner permits his dog to howl or make other noises which disturb the peace and repose of patients in such hospital.

Complaint by two members of hospital staff.

(2) Upon complaint in writing signed by two members of the staff of a hospital setting forth the circumstances constituting a nuisance, an officer may, by notice in writing served on the person alleged to be responsible for the nuisance, require that the nuisance be abated within forty-eight hours from the time of service of the notice.

(3) Where any person

(a) is responsible for a nuisance under this section,

(b) has been served with a notice under subsection (2), and

(c) has failed to comply with the notice by abating the nuisance within forty-eight hours of the time of service of the notice,

such person is guilty of an offence.

Burden of proof.

(4) On any prosecution under this section the evidence of two members of the staff of a hospital to the effect that the peace and repose of patients therein have been disturbed by noises apparently made by a dog kept by the person accused, shall be prima facie evidence that the accused is guilty of a nuisance and shall place upon the accused the burden of proof.

PROTECTION OF OTHER ANIMALS FROM DOGS.

Destruction of dogs pursuing, etc., certain animals.

10. A person may kill a dog that is running at large in the act of pursuing, worrying, injuring or destroying cattle, horses, sheep, pigs or poultry.

Proceedings against owner.

11. (1) On complaint made on oath before a justice that an owner has a dog that has, while running at large, within the preceding three months pursued, worried, injured or destroyed any cattle, horses, sheep, pigs or poultry, the justice may issue a summons directed to the owner of the dog requiring the owner to appear before him at a time and place therein stated to answer the complaint.

Order.

(2) Upon summary conviction on the evidence of one or more credible witnesses other than the complainant, the justice may make an order for the destruction of the dog within three days and where the dog is not destroyed pursuant to the order, the justice may in his discretion impose a fine not exceeding twenty dollars upon the owner.

Action for damages not barred.

12. No conviction or order under section 11 shall bar the owner of cattle, horses, sheep, pigs or poultry from bringing an action for the recovery of damages for injury done thereto by a dog.

13. It is not necessary for the plaintiff in an action referred to in section 12 to prove that the defendant knew of the dog's propensity to pursue, worry, injure or destroy animals and the defendant's liability shall not depend upon previous knowledge of that propensity. Nature of proof in civil action.

OFFENCES AND PENALTIES.

14. Every person who violates any provision of this Ordinance is guilty of an offence and liable upon summary conviction to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding thirty days. Offences and penalties.

REGULATIONS.

15. The Commissioner may make regulations for carrying out the purposes and provisions of this Ordinance. Regulations.

CHAPTER 34.

AN ORDINANCE RESPECTING THE ELECTION OF MEMBERS TO THE COUNCIL OF THE YUKON TERRITORY.

SHORT TITLE.

Short Title. 1. This Ordinance may be cited as the *Elections Ordinance*.

INTERPRETATION.

Definitions. 2. In this Ordinance, "Election." (a) "election" means an election of members to the Council of the Yukon Territory, and "Polling division." (b) "polling division" means a polling division as defined in the *Canada Elections Act*.

APPLICATION OF CANADA ELECTIONS ACT.

Application of *Canada Elections Act*. 3. The *Canada Elections Act* applies to elections as provided in that Act.

ELECTORAL DISTRICTS.

Electoral districts. 4. There shall be five electoral districts as described in the Schedule.

QUALIFICATIONS AND DISQUALIFICATIONS OF ELECTORS.

Qualifications of electors. 5. Except as provided in this Ordinance, the *Canada Elections Act* and the *Yukon Act*, every person, man or woman, is qualified to vote in the polling division in which he or she ordinarily was resident on the date of the issue of the writ ordering an election, if he or she (a) is of the full age of twenty-one years or attains that age on or before polling day at the election; (b) is a Canadian citizen; (c) is not an Indian within the meaning of the *Indian Act*; (d) has been ordinarily resident in the Territory for the twelve months immediately preceding polling day at the election; and (e) at a by-election only, continues to be ordinarily resident in the electoral district until polling day at the by-election.

Disqualification of electors. 6. The following persons are disqualified from voting at an election: (a) the returning officer for each electoral district during his term of office, except when there is an equality of votes on the official addition of the votes or on a recount;

- (b) every judge;
- (c) every person undergoing punishment as an inmate in any penal institution for the commission of any offence;
- (d) every person who is restrained of his liberty of movement or deprived of the management of his property by reason of a mental disease; and
- (e) every person who has committed at an election of members to the Council of the Yukon Territory or at an election of members to serve in the House of Commons of Canada an offence that is a corrupt or illegal practice within the meaning of the *Canada Elections Act* and who has been found guilty of such offence by a court of competent jurisdiction, from the time of commission of such offence for a period of seven years thereafter in the case of an offence that is a corrupt practice and from the time of commission of such offence for a period of five years thereafter in the case of an offence that is an illegal practice.

RULES AS TO RESIDENCE OF ELECTORS.

7. The following rules apply to the interpretation of the words "ordinarily resident" and "ordinarily resided" in respect of all matters pertaining to the right of an elector to vote in an election:

- (a) subject to the other provisions of this section, the question as to where a person is or was ordinarily resident at any material time or during any material period shall be determined by reference to all the facts of the case; To consider facts of case.
- (b) the place of ordinary residence of a person is, generally, that place which has always been, or which he has adopted as, the place of his habitation or home whereto, when away therefrom, he intends to return and, specifically, where a person usually sleeps in one place and has his meals or is employed in another place, the place of his ordinary residence is where the person sleeps; Place of ordinary residence is his home.
- (c) a person can have only one place of ordinary residence and it cannot be lost unless or until another is gained; One place of residence only.
- (d) a person's place of ordinary residence is, generally, where his family is but, where he is living apart from his family and intends to live so apart from it in another place, the place of ordinary residence of such person is that other place; Place of residence in relation to family.
- (e) temporary absence from a place of ordinary residence does cause a loss or change of place of ordinary residence; Temporary residence.
- (f) for the purpose of a general election, every person shall be deemed to continue until polling day to ordinarily reside in the polling division in which he was ordinarily resident at the date of the issue of the writ of election, and no actual change of residence during the intervening period shall deprive him of his right to vote in such polling Residence at date of issue of writ of election to govern.

division or entitle him to vote in any other polling division, unless he is one of the persons described in paragraph (g) and exercises his rights thereunder, in which event he is not to be entitled to vote in the polling division in which he was ordinarily resident at the date of the issue of the writ of election;

Clergymen
and teachers.

- (g) for the purpose of a general election, any of the following persons who, between the date of the issue of the writ of election and polling day, changes his place of ordinary residence from one electoral district to another is, if otherwise qualified and he so elects, entitled to vote in the polling division in which he is ordinarily resident at the time of his application, if
- (i) being a minister, priest or ecclesiastic of any religious faith or denomination, he is in charge of or permanently attached to an established place of worship or recognized mission of his church situate in the electoral district to which he is removed, or
 - (ii) being a teacher, he is employed under a contract with the appropriate educational authority and is engaged in teaching at a school situate in the electoral district to which he is removed;

Students.

- (h) notwithstanding anything in this Ordinance, for the purpose of a general election, a person who, on the date of the issue of the writ of election, is duly registered and in attendance at a recognized educational institution and for such purpose resides outside the polling division in which he ordinarily resides is, if he is otherwise qualified as an elector, entitled to vote in the polling division in which he ordinarily resides and, if the institution is in the Territory, he is entitled to vote in the polling division in which he resides at the date of the issue of the said writ or the polling division in which he ordinarily resides as he may elect;

Temporary
workers.

- (i) subject to paragraph (j), a person shall be deemed to be ordinarily resident, on the date of the issue of the writ ordering a general election, in a polling division in which he is temporarily resident while temporarily employed in the pursuit of his ordinary gainful occupation and, if he is otherwise qualified as an elector, is entitled to vote in that polling division at the election as long as he is still temporarily residing therein on polling day while still temporarily employed in the pursuit of his ordinary gainful occupation;

Persons
temporarily
engaged in
public works.

- (j) no person shall, for the purpose of this Ordinance, be deemed to be ordinarily resident, at the date of the issue of the writ ordering an election in such district, in an electoral district to which he has come for the purpose of engaging temporarily in the execution of any federal or territorial public work, or as a resident in

any camp temporarily established in connection with any such public work under federal or territorial government control and located in such electoral district;

- (k) no person shall, for the purpose of this Ordinance, be deemed to be ordinarily resident, at the date of the issue of the writ of election, in lodgings, hostels, refuges or similar institutions conducted for charitable or semi-charitable purposes, unless he has been in continuous residence in such lodgings, hostels, refuges or similar institutions for at least ten days immediately preceding the date of the issue of such writ; Persons residing in hostels, refuges, etc.
- (l) a person who, for at least ten days immediately preceding the date of the issue of a writ of election, has been in continuous residence in a sanatorium, a chronic hospital or a similar institution for the treatment of tuberculosis or other chronic diseases shall, for the purposes of this Ordinance, be deemed to be ordinarily resident on such date, in the sanatorium, chronic hospital or similar institution; and Persons residing in sanatorium, etc.
- (m) a person shall not be deemed to have lost his place of ordinary residence in the Territory by reason only of the fact that he has been absent from such place of ordinary residence while serving in the Canadian Forces or in any other of Her Majesty's Army, Navy or Air Forces. Persons in armed forces.

QUALIFICATIONS AND DISQUALIFICATIONS OF CANDIDATES.

8. Subject to section 9, any person who is qualified to vote at an election is eligible to be nominated and elected as a member of the Council for the electoral district in which he or she is ordinarily resident. Qualifications of candidates.

9. (1) The following persons are not eligible to be nominated or elected as members of the Council: Disqualifications of candidates.

- (a) every person who, directly or indirectly, alone or with any other person, by himself or by the interposition of any trustee or third party, is holding, enjoying, undertaking or executing any contract or agreement, express or implied, with or for the Territory or with or for any of the officers of the Territory, for which any public money of the Territory is to be paid during the time he is so holding, enjoying, undertaking or executing;
- (b) every person who is
- (i) a member of the House of Commons of Canada,
 - (ii) a member of the legislature of any province, or
 - (iii) a member of the Council of the Northwest Territories,
- during the time he is such a member; and

- (c) every person accepting or holding any office, commission or employment, permanent or temporary, in the service of the Government of Canada or the Territory, at the nomination of the Crown or at the nomination of any of the officers of the Government of Canada or the Territory, to which any salary, fee, wages, allowance, emolument or profit of any kind is attached during the time he is so holding any such office, commission or employment.
- (2) Subsection (1) does not render the following persons ineligible to be nominated or elected as members of the Council:
 - (a) a member of Her Majesty's Forces who is on active service as a consequence of war;
 - (b) a shareholder in any incorporated company having a contract or agreement with the Territory, except any company which undertakes a contract for the building of any public work;
 - (c) a person on whom the completion of any contract or agreement, express or implied, devolves by descent or limitation, or by marriage, or as devisee, legatee, executor or administrator, until twelve months after it has so devolved upon him;
 - (d) a contractor for a loan of money or of securities for the payment of money to the Government of the Territory under the authority of the Commissioner in Council, after public competition, or respecting the purchase or payment of the public stock or debentures of the Territory on terms common to all persons;
 - (e) a member of the reserve forces of the Canadian Forces who is not on full-time service other than active service as a consequence of war; or
 - (f) a justice of the peace, judge of the juvenile court or a person having an appointment made by the Commissioner by reason of which such person is entitled to charge and retain a fee.

10. No person who is ineligible to be a candidate at an election is eligible to be elected or to be or sit as a member of the Council.

YUKON COUNCIL.

Resignation
of seat.

- 11.** (1) A member of the Council may resign his seat as such member
- (a) by declaring openly in his place in Council his intention so to resign, in which case the Clerk of the Council shall record such intention in the journals of the Council and the seat of such member shall forthwith become vacant, or
 - (b) by causing to be delivered to the Commissioner a written statement under his hand attested by two witnesses, declaring his intention so to resign, and upon receipt thereof by the Commissioner the seat of such member shall become vacant.

(2) No person shall be deemed to be a member of the Council so as to be entitled to resign pursuant to this Ordinance until he has been declared elected as such member. Right to resign.

(3) The resignation of a member shall not affect the conduct or result of any proceedings that are then pending or that may thereafter be taken under any law in force in the Territory respecting controverted elections. Proceedings unaffected by resignations.

12. Where a vacancy in the Council is created in any manner other than by resignation as provided in paragraph (b) of subsection (1) of section 11, the Speaker of the Council shall notify the Commissioner of such vacancy, but where there is no Speaker or the Speaker is absent from the Territory or incapacitated, or is himself the member whose seat is vacated, any two members of the Council may notify the Commissioner of such vacancy. Notification to Commissioner of vacancy.

13. (1) Where the Commissioner is notified of a vacancy in the Council in accordance with this Ordinance, he shall forthwith issue a warrant to the Chief Electoral Officer of Canada for the issue of a writ for the election of a member to fill such vacancy. Issue of warrant.

(2) No warrant shall be issued under subsection (1) where the vacancy in the Council occurs within six months of the expiry of the time limited for the duration of the Council. Exception.

14. (1) The Chief Electoral Officer of Canada shall issue a writ for the election of a member to fill the vacancy within two months after receiving the warrant of the Commissioner. Issue of writ.

(2) Where the Council is dissolved after the issue of a writ under this section, such writ shall be deemed to have been superseded and withdrawn. Writ superseded and withdrawn.

SCHEDULE.

The following are the Electoral Districts in the Yukon Territory:

ELECTORAL DISTRICT OF DAWSON.

The Electoral District of Dawson comprises all that portion of the Yukon Territory lying west of the 138th meridian of west longitude and north of the 63rd parallel of north latitude.

ELECTORAL DISTRICT OF MAYO.

The Electoral District of Mayo comprises all that portion of the Yukon Territory lying east of the 138th meridian of west longitude and north of the 63rd parallel of north latitude.

ELECTORAL DISTRICT OF CARMACKS—KLUANE LAKE.

The Electoral District of Carmacks—Kluane Lake comprises all that portion of the Yukon Territory lying south of the 63rd parallel of north latitude and north of the 61st parallel of north latitude.

ELECTORAL DISTRICT OF WHITEHORSE EAST.

The Electoral District of Whitehorse East comprises all that portion of the Yukon Territory lying south of the 61st parallel of north latitude and east of a line described as commencing at the intersection of the east bank of Lake Laberge with the 61st parallel of north latitude; thence southerly along the east bank of Lake Laberge and the right bank of the Yukon River to the intersection of said right bank of the Yukon River with the production easterly of the south boundary of Lot 10, Group 804; thence westerly along said production of the south boundary of Lot 10 and its production westerly to the centre line of the Two-mile Road; thence southerly along the centre line of Two-mile Road to the centre line of Fourth Avenue of the City of Whitehorse and the production southerly of said centre line of Fourth Avenue to its intersection with the centre line of the main line of the White Pass and Yukon Railway; thence southerly along the said centre line of the White Pass and Yukon Railway to its intersection with the 135th meridian of west longitude; thence southerly along the 135th meridian of west longitude to its intersection with the south boundary of the Yukon Territory.

ELECTORAL DISTRICT OF WHITEHORSE WEST.

The Electoral District of Whitehorse West comprises all that portion of the Yukon Territory lying south of the 61st parallel of north latitude and west of a line described as commencing at the intersection of the east bank of Lake Laberge with the 61st parallel of north latitude; thence southerly along the east bank of Lake Laberge and the right bank of the Yukon River

to the intersection of said right bank of the Yukon River with the production easterly of the south boundary of Lot 10, Group 804, thence along said production of the south boundary of Lot 10 and its production westerly to the centre line of the Two-mile Road; thence southerly along the centre line of Two-mile Road to the centre line of Fourth Avenue of the City of Whitehorse and the production southerly of said centre line of Fourth Avenue to its intersection with the centre line of the main line of the White Pass and Yukon Railway; thence southerly along said centre line of the White Pass and Yukon Railway to its intersection with the 135th meridian of west longitude; thence southerly along the 135th meridian of west longitude to its intersection with the south boundary of the Yukon Territory.

CHAPTER 35.

AN ORDINANCE RESPECTING EMPLOYMENT AGENCIES.

SHORT TITLE.

Short Title. 1. This Ordinance may be cited as the *Employment Agencies Ordinance*.

INTERPRETATION.

Definition of "employment agency". 2. In this Ordinance, "employment agency" means the business of procuring any person for employment in any profession, business, trade, calling, labour, work, service or other means of livelihood or of procuring employment therein for any person.

EMPLOYMENT AGENCIES.

Fees prohibited. 3. No person shall (a) carry on an employment agency for a fee or reward, (b) collect or receive, directly or indirectly, a fee or compensation for sending, persuading, enticing, inducing or causing to be sent from or to any place outside the Territory, or between any two places within the Territory, a person seeking employment, or (c) collect or receive, directly or indirectly, a fee or compensation for giving or furnishing information with respect to employers seeking workers or workers seeking employment.

PENALTY.

Offence and penalty. 4. Every person who violates a provision of this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding seventy-five dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

CHAPTER 36.

AN ORDINANCE RESPECTING THE PRACTICE
OF PROFESSIONAL ENGINEERING.

SHORT TITLE.

1. This Ordinance may be cited as the *Engineering Profession Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance, Definitions.
- (a) "Association" means The Association of Professional Engineers of the Yukon Territory; "Association."
- (b) "Council" means the Council of the Association; "Council."
- (c) "practice of professional engineering" means the carrying on of any branch of chemical, civil, electrical, forestry, mechanical, mining, geological, metallurgical, structural or any other form of engineering, any professional service or creative work requiring engineering education, training and experience, or the application of special knowledge of any of the mathematical or physical sciences to such professional services or creative work as consultation, investigation, evaluation, planning, designing and engineering supervision of construction or operations in connection with any public or private utilities, structures, machines, equipment, processes, works or projects; "Practice of professional engineering."
- (d) "President" means President of the Association; "President."
- (e) "professional engineer" means a person who is registered or duly licensed as such under this Ordinance; "Professional engineer."
- (f) "register" means the register kept by the Registrar under this Ordinance; "Register."
- (g) "registration" means the entry in the register of the name of the person admitted to membership in the Association, and "registered" has a corresponding meaning; and "Registration."
- (h) "Registrar" means the Registrar of the Association. "Registrar."

APPLICATION.

3. (1) Nothing in this Ordinance shall be so construed as to prevent a person registered as an architect under any Act of the provinces relating to the practice of architecture from practising the profession of architecture or to require him to be registered under this Ordinance where the practice of such person is confined to architecture; and nothing in this Ordinance shall apply to a Dominion land surveyor practising his profession, except that such surveyor shall not style himself nor hold himself out as a professional engineer unless he is registered or licensed under this Ordinance. Exemptions. Architects and land surveyors.

Armed forces and visiting force.

(2) This Ordinance does not apply to any member of the armed forces of Canada or of a visiting force as defined in the *Visiting Forces (North Atlantic Treaty) Act*, while actually employed on duty with such forces.

Work for personal use.

(3) Nothing in this Ordinance shall be construed as preventing the carrying on by any person on his own property of any work for the sole use of himself and his domestic establishment, or the designing, constructing or installing by any individual for his own use of appliances, works or plants where such work does not involve the safety of the general public or of the property of others.

Assistants under direction of engineer.

(4) Nothing in this Ordinance shall be so construed as to prevent any person from assisting in the execution of any professional service or creative work of the kind described in the definition of "practice of professional engineering" in section 2 where a professional engineer directly supervises and assumes full responsibility for such service or work.

ORGANIZATION.

Incorporation of Association.

4. (1) The Association of Professional Engineers of the Yukon Territory is hereby constituted a body politic and corporate.

Head office.

(2) The head office of the Association shall be situated in the City of Whitehorse in Yukon Territory.

Powers of Association with respect to property.

5. The Association shall have power to acquire and hold real and personal property and to alienate, mortgage, lease or otherwise charge, deal with or dispose of the same or any part thereof as occasion may require.

Membership.

6. The membership of the Association shall consist of all members of the Association who are in good standing under the provisions of this Ordinance and all persons admitted to membership by the Council under this Ordinance and the by-laws of the Association as long as they remain on the register.

Council.

7. (1) The powers conferred on the Association shall be exercised by the Council.

Powers.

(2) Subject to this Ordinance and the by-laws of the Association, the Council shall govern, control and administer the affairs of the Association and shall exercise all rights and powers vested in it by this Ordinance or by the by-laws, and may pass resolutions necessary for those purposes.

Membership.

(3) The Council shall consist of a President, vice-president, the immediate past-president and one councillor, chosen from the members of the Association in the manner provided by the by-laws issued under the authority of this Ordinance.

Term of office.

(4) Members of the Council shall hold office until their successors are elected or appointed.

(5) All persons who are members of the Council on the 2nd day of April, 1955 shall continue in office until their successors are elected or appointed under this Ordinance.

(6) The President shall be elected annually by the members of the Association, and shall hold office until his successor is elected. President.

(7) The President if present shall act as presiding officer at the meetings of the Council and of the Association, voting only when votes are evenly divided unless he requests the meeting to appoint some other person to preside.

(8) The vice-president shall be elected annually by the members of the Association, and shall have all the powers and rights of the President during the absence of the President. Vice-president.

(9) In the case of the incapacity, resignation or death of a member of the Council, the other members of the Council shall appoint a member of the Association to fill the vacancy. Vacancies in the Council.

8. The Commissioner shall appoint a Registrar who shall keep a register containing the roll of members. Commissioner to appoint Registrar.

9. The Council may pass, alter and amend by-laws not inconsistent with this Ordinance providing for Powers of Council exercisable by by-law.

- (a) the election of the Council;
- (b) the government, discipline and honour of the members of the Association, including the prescribing of a code of ethics by which such members shall be bound;
- (c) the management and maintenance of the Association and its property, both real and personal, the investment of its funds, banking, the borrowing of money, the appointment of staff and their remuneration and generally for the carrying on of the general business of the Association;
- (d) the fixing of an annual fee not in excess of fifty dollars and other fees, including fees on admission;
- (e) the levying, payment, remission and collecting of annual and other fees;
- (f) the establishment and regulation of standards of admission to membership and the enrolment and qualifications of candidates for admission to membership;
- (g) the designation of the different grades of membership in the Association and limitation of the rights of members within the different grades;
- (h) the resignation and temporary withdrawal of members;
- (i) the calling and conduct of meetings of the Association and of the Council, the necessary quorums, voting, the appointment of committees and their powers, the method of balloting and other matters in connection therewith;
- (j) the assistance, pecuniary or otherwise, to individuals and organizations where, in the opinion of the Council, such assistance will be of benefit to the public, the Association or its members; and

(k) all other purposes reasonably necessary for the management, regulation and well-being of the Association.

By-laws to be filed with Commissioner.

10. (1) Subject to subsection (2), no by-law passed by the Council shall come into force

(a) until the expiration of thirty days from the date of passage of such by-law, and

(b) unless a true copy of such by-law duly certified by the seal of the Association has been filed with the Commissioner.

Ratification by letter ballot upon request.

(2) Where, within thirty days of the passage of a by-law of the Council, a written request by at least four members of the Association has been received by the Council to have a vote taken among the membership to ratify the by-law, the Council shall take a vote of the members of the Association by letter ballot in the manner provided by the by-laws of the Association, and a vote so taken shall have the same force as if the vote had been taken at a general meeting of the Association.

By-laws to be tabled.

(3) All by-laws passed by the Association shall be tabled by the Commissioner at the next session of the Council of the Yukon Territory who may, by resolution, disallow any by-law so tabled.

Meetings of Association.

11. (1) An annual meeting of the Association shall be held at such time and place as the Council shall appoint, at least once in every calendar year, and not more than fifteen months after the holding of the last preceding annual meeting.

Default in holding annual meeting.

(2) If default is made in holding any annual meeting, the Commissioner or a judge on the application of a member of the Association may call or direct the calling of an annual meeting of the Association.

Council may call general meeting.

(3) The Council, at any time of its own motion, may call a general meeting of the Association.

Notice of meeting.

(4) Council shall give notice of the time and place for holding a meeting of the Association by sending notice to each member of the Association through the post in a prepaid wrapper not less than twenty-one days before the date of the meeting, to his last recorded address.

MEMBERSHIP.

Admission to membership.

12. (1) The Council shall admit a person to membership in the Association who

(a) applies for membership in the Association in the form prescribed by the Council;

(b) has attained the age of 23 years;

(c) has produced evidence to the Council that he is of good character and repute;

(d) produces a certificate of good standing as a member of an association or corporation of professional engineers of any province of Canada or of the Engineering Institute

of Canada, signed by its proper officers and satisfies the Council that he is the person named in the certificate, save that if he produces a certificate of the Engineering Institute of Canada it must be that of the grade of Member and that he must have had at least two years' experience after graduation from a university;

- (e) pays a fee of five dollars for the publication of his name in the *Yukon Gazette*; and
- (f) pays all other fees prescribed by the Council pursuant to its powers under section 9.

(2) Notwithstanding subsection (1), the Council shall grant Temporary membership. a temporary membership in the Association to every person who

- (a) applies for temporary membership in the Association in the form prescribed by Council;
- (b) is a non-resident of the Territory;
- (c) desires to engage temporarily in the practice of professional engineering in the Territory;
- (d) produces evidence of good character and repute;
- (e) produces a certificate of good standing as a member or licensee of an association or corporation of professional engineering of any province of Canada or of the Engineering Institute of Canada, signed by its proper officers and satisfies the Council that he is the person named in the certificate, save that if he produces a certificate of the Engineering Institute of Canada it must be that of the grade of Member and that he must have had at least two years' experience after graduation from a university;
- (f) pays a fee of five dollars for publication of his name in the *Yukon Gazette*; and
- (g) pays all other fees prescribed by Council pursuant to its powers under section 9.

(3) A temporary membership granted by Council under subsection (2) shall only entitle such member to engage in the practice of professional engineering in respect of particular work or for a stated period of time or both as the Council may decide and to no other rights or privileges. Temporary membership rights and privileges.

(4) Every person who becomes a member of the Association shall be exempt from payment of the annual fee for his first year of membership. Exemption.

(5) Corporations or partnerships as such may not become members of the Association. Corporations and partnerships.

(6) Where professional engineers are employed by corporations or are members of partnerships, they individually shall assume the functions of and be held responsible as professional engineers.

13. The Council shall examine all degrees, diplomas, certificates and other credentials presented or given in evidence for the purpose of obtaining membership in the Association, and may require the holder of such credentials to attest by oath or by statutory declaration any matter involved in his application. Council to examine credentials.

REGISTRATION.

Registration of members.

14. (1) Except a person who becomes a member of the Association pursuant to subsection (2) of section 12, every person who has become a member of the Association is entitled to be entered in the register upon payment of a fee to the Registrar of two dollars.

Registrar to enter members in the register.

(2) The Registrar shall enter in the register the full name and address and the date of registration of every person who becomes entitled to registration, and he shall also cause a list of all members of the Association to be published in one issue of the *Yukon Gazette* during March in each year.

(3) As long as a member remains on the register, he shall be deemed to be a member of the Association with all the rights and privileges but subject to all the terms and provisions of this Ordinance.

Certificate of registration.

15. (1) The Registrar shall issue a certificate of registration to every member of the Association upon his becoming registered, which certificate shall remain the property of the Association.

(2) Every certificate shall be signed by the President and by the Registrar and bear the seal of the Association and shall constitute evidence of registration as at the date of issue, and upon receipt of the annual fee in each subsequent year the Registrar shall furnish the member with evidence of the renewal thereof.

Use of term "professional engineer".

(3) Upon receipt of such certificate of registration, a member shall be entitled to use the title of "professional engineer" or such abbreviation thereof as may be approved by the Council and may procure a seal or stamp, the impression of which shall contain the member's name and the words "Professional Engineer, Yukon Territory", and any other designation that may be provided for in the by-laws, with which he shall seal or stamp all official estimates, specifications, reports, documents and plans that he, in his capacity as a professional engineer, has prepared or had prepared under his direct supervision.

Seal.

Display of certificate of registration.

(4) A certificate issued under subsection (1) shall be at all times prominently displayed by the member in his office or other place of business.

Annual fee.

16. (1) Every member of the Association shall pay in advance to the secretary, or any person deputed by the Council to receive it, such annual fee as is fixed by the by-laws, which fee shall be deemed to be a debt due by him to the Association and in addition to any other remedy shall be recoverable with costs by the Association in any court of competent jurisdiction.

Omission to pay annual fee.

(2) If a member of the Association omits to pay the prescribed annual fee before the first day of March in any year, he shall be liable to have his name struck off the register, and

if he is still in default three months after notice in writing has been sent by registered mail to him at his last recorded address, demanding payment, the Registrar, on direction of the Council, shall remove his name from the register without further notice, whereupon he shall cease to be registered, and he shall not be registered again except at the discretion of the Council and upon payment of such arrears of fees as the Council directs, and a further sum sufficient to meet the expenses of having his name published in one issue of the *Yukon Gazette*.

17. (1) Except as otherwise provided in this Ordinance, no person shall engage in the practice of professional engineering within the Yukon Territory or use the title "professional engineer" or any abbreviation thereof, unless he is a member of the Association and holds a certificate of registration issued pursuant to this Ordinance. Practising without registration.

(2) Except as otherwise provided in this Ordinance, any person who, without being registered; Offences.

- (a) engages in the practice of professional engineering;
- (b) usurps the function of a professional engineer;
- (c) assumes, verbally or otherwise, the title of professional engineer, or advertises, uses or permits to be advertised or used in any manner whatsoever, in connection with his name or otherwise, any word, name, title or designation mentioned in the definition of professional engineering, or any combination or abbreviation thereof, or any other word, name, title, designation, descriptive term or statement implying, or calculated to lead any other person to believe, that he is a professional engineer, or is ready or entitled to engage in or is engaged in the practice of professional engineering;
- (d) acts in such manner as to lead any other person to believe that he is authorized to fill the office of or act as a professional engineer; or
- (e) advertises, uses or displays any sign, card, letterhead or other device representing to the public that he is a professional engineer, or a person entitled to engage in the practice of professional engineering, or holds himself out to the public to be a professional engineer;

is guilty of an offence and liable on summary conviction to a penalty not exceeding one hundred dollars for the first offence, and a penalty not exceeding five hundred dollars for every subsequent offence. Penalty.

18. Any person who advertises or uses in any manner in connection with a person who is not a member of the Association, the title of professional engineer or any word, name, title or designation mentioned in the definition of professional engineering, or any combination or abbreviation thereof, or any other word, name, title, designation, descriptive term or statement implying or calculated to lead any other person to believe that such person is a professional engineer or is ready or entitled to Offence and penalty for holding out non-members as engineers.

engage in or is engaged in the practice of professional engineering is guilty of an offence and liable on summary conviction to a penalty not exceeding one hundred dollars for the first offence, and a penalty not exceeding five hundred dollars for every subsequent offence.

Injunction.

19. In the event of any breach or threatened breach by any person of any provision of this Ordinance, the Association shall be entitled in an action brought for such purpose to an injunction to restrain such person from continuing or committing such breach; and pending the trial of any such action and adjudication thereon, the Court or a judge thereof, on being satisfied that there is reason to believe that such person has committed or is likely to commit a breach of this Ordinance, shall grant an interim injunction.

No unregistered person to recover fees.

20. (1) No person shall be entitled to recover any fee or remuneration in any court of law in the Territory for any work or service comprised in the definition of the practice of professional engineering contained in section 2 unless at the time such work or service was performed he was a member of the Association and held a certificate of registration issued pursuant to this Ordinance or was a temporary member in accordance with this Ordinance.

(2) No plans or specifications for any works or buildings or for any alteration thereto involving the safety of the public or costing over the sum of twenty thousand dollars shall be passed, approved or accepted by any municipality formed under the provisions of the *Municipal Ordinance* or by any official or employee thereof, unless the said plans or specifications have been duly signed and sealed by a professional engineer or by a person holding a temporary membership issued under this Ordinance.

Falsification of register.

21. Where the Registrar makes or causes to be made any wilful falsification of any matters relating to the register, he is guilty of an offence and liable on summary conviction to a penalty not exceeding five hundred dollars.

Fraudulent registration.

22. Where a person wilfully procures or attempts to procure himself 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, he, and every person knowingly aiding and assisting him therein, is guilty of an offence and liable on summary conviction to a penalty not exceeding five hundred dollars.

Proof of single act.

23. In any prosecution under this Ordinance it shall be sufficient proof of the offence alleged if it is proved that the accused has done or committed a single act of the kind complained of.

24. No prosecution shall be commenced for any offence under this Ordinance after two years from the date on which it is alleged that the offence was committed. Limitation of time for prosecution.

25. Notwithstanding anything contained in this Ordinance, no person who has been convicted in Canada of an indictable offence shall be entitled to be registered, and the Council may remove from the register the name of any member of the Association who has been convicted in Canada of an indictable offence; but the Council may, if it sees fit, permit a person who has been so convicted to become or remain a member of the Association, or may restore to the register the name of any person whose name has been removed under this section; and the registration of a person shall not be refused and the name of a person shall not be removed on account of a conviction for an offence which ought not, in the opinion of the Council, either from the nature of the offence or from the circumstances under which it was committed, to disqualify a person from practising under this Ordinance. Removal from register.

26. (1) The Council, after giving written notice to any person affected, may, and upon application of any three members of the Association shall, cause inquiry to be made into matters respecting any fraudulent or incorrect entry in the register, unprofessional conduct, negligence or misconduct of or relating to any member or a person licensed under this Ordinance, or any violation of the Ordinance or the by-laws by any such member or temporary member. Inquiry by Council.

(2) Any person to whom notice is given is entitled to be heard and to submit evidence at the inquiry. Hearing person affected.

(3) After the inquiry the Council may in its discretion order the removal or correction of any entry in the register or roll, and may reprimand, censure, suspend or expel from the Association any person found guilty. Council's power.

(4) Where a member of the Association is suspended from practice, the registration of such member shall be deemed to be cancelled during the term of his suspension and he shall not be deemed to be a member of the Association or entitled to any of the rights or privileges thereof so long as the suspension continues. Suspended member.

(5) Where, as a result of any inquiry under the Ordinance a member of the Association is suspended, or the name of any such person is removed from the register or roll, the Council may direct that the costs of and incidental to the inquiry, including fees payable to the solicitors, counsel and witnesses, or any part of such costs, shall be paid by such person, and any costs as aforesaid may be determined and recovered as in this section provided. Costs.

(6) Where, as a result of a further inquiry, the name of the person whose name has been removed from the register or roll is restored thereto, or if such person is acquitted of any charge made against him, the Council may direct that the costs of and

incidental to the inquiry, including the fees payable to solicitors, counsel or witnesses, or any part thereof, shall be borne and paid by the Association.

Legal
assistance.

27. The Council, for the purpose of carrying out its duties under this Ordinance, may employ at the expense of the Association such legal counsel or assistance as the Council may think necessary or proper; and a person whose status or conduct is the subject of inquiry shall also have the right to be represented by counsel.

Procedure
upon
inquiry.

28. (1) At least seven clear days before the first meeting of the Council to be held for taking evidence or otherwise ascertaining facts a written notice shall be personally served upon the person whose status or conduct is the subject of inquiry, or failing personal service, by leaving same at, or by mailing the same by registered mail to his last known address.

(2) The notice mentioned in subsection (1) shall embody a copy of the charges made against him or a statement of the subject matter of the inquiry, and shall also specify the time and place of the meeting.

(3) The testimony of witnesses shall be taken under oath, which the presiding member of the Council is authorized to administer, and there shall be full right to cross-examine all witnesses called, and to call evidence in defence and reply.

(4) In the event of non-attendance of the person whose status or conduct is the subject of inquiry, the Council, upon proof of the service upon him of the notice required by subsection (1), which proof may be made by statutory declaration, may proceed with the subject matter of the inquiry in his absence, and make its finding of the facts and its decision thereon without further notice to him.

Subpoena of
witness.

29. The Council, or any person interested in the proceedings on any such inquiry, may make application to a judge for the issue of a writ of subpoena for the attendance of any witness, and for the production of books, papers and documents at the inquiry similar in form and effect to writs of that nature issued pursuant to the Rules of Court, and the fees payable to the Crown therefor and the procedure with regard thereto shall be governed by those rules and the appendices thereto as nearly as the same are applicable.

Appeal.

30. (1) Any person who feels himself aggrieved by any order of the Council made under section 26 or whose application for membership in the Association has been refused under paragraph (c) of subsection (1) of section 12, may appeal from the said order or the said refusal of the application for membership, to a judge at any time within three months from the date of the order or the refusal as the case may be.

(2) The appellant shall appeal by filing with the Clerk of the Territorial Court a notice of appeal setting out the ground on which the appeal is based.

(3) With the notice of appeal the appellant shall also file a copy of the proceedings, the evidence taken, the order of the Council in the matter and the reasons therefor, if any, certified by the Registrar.

(4) The appellant shall cause to be served upon the Registrar of the Association a copy of the notice of appeal.

(5) The notice of appeal shall state a place and time not less than seven clear days after the service thereof on which the appeal shall be heard.

(6) Upon the hearing of the appeal the Court may sustain, reverse, alter or amend the order, or remit the matter to the Council for rehearing, or may make such other order as to costs or otherwise in the premises as to the Court seems right.

(7) Every appeal made in accordance with subsection (1) shall be heard and determined upon its merits and shall not be defeated by reason of any technical defect in the proceedings.

(8) The Registrar, upon the request of any person desiring to appeal, shall furnish him with a certified copy of all proceedings, reports, orders, reasons and the papers upon which the Council has acted in making the order complained of.

31. In any proceedings or prosecution under this Ordinance in which proof is required that any person is or is not a member of the Association, a certificate purporting to be signed by the Registrar and under the seal of the Association, that such person is or is not a member of the Association, as the case may be, shall be prima facie evidence of the fact so certified, without any proof of the signature or of the seal or of the person signing being in fact the Registrar. Evidence of registration.

32. No action shall lie against the Council or any member of the Association for any proceedings bona fide taken or enforced or attempted under a by-law of the Association or for anything done in good faith and pursuant to this Ordinance. Protection against actions.

CHAPTER 37.

AN ORDINANCE RESPECTING
WITNESSES AND EVIDENCE.

SHORT TITLE.

Short Title. 1. This Ordinance may be cited as the *Evidence Ordinance*.

INTERPRETATION.

2. In this Ordinance,
- "Action." (a) "action" includes any civil proceeding, inquiry, arbitration and a prosecution for an offence committed against an Ordinance of the Territory or against a by-law or regulation made under the authority of any such Ordinance, and any other prosecution or proceeding authorized or permitted to be tried, heard, had or taken by or before a court under the law of the Territory;
- "Bank." (b) "bank" means a bank to which the *Bank Act* applies, and includes a branch, agency and office of a bank;
- "Country." (c) "country" includes kingdom, empire, republic, commonwealth, state, province, territory, colony, possession or protectorate and, where parts of a country are under both a central and a local legislature, includes all parts under the central legislature and each part under a local legislature;
- "Country of the British Commonwealth." (d) "country of the British Commonwealth" means Australia, Ceylon, India, New Zealand, Pakistan and the Union of South Africa, and all colonies, dependencies or territories of any of such countries or of the United Kingdom or of Canada;
- "Court." (e) "court" includes an arbitrator, umpire, commissioner, judge of the Territorial Court, justice of the peace or other officer or person having by law or by consent of parties authority to hear, receive and examine evidence;
- "Document." (f) "document" includes book, map, plan, drawing or photograph;
- "Federal." (g) "federal" as applied to state documents, means of or pertaining to Canada;
- "Foreign State." (h) "foreign state" includes every country other than the United Kingdom, Canada and a country of the British Commonwealth;
- "Imperial." (i) "Imperial" as applied to state documents, means of or pertaining to the United Kingdom, and includes any kingdom that included England, whether known as the United Kingdom of Great Britain and Ireland or otherwise;

- (j) "Imperial Parliament" means the Parliament of the United Kingdom and includes the Parliament of any kingdom that included England, whether known as the United Kingdom of Great Britain and Ireland or otherwise; "Imperial Parliament."
- (k) "legislature" includes any legislative body or authority competent to make laws for a country; "Legislature."
- (l) "province" means a province or territory of Canada; "Province."
- (m) "Queen's Printer" includes government printer or other official printer; "Queen's Printer."
- (n) "state document" includes, "State document."
 - (i) any Act or ordinance enacted or made or purporting to have been enacted or made by legislature,
 - (ii) any order, regulation, notice, appointment, warrant, licence, certificate, letters patent, official record, rule of court or other instrument issued or made or purporting to have been issued or made under the authority of any Act or ordinance so enacted or made, and
 - (iii) any official gazette, journal, proclamation, treaty or other public document or act of state issued or made or purporting to have been issued or made;
- (o) "statement" includes any representation of fact, whether made in words or otherwise; and "Statement."
- (p) "statutory declaration" or "solemn declaration" means a solemn declaration in the form and manner provided in the *Canada Evidence Act*. "Statutory declaration";
"Solemn declaration."

COMPETENCY OF WITNESSES AND PRIVILEGES.

3. A person is not incompetent to give evidence by reason of crime or interest. Not incompetent from interest or crime.

4. Except as provided in this Ordinance, the parties to an action and the persons on whose behalf an action is brought, instituted, opposed or defended, and their spouses are competent and compellable to give evidence on behalf of themselves or of any of the parties. Evidence of parties.

5. Without limiting the generality of section 4 a husband or wife may, in an action, give evidence that he or she did or did not have sexual intercourse with the other party to the marriage at any time or within any period of time before or during the marriage. Husband and wife.

6. No witness in an action, whether a party thereto or not, is liable to be asked or is bound to answer any question tending to show that he or she has been guilty of adultery unless he or she has already given evidence in the same action in disproof of the alleged adultery. Evidence as to adultery.

Communication made during marriage.

7. A husband is not compellable to disclose a communication made to him by his wife during marriage, nor is a wife compellable to disclose a communication made to her by her husband during marriage.

Witness.

8. (1) In this section "witness" includes a person who, in the course of an action is examined *viva voce* on discovery or who is cross-examined upon an affidavit made by him or who answers any interrogatories or makes an affidavit as to documents.

Incriminating questions.

(2) A witness shall not be excused from answering a question or producing a document upon the ground that the answer to the question or the production of the document may tend to criminate him, or may tend to establish his liability to an action at the instance of the Crown or of any person.

Evidence not to be used.

(3) Where, with respect to a question, or the production of a document, a witness objects to answer or to produce upon any of the grounds mentioned in subsection (2) and, but for this section or any Act of the Parliament of Canada, he would have been excused from answering the question, or from producing the document then, although the witness is by reason of this section or by reason of any Act of the Parliament of Canada compelled to answer or produce, the answer so given or the document so produced shall not be used or receivable in evidence in any legal proceeding thereafter taking place against him.

ATTENDANCE OF WITNESS.

No person need attend as witness unless he receives proper witness fees, etc.

9. No person is obliged to attend or give evidence in an action unless he is tendered his proper witness fees and necessary travelling expenses.

EXPERT EVIDENCE.

Number of expert witnesses.

10. Where it is intended by any party to an action to examine as witnesses professional or other experts entitled according to law or practice to give opinion evidence, not more than three of such witnesses may be called by either side to give opinion evidence on any issue in the action without the leave of the court.

A written report may be admitted as evidence.

11. A written report or finding of facts prepared by an expert not being a party to the action nor an employee of a party except for the purpose of making such report or finding nor financially interested in the result of the controversy, and containing the conclusions resulting wholly or partly from written information furnished by the co-operation of several persons acting for a common purpose, is, in so far as the same may be relevant, admissible when testified to by the person or one of the persons making such report or finding, without calling as witnesses the persons furnishing the information and

without producing the books or other writings on which the report or finding is based, if, in the opinion of the court, no substantial injustice will be done the opposite party.

12. A person who has furnished information on which a report or finding referred to in section 11 is based, may be cross-examined by the adverse party, but the fact that his testimony is not obtainable does not render the report or finding inadmissible unless the court finds that substantial injustice would be done to the adverse party by its admission.

Person making a report may be cross-examined.

13. (1) Except as provided in subsection (2), a report or finding referred to in section 11 is not admissible unless the party offering it gives notice to the adverse party a reasonable time before trial of his intention to offer it together with a copy of the report or finding or so much thereof as may relate to the controversy and also affords him a reasonable opportunity to inspect and copy any records or other documents in the offering party's possession or control on which the report or finding was based and also the names of all persons furnishing facts upon which the report or finding was based.

Report not admissible unless notice given.

(2) The report or finding may be admitted if the court finds that no substantial injustice would result from the failure to give the notice referred to in subsection (1).

Court may admit.

CORROBORATIVE EVIDENCE.

14. The plaintiff in an action for breach of promise of marriage shall not obtain a verdict or judgment unless his or her testimony is corroborated by some other material evidence in support of the promise.

Breach of promise of marriage.

15. In an action by or against the heirs, next of kin, executors, administrators or assigns of a deceased person, an opposite or interested party shall not on his own evidence obtain a verdict, judgment or decision, in respect of any matter occurring before the death of the deceased person, unless such evidence is corroborated by some other material evidence.

Action by or against representatives of a deceased person.

16. In an action by or against a lunatic so found or an inmate of a lunatic asylum, or a person who from unsoundness of mind is incapable of giving evidence, an opposite or interested party shall not obtain a verdict, judgment or decision on his own evidence, unless such evidence is corroborated by some other material evidence.

Action by or against a lunatic, etc.

17. No action shall be decided upon the evidence of a child of tender years given under the authority of section 23 unless such evidence is corroborated by some other material evidence.

Evidence of a child of tender years.

OATHS AND AFFIRMATIONS.

18. (1) Every court has power to administer or cause to be administered an oath or affirmation to every witness who is called to give evidence before the court.

Court may administer.

Person before whom oath, etc., is directed to be made may administer.

(2) Where an oath, affirmation or declaration is directed to be made before a person, he has full power and authority to administer it and to certify to its having been made.

Manner of administering oath.

19. An oath may be administered to any person

- (a) while such person holds in his hand a copy of the Old or New Testament, without requiring him to kiss the same; or
- (b) in such manner and form and with such ceremonies as he declares to be binding on his conscience.

Form of oath, etc.

20. (1) Where a person is about to give evidence, the oath may be in the following form:

“I (you) swear that the evidence to be given by me (you) shall be the truth, the whole truth, and nothing but the truth. So help me (you) God.”

(2) Where a person is about to swear an affidavit or deposition, the oath may be in the following form:

“I (you) swear that the contents of this affidavit or deposition are true. So help me (you) God.”

Form of affirmation.

21. (1) Where a person called or desiring to give evidence objects on grounds of conscientious scruples to take an oath, or is objected to as incompetent to take an oath, the person may make the following affirmation:

“I solemnly affirm that the evidence to be given by me shall be the truth, the whole truth, and nothing but the truth.”

Effect of affirmation.

(2) Where a person makes an affirmation, his evidence shall be taken and have the same effect as if taken under oath.

Affirmations instead of affidavits.

(3) Where a person required or desiring to make an affidavit or deposition in an action or on an occasion where or touching a matter respecting which an oath is required or is lawful, whether on the taking of office or otherwise, refuses or is unwilling on grounds of conscientious scruples to be sworn, the court, or other officer or person qualified to take affidavits or depositions shall permit the person, instead of being sworn, to make his affirmation in the words, “I solemnly affirm” which affirmation is of the same force and effect as if the person had taken an oath in the usual form.

Validity of oath, no religious belief.

22. Where an oath has been administered and taken, the fact that the person to whom it was administered and by whom it was taken did not at the time of taking the oath believe in the binding effect of the oath does not, for any purpose, affect the validity of the oath.

Evidence of child of tender years.

23. In any action where a child of tender years is tendered as a witness, and the child does not, in the opinion of the court, understand the nature of an oath, the evidence of the child may

be received, though not given upon oath, if, in the opinion of the court, the child is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth.

EXAMINATION AND EVIDENCE OF WITNESSES.

24. A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible. Evidence of mutes.

25. A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the matter in question, without the writing being shown to him; but if it is intended to contradict him by the writing, his attention shall, before the contradictory proof is given, be called to those parts of the writing that are to be used for the purpose of so contradicting him; and the court may require the production of the writing for the court's inspection, and may thereupon make such use of it for the purposes of the trial or proceeding as the court may think fit. Proof of contradictory written statements.

26. Where a witness, upon cross-examination as to a former statement made by him relative to the matter in question, and inconsistent with his previous evidence, does not distinctly admit that he did make the statement, proof may be given that he did in fact make it; but before the proof is given the circumstances of the supposed statement sufficient to designate the particular occasion shall be mentioned to the witness, and he shall be asked whether or not he did make the statement. Proof of contradictory oral statements.

27. (1) A witness may be asked whether he has been convicted of any offence, and upon being so asked, if he either denies the fact or refuses to answer, the conviction may be proved. Proof of previous conviction of a witness.

(2) A certificate containing the substance and effect only, omitting the formal part, of the charge and of the conviction, purporting to be signed by the officer having the custody of the records of the court in which the offender was convicted, or by the deputy of the officer, is, upon proof of the identity of the witness as the offender, sufficient evidence of the conviction, without proof of the signature or of the official character of the person appearing to have signed the certificate. Certificate of conviction.

28. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but he may contradict him by other evidence, or if the witness in the opinion of the court proves adverse, the party may by leave of the court cross-examine him and may prove that the witness made at some other time a statement inconsistent with his present testimony; before such proof is given the circumstances of the statement sufficient to designate the particular occasion shall be mentioned to the witness and he shall be asked whether or not he did make the statement. Discrediting one's own witness.

JUDICIAL NOTICE AND PROOF OF STATE DOCUMENTS.

Judicial notice taken of Statutes and Ordinances.

- 29.** Judicial notice shall be taken of
- (a) Acts of the Imperial Parliament,
 - (b) Acts of the Parliament of Canada,
 - (c) Ordinances made by the Governor in Council of Canada,
 - (d) Ordinances of the legislature of, or other legislative body or authority competent to make laws for, any province, and
 - (e) Acts and Ordinances of the legislature of, or other legislative body or authority competent to make laws for, any country of the British Commonwealth.

Proof of Imperial state document.

- 30.** (1) The existence and the whole or any part of the contents of any Imperial state document may be proved

English mode.

- (a) in the same manner as the same may from time to time be provable in any court in England;

Canada Gazette.

- (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 or an extract from the same or a notice thereof;

Copy by Queen's Printer.

- (c) by the production of a copy thereof or an extract therefrom purporting to be printed by or for or by authority of the Queen's Printer for Canada or for any province;

Copy by Minister.

- (d) by the production of a copy thereof or an extract therefrom purporting to be certified as a true copy or extract by the minister or head or by the deputy minister or deputy head of any department of the Imperial Government; or

Copy by custodian.

- (e) by the production of a copy thereof or an extract therefrom purporting to be certified as a true copy or extract by the custodian of the original document or the public records from which the copy or extract purports to be made.

Proof of federal or provincial state document.

- (2) The existence and the whole or any part of the contents of any federal or provincial state document may be proved

Canada Gazette.

- (a) by the production of a copy of the *Canada Gazette* or of the official gazette of any province or of a volume of the Acts of the Parliament of Canada or of the legislature of any province purporting to contain a copy of the state document or an extract therefrom or a notice thereof;

Copy by Queen's Printer.

- (b) by the production of a copy thereof or an extract therefrom purporting to be printed by or for or by authority of the Queen's Printer for Canada or for any province; or

Copy by Minister or custodian.

- (c) by the production of a copy thereof or an extract therefrom, whether printed or not, purporting to be certified as a true copy or extract by the minister or head, or the deputy minister or deputy head, of any department of

government of Canada or of any province, or by the custodian of the original document or the public records from which the copy or extract purports to be made, or purporting to be an exemplification of the state document under the Great Seal or other state seal of the British possession or of the foreign state.

(3) The existence and the whole or any part of the contents of any state document of a country of the British Commonwealth or foreign state may be proved

Proof of state document of country of the British Commonwealth or foreign state.

(a) by the production of a copy thereof or an extract therefrom, purporting to be printed by or by the authority of the legislature, government, Queen's Printer, government printer or other official printer of the country of the British Commonwealth or of the foreign state; or

Copy by official printer.

(b) by the production of a copy thereof or an extract therefrom, whether printed or not, purporting to be certified as a true copy or extract by the minister or head, or the deputy minister or deputy head, of any department of the government of the country of the British Commonwealth or of the foreign state, or by the custodian of the original document or the public records from which the copy or extract purports to be made, or purporting to be an exemplification of the state document under the Great Seal or other state seal of the country of the British Commonwealth or of the foreign state.

Copy by custodian.

(4) It is not necessary to prove the signature or official position of the person by whom any copy or extract that is tendered in evidence under this section purports to be certified, or to prove that the original document or the public records from which the copy or extract purports to be made were deposited or kept in the custody of the person so certifying; and where a copy or extract that is tendered in evidence under this section purports to be printed by or for or under the authority of a legislature or government, or of a Queen's Printer, government printer or other official printer, it is not necessary to prove the authority, status or official position of the legislature or government or of the Queen's Printer, government printer, or other official printer.

Proof of signature of office unnecessary.

EVIDENCE OF OTHER PUBLIC AND CORPORATION DOCUMENTS.

31. 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 Ordinance exists that renders its contents provable by means of a copy, a copy thereof or extract therefrom is admissible in evidence, if it is proved that it is a copy or extract or if it purports to be certified to be a true copy or extract by the officer to whose custody the original

Copies of public books and documents.

has been entrusted, without any proof of the signature or of the official character of the person appearing to have signed the same and without further proof thereof.

Proof of
corporation
documents.

32. Where an original document, by-law, rule, regulation or proceeding, or any entry in any register or other book of any corporation created by charter or by or under any statute or ordinance of Canada or of any province is of so public a nature as to be admissible in evidence a copy of the document, by-law, rule, regulation or proceeding or of the entry purporting to be certified under the seal of the corporation, and the hand of the presiding officer, clerk or secretary thereof, is admissible in evidence without proof of the seal of the corporation or of the signature or of the official character of the person appearing to have signed the same, and without further proof thereof.

Proof of
order of
Governor
General.

33. An order in writing signed by the Secretary of State of Canada, and purporting to be written by command of the Governor General is admissible in evidence as the order of the Governor General, without any proof that the person signing the same is the Secretary of State of Canada or of the signature of such person, and without proof thereof.

Proof of
order of
Lieutenant-
Governor
of a
province, etc.

34. An order in writing signed by a provincial secretary or other corresponding officer of a province and purporting to be written by command of the Lieutenant-Governor or other person in whom the executive powers are vested is admissible in evidence as the order of the Lieutenant-Governor, or such other person without any proof of the official position of the person signing the same or of the signature of such person, and without further proof thereof.

Copies in
*Canada
Gazette*
prima facie.

35. All copies of official and other notices, advertisements and documents printed in the *Canada Gazette* or the official gazette of a province are prima facie evidence of the originals, and of the contents thereof.

Entries in
departmental
books.

36. A copy of an entry, or a statement of the absence thereof in any document belonging to or deposited or kept in any office or department of the Government of Canada or of a province or in the office of any commission, board or other branch of the public service of Canada or of a province is admissible as evidence of the entry, and of the matters, transactions and accounts therein recorded, or of the absence thereof respectively, if it is proved by the oath or affidavit of an officer of the office or department or of the commission, board or other branch of any such public service that

- (a) the document was at the time of the making of the entry, or during the time covered by the statement, one of the ordinary documents kept in such office or department, commission, board or other branch of any such public service;

- (b) the entry was made, or in the case of its absence would have been made, in the usual and ordinary course of business of such office or department, commission, board or branch; and
- (c) such copy is a true copy thereof or that such statement of absence is a true statement.

37. Where a document is in the official possession, custody or power of a member of the Executive Council of a province or of the Commissioner or of the head of a department of the public service of Canada or of a province, if the deputy head or other officer of the department or an officer in the public service of Canada or the province has the record, document, plan, book or paper in his personal possession, and is called as a witness, he is entitled, acting herein by the direction and on behalf of the member of the Executive Council, the Commissioner or head of the department, to object to produce the record, document, plan, book or paper on the ground that it is privileged; and the objection may be taken by him in the same manner, and shall have the same effect, as if the member of the Executive Council, the Commissioner or head of the department were personally present and made the objection.

Privilege in case of official documents.

38. (1) In this section, "business" includes every kind of business, profession, occupation or calling, whether carried on for profit or not.

Definition of "business".

(2) A record in any business of an act, condition or event, is, in so far as relevant, admissible in evidence, if the custodian of the record or other qualified person testifies to its identity and the mode of its preparation, and to its having been made in the usual and ordinary course of business, at or near the time of the act, condition or event, and if, in the opinion of the court, the source of information, method and time of preparation were such as to justify its admission.

Proof of record of an act, event or condition of any business.

39. (1) In this section,

Definitions.

(a) "person" includes

"Person."

(i) the government of Canada or of any province and any department, commission, board or branch of any such government,

(ii) a corporation, and

(iii) the heirs, executors, administrators or other legal representatives of a person; and

(b) "photographic film" includes any photographic plate, microphotographic film and photostatic negative and "photograph" shall have a corresponding meaning.

"Photographic film."

(2) Where a bill of exchange, promissory note, cheque, receipt, instrument, agreement, document, plan or a record or book, or entry therein kept or held by any person,

Photographic print admissible as evidence.

- (a) is photographed in the course of an established practice of such person of photographing objects of the same or a similar class in order to keep a permanent record thereof; and
- (b) is destroyed by or in the presence of the person or of one or more of his employees or delivered to another person in the ordinary course of business or lost;

a print from the photographic film is admissible in evidence in all cases and for all purposes for which the object photographed would have been admissible.

Court may refuse to admit print.

(3) Where a bill of exchange, promissory note, cheque, receipt, instrument, agreement or other executed or signed document was so destroyed before the expiration of six years from

- (a) the date when in the ordinary course of business either the object or the matter to which it related ceased to be treated as current by the person having custody or control of the object; or
- (b) the date or receipt by the person having custody or control of the object of notice in writing of any claim in respect of the object or matter prior to the destruction of the object;

whichever is the later date, the court may refuse to admit in evidence under this section a print from a photographic film of the object.

Except in case of Government or the Bank of Canada.

(4) Where the photographic print is tendered by a government or the Bank of Canada, subsection (3) does not apply.

Proof of compliance with conditions.

(5) Proof of compliance with the conditions prescribed by this section may be given by any person having knowledge of the facts either orally or by affidavit sworn before a notary public or a commissioner for oaths and unless the court otherwise orders, a notarial copy of any such affidavit is admissible in evidence in lieu of the original affidavit.

EVIDENCE OF JUDICIAL PROCEEDINGS.

Definition of "justice".

40. (1) In this section, "justice" means justice of the peace and includes two or more justices if two or more justices act or have jurisdiction, and also a magistrate, a police magistrate, a judge of the Territorial Court and any person having the power or authority of two or more justices of the peace.

Proof of proceedings in a court of record.

(2) Evidence of any proceeding or record in, of or before any court of record in the United Kingdom, or the Supreme Court of Canada or the Exchequer Court of Canada, or any court of record or any justice or coroner in a province or in any country of the British Commonwealth or any court of record of any foreign state, may be made in any action by an exemplification or certified copy thereof, purporting to be under the seal of the court or under the hand and seal of the justice or coroner as the case may be, without any proof of the authenticity of the

seal or of the signature of the justice or coroner, or other proof; and if the court, justice or coroner has no seal, and so certifies, then the evidence may be made by a copy purporting to be certified under the signature of a judge or presiding justice of the court, or of the justice or coroner, without any proof of the authenticity of the signature or other proof.

NOTARIAL DOCUMENTS OF QUEBEC.

41. (1) A copy of a notarial act or instrument in writing made in the Province of Quebec, before a notary and filed, enrolled or enregistered by the notary, certified by a notary or prothonotary to be a true copy of the original thereby certified to be in his possession as such notary or prothonotary, is admissible in evidence in the place and stead of the original, and has the same force and effect as the original would have if produced and proved. Copies of notarial acts in Quebec.

(2) The proof by the certified copy may be rebutted or set aside by proof that there is no such original, or that the copy is not a true copy of the original in some material particular, or that the original is not an instrument of such nature as may, by the law of the Province of Quebec, be taken before a notary, or be filed, enrolled or enregistered by a notary. Proof by certified copy may be rebutted.

(3) No copy of a notarial act or instrument, as provided in this section shall be received in evidence upon any trial unless the party intending to produce the same has, before the trial, given to the party against whom it is intended to be produced reasonable notice of such intention and the reasonableness of the notice shall be determined by the court, but the notice shall not in any case be less than ten days. Notice.

PROTESTS OF BILLS AND NOTES.

42. 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, is prima facie evidence of the making of such protest, and of the statements therein contained. Production of protest by notary public of bill of exchange, etc.

43. Any note, memorandum or certificate made by a notary, or firm of notaries, in Canada, in the handwriting of the notary, or a member of the firm, signed by the 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, is prima facie evidence of the fact of notice of non-acceptance 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. Any note, etc., made by notary public prima facie evidence of non-acceptance, etc., of bill of exchange, etc.

BANK BOOKS.

44. (1) Subject to this section, a copy of an entry in any book or record kept in a bank is in all actions to which the bank is not a party, prima facie evidence of the entry, and of the matters, transactions and accounts therein recorded. Copy of bank book, etc., as evidence.

Proof.

(2) A copy of an entry in such book or record shall not be received in evidence under this section unless it is first proved that the book or record was, at the time of the making of the entry, one of the ordinary books or records of the bank, that the entry was made in the usual and ordinary course of business, that the book or record is in the custody or control of the bank or its successor, and that the copy is a true copy, and such proof may be given by the manager or accountant or a former manager or accountant of the bank or its successor, and may be given orally or by affidavit.

Bank and officers when bank not a party.

(3) A bank or officer of a bank is not, in any action to which the bank is not a party, compellable to produce any book or record the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the court made for special cause.

Order for inspection.

(4) On the application of any party to any action the court may order that the party be at liberty to inspect and take copies of any entries in the books or records of the bank for the purposes of the action; the person whose account is to be inspected shall be notified of the application at least two clear days before the hearing thereof, and, if it is shown to the satisfaction of the court that the person cannot be notified personally, the notice may be given by addressing the same to the bank.

Costs.

(5) The costs of an application to a court under or for the purpose of this section, and the costs of anything done or to be done under an order of a court made under or for the purposes of this section, are in the discretion of the court; and the court may order the costs or any part thereof to be paid to any party by the bank where they have been occasioned by any act or omission of the bank; any such order against a bank may be enforced as if the bank were a party to the action.

WILLS.

Method of proving wills.

45. (1) Letters probate of a will, or letters of administration with a will annexed, or a copy thereof certified under the seal of the court of the province in which the probate or letters of administration were granted, are admissible as evidence of the original will and of the death of the testator without any proof of the authenticity of the seal of the court or of the signature of the officer of the court purporting to certify the same, 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.

Notice of intention to produce probate, etc.

(2) Letters probate of a will or letters of administration with a will annexed, or a copy thereof certified as provided in subsection (1) shall not be received in evidence upon any trial, without the leave of the court, unless the party intending to

produce the same has, at least ten days before the trial, given to the party against whom it is intended to be produced notice of such intention.

(3) This section applies to letters probate of a will or letters of administration with a will annexed where the will is proved elsewhere than in the Territory, if the original will has been deposited and the letters probate or letters of administration with will annexed were granted in a court having jurisdiction over the proof of wills and administration of the estates of intestates or the custody of wills. Application.

REGISTERED INSTRUMENTS.

46. (1) In an action where it would be necessary to produce and prove an original document that has been deposited, filed, kept or registered in any Land Titles Office, or a court registry, or in any public office or court in the Territory, in order to establish the document and the contents thereof, the party intending to prove the original document may give notice to the opposite party, ten days at least before the trial or other proceeding in which the proof is intended to be adduced, that he intends at the trial or other proceeding to give in evidence, as proof of the original document a copy thereof certified by the registrar of the office where the same is so deposited, filed, kept or registered, under his hand and seal of office. Copies of registered instruments as evidence.

(2) A copy certified pursuant to this section is sufficient evidence of the original document and of its validity and contents, without proof of the signature or seal of office of the registrar, and without proof that the document was so deposited, filed, kept or registered, unless the party receiving the notice, within four days after its receipt, gives notice that he disputes the validity or contents of the original document. Copy is sufficient evidence of original unless validity of original disputed.

(3) The cost attending any production or proof of the original document is in the discretion of the court. Costs.

47. (1) Where a public officer produces upon a subpoena an original document it shall not be deposited in court, unless otherwise ordered, but if a copy thereof or a part thereof is needed for subsequent reference or use, the copy, certified under the hand of the officer producing the document or otherwise proved, shall be filed as an exhibit in the place of the original and the officer shall be entitled to receive in addition to his ordinary fees, the fees for any certified copy, to be paid to him before it is delivered or filed. Original document not to be filed in court without order.

(2) Where an order is made that the original be retained, the order shall be delivered to the public officer, and the exhibit shall be retained in court and filed. Where order made original document to be filed.

MERCANTILE DOCUMENTS AND TELEGRAMS.

48. (1) A party desiring to give in evidence a telegram, letter, shipping bill, bill of lading, delivery order, receipt, account or other written instrument used in business or other transactions, Proof of certain documents.

may give notice to the opposite party, ten days at least before the trial or other proceeding in which the proof is intended to be adduced, that he intends to give in evidence as proof of the contents a writing purporting to be a copy thereof and in the notice shall name some convenient time and place for the inspection thereof.

Inspection.

(2) The copy referred to in subsection (1) may, after the giving of the notice referred to in that subsection, be inspected by the opposite party, and shall without further proof be accepted and taken in lieu of the original as proof of the contents of the original unless the party receiving the notice within four days after the time mentioned for such inspection gives notice that he intends to dispute the correctness or genuineness of the copy at the trial or proceeding, and to require proof of the original and the cost attending any production or proof of the original are in the discretion of the court.

Costs.

MISCELLANEOUS PROVISIONS AS TO DOCUMENTS AND EVIDENCE.

Production of newspaper as evidence of notice inserted therein.

49. The production of a printed copy of a newspaper in any action is prima facie evidence that any notice or advertisement contained therein was inserted, advertised and published in that newspaper by the person by whom, or in whose behalf, or in whose name, the notice or advertisement purports or appears to be inserted, advertised or published.

Where no attestation required.

50. It is not necessary to prove, by the attesting witness, an instrument to the validity of which attestation is not requisite.

Comparison of disputed writing with genuine.

51. Comparison of a disputed writing with any writing proved to the satisfaction of the court to be genuine shall be permitted to be made by a witness; and the writing and the evidence of witnesses respecting the same may be submitted to the court or jury as evidence of the genuineness or otherwise of the writing in dispute.

Where instruments offered in evidence may be impounded.

52. Where a document is received in evidence, the court admitting the same may direct that it be impounded and kept in such custody for such period and subject to such conditions as may seem proper or until the further order of the courts.

Construction of this Ordinance.

53. The provisions of this Ordinance shall be deemed to be in addition to and not in derogation of any power of proving documents given by any other law.

HEARSAY EVIDENCE CONTAINED IN DOCUMENTS.

Admissibility of documentary evidence as to facts on issue.

54. (1) Subject to subsection (2) in an action where direct oral evidence of a fact would be admissible, a statement made by a person in a document and tending to establish that fact is, on production of the original document, admissible as evidence of that fact if the following conditions are satisfied:

- (a) if the maker of the statement either
 - (i) had personal knowledge of the matters dealt with by the statement, or
 - (ii) where the document in question is or forms part of a record purporting to be a continuous record, made the statement (in so far as the matters dealt with thereby are not within his personal knowledge) in the performance of a duty to record information supplied to him by a person who had, or might reasonably be supposed to have, personal knowledge of those matters; and
- (b) if the maker of the statement is called as a witness in the action.

(2) The condition that the maker of the statement shall be called as a witness need not be satisfied if he is dead or unfit by reason of his bodily or mental condition to attend as a witness, or if it is not reasonably practicable to secure his attendance, or if all reasonable efforts to find him have been made without success.

(3) In an action, the court may at any stage of the action, if having regard to all the circumstances of the case it is satisfied that undue delay or expense would otherwise be caused, order that the statement mentioned in subsection (1) shall be admissible as evidence or may, without any such order having been made, admit such a statement in evidence

Court may admit documentary evidence without full compliance with subsection (1).

- (a) notwithstanding that the maker of the statement is available but is not called as a witness; and
- (b) notwithstanding that the original document is not produced, if in lieu thereof there is produced a copy of the original document or of the material part thereof certified to be a true copy in such manner as may be specified in the order or as the court may approve, as the case may be.

(4) Nothing in this section renders admissible as evidence a statement made by a person interested at a time when proceedings were pending or anticipated involving a dispute as to any fact that the statement might tend to establish.

Statement must be ante litem motam.

(5) for the purpose of this section, a statement in a document shall not be deemed to have been made by a person unless the document or the material part thereof was written, made or produced by him with his own hand, or was signed or initialled by him or otherwise recognized by him in writing as one for the accuracy of which he is responsible.

Statement must be authenticated by maker.

(6) For the purpose of deciding whether or not a statement is admissible as evidence by virtue of this section, the court may draw any reasonable inference from the form or contents of the document in which the statement is contained, or from any other circumstances, and may, in deciding whether or not a person is fit to attend as a witness, act on a certificate purporting to be the certificate of a qualified medical practitioner, and

Discretion of court respecting admissibility of statement.

where the action is with a jury, the court may in its discretion reject the statement notwithstanding that the requirements of this section are satisfied with respect thereto, if for any reason it appears to it to be inexpedient in the interests of justice that the statement should be admitted.

Construction.

- (7) Nothing in this section shall be construed to
- (a) prejudice the admissibility of any evidence that would apart from the provisions of this section be admissible; or
 - (b) enable documentary evidence to be given as to any declaration relating to a matter of pedigree, if that declaration would not have been admissible as evidence if this section had not been passed.

Weight to be attached to evidence.

55. (1) In estimating the weight, if any, to be attached to a statement rendered admissible as evidence by section 54, regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement, and in particular to the question whether or not the statement was made contemporaneously with the occurrence or existence of the facts stated, and to the question whether or not the maker of the statement had any incentive to conceal or misrepresent facts.

Documents not to corroborate evidence of maker.

(2) For the purpose of any rule of law or practice requiring evidence to be corroborated or regulating the manner in which uncorroborated evidence is to be treated, a statement rendered admissible as evidence by section 54 shall not be treated as corroboration of evidence given by the maker of the statement.

Proof of document where attestation required.

56. In any action, an instrument to the validity of which attestation is requisite may, instead of being proved by an attesting witness, be proved in the manner in which it might be proved if no attesting witness were alive; but nothing in this section applies to the proof of wills or other testamentary documents.

57. In any action there shall, in the case of a document proved or purporting to be not less than twenty years old, be made any presumption that immediately before the 2nd day of April, 1955, would have been made in the case of a document of like character proved or purporting to be not less than thirty years old.

AFFIDAVITS AND DECLARATIONS.

Affidavit, etc., to be taken within the Territory.

58. An oath, affidavit, affirmation or statutory declaration for use in the Territory may be administered, sworn, affirmed or made within the Territory before

- (a) a judge of the Territorial Court, justice of the peace, or police magistrate in the Territory within his jurisdiction;
- (b) the Clerk and Deputy Clerk of the Court;
- (c) a commissioner for taking oaths within the Territory;
- (d) a notary public appointed for the Territory;

- (e) a barrister or solicitor duly admitted and entitled to practise as such in the Territory;
 - (f) a postmaster of any post office appointed under the *Post Office Act*;
 - (g) the sheriff or deputy sheriff; or
 - (h) a member of the Royal Canadian Mounted Police Force;
- and every such officer shall designate his office below his signature to the jurat on an affidavit, affirmation or statutory declaration administered, sworn, affirmed or made before him.

59. (1) An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made within or outside the Territory before a person who holds a commission as an officer in the Canadian Forces and is on full-time service is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made within the Territory before a commissioner for taking affidavits within the Territory.

Oaths, etc., administered by commissioned officers.

(2) A document that purports to be signed by a person mentioned in subsection (1) in testimony of an oath, affidavit, affirmation or statutory declaration having been administered, sworn, affirmed or made before him and on which his rank and unit are shown below his signature is admissible in evidence without proof of his signature or of his rank or unit or that he is on full-time service.

Admissibility.

60. (1) An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made outside the Territory before

Oaths, etc., administered outside Territory.

- (a) a judge;
- (b) a magistrate;
- (c) an officer of a court of justice;
- (d) a commissioner for taking affidavits or other competent authority of the like nature;
- (e) a notary public;
- (f) the head of a city, town, village, township or other municipality;
- (g) an officer of any of Her Majesty's diplomatic or consular services, including an ambassador, envoy, minister, charge d'affaires, counsellor, secretary, attache, consul-general, consul, vice-consul, pro-consul, consular agent, acting consul-general, acting consul, acting vice-consul and acting consular agent;
- (h) an officer of the Canadian diplomatic, consular or representative services, including, in addition to the diplomatic and consular officers mentioned in paragraph (g), a high commissioner, permanent delegate, acting high commissioner, acting permanent delegate, counsellor and secretary; or
- (i) a Canadian Government Trade Commissioner or an Assistant Canadian Government Trade Commissioner;

exercising his functions or having jurisdiction or authority as such in the place in which it is administered, sworn, affirmed or made, is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made within the Territory before a commissioner for taking affidavits within the Territory.

Idem.

(2) An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made outside the Territory before a notary public appointed for the Territory or before a commissioner for taking affidavits within the Territory is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made within the Territory before a commissioner for taking affidavits within the Territory.

Admissibility.

(3) A document that purports to be signed by a person mentioned in subsection (1) or (2) in testimony of an oath, affidavit, affirmation or statutory declaration having been administered, sworn, affirmed or made before him, and on which his office is shown below his signature, and

- (a) in the case of a notary public, that purports to have impressed thereon or attached thereto his official seal;
- (b) in the case of a person mentioned in paragraph (f) of subsection (1) that purports to have impressed thereon or attached thereto the seal of the municipality; or
- (c) in the case of a person mentioned in paragraph (g), (h) or (i) of subsection (1), that purports to have impressed thereon or attached thereto his seal or the seal or stamp of his office or of the office to which he is attached;

is admissible in evidence without proof of his signature, or of his office or official character or of the seal or stamp and without proof that he was exercising his functions or had jurisdiction or authority in the place in which the oath, affidavit, affirmation or statutory declaration was administered, sworn, affirmed or made.

Formal defects not to vitiate.

61. No defect, by misdescription of parties or otherwise in the title or jurat of any affidavit, and no other irregularity in the form of any affidavit, affirmation or statutory declaration is an objection to its reception in evidence, if the court before or to whom it is tendered thinks proper to receive it; and the court may direct a memorandum to be made on the document that it has been so received.

Oath may be administered by person so authorized in place where administered.

62. Where under any law evidence under oath is authorized or required to be taken, or an oath is authorized or directed to be made, taken or administered, the oath may be administered and a certificate of its having been made, taken or administered may be given by anyone authorized by such law to take the evidence or by anyone authorized to take affidavits under this Ordinance having authority or jurisdiction within the place where the oath is administered.

- 63.** The production of a certificate in writing signed or pur-
porting to be signed,
- (a) by the Adjutant-General, Deputy Adjutant-General or officer in charge of records, Army Service, Department of National Defence, in the case of a member of Her Majesty's army forces,
 - (b) by the Naval Secretary Naval Service, Department of National Defence, in the case of a member of Her Majesty's naval forces,
 - (c) by the officer in charge of records, Air Service, Department of National Defence, in the case of a member of Her Majesty's air forces, or
 - (d) by an officer of Her Majesty's naval, army or air forces, authorized so to sign, in the case of a member of Her Majesty's forces,

Proof of death of person in Her Majesty's Forces.

stating that the person named in the certificate was a member of any of Her Majesty's forces, and that he has been officially reported as dead or presumed to be dead, if it appears on the face of the certificate that the person signing is qualified as prescribed in paragraphs (a), (b), (c) or (d), as the case may be, is sufficient proof of the death of such person and of all facts stated in the certificate for any purpose to which the legislative authority of the Commissioner in Council extends and also the office, authority and signature of the person giving or making the certificate, without any proof of his appointment, authority or signature.

POWERS UNDER FOREIGN COMMISSIONS.

64. (1) Where, upon application by motion for this purpose it is made to appear to a court that any court or tribunal of competent jurisdiction in any province or in the United Kingdom or in any British country, or in a foreign state has duly authorized, by commission, order or other process, the obtaining of testimony in or in relation to any action pending in or before the foreign court or tribunal, of any witness out of the jurisdiction thereof, and within the jurisdiction of the court so applied to, the court may order the examination of the witness accordingly, and in a manner and form directed by the commission, order or other process; and may, by the same order or a subsequent order, command the attendance of any person named therein for the purpose of being examined, or the production of any writings or other documents mentioned in the order; and give all such directions as to the time, place and manner of the examination and all other matters connected therewith as may appear reasonable and just; and the order may be enforced, and any disobedience thereof punished, in like manner as in case of an order made by the same court in an action pending in the court.

Examinations of witnesses under commissioners from courts abroad.

(2) Every person whose attendance is ordered pursuant to this section is entitled to the like conduct-money and payment for expenses and loss of time as upon attendance at a trial in the court.

Payment of expenses of witnesses.

Right of refusal to answer questions and to produce documents.

(3) Every person examined under a commission, order or other process under this section has the like right to refuse to answer questions that, in an action pending in the court by which the order for examination was made, the witness would be entitled to refuse to answer; and no person shall be compelled to produce at the examination any writing or document that he would not be compellable to produce at the trial of such an action.

Commissioner, etc., may administer oaths, etc.

(4) Where the commission, order or other process directs, or the instructions of the court accompanying the same direct, that the persons to be examined shall be sworn or shall affirm before the commissioner or other person, the commissioner or other person has authority to administer an oath or affirmation to the person to be examined.

COMMISSIONERS FOR OATHS.

Appointments.

65. The Commissioner may, by one or more commissions, empower as many persons as he thinks fit and necessary to take and receive oaths, affidavits or affirmations either within or without the Territory for use therein.

Style "Commissioner for Oaths".

66. A commissioner appointed under section 65 may be styled "A Commissioner for Oaths for Yukon Territory", but the want of style or designation, or error or omission therein, does not affect the instrument.

Powers.

67. Every commissioner for oaths may, during pleasure, take any affidavit or statutory declaration in anywise concerning any legal proceeding in the Territory or in which he is authorized by any law or ordinance, although the application or matter is not made or pending in any court.

NOTARY PUBLIC.

Appointment.

68. The Commissioner may, by one or more commissions, appoint notaries public for the Territory, but no person shall be so appointed unless he is a Canadian citizen and either resides in the Territory or is an officer, servant or employee of the Government of Canada.

Fee for commission.

69. (1) Subject to this section, a fee of ten dollars is payable to the Commissioner for every commission issued to a notary public.

Exemption.

(2) No fee is payable for a commission issued to an officer, servant or employee of the Government of Canada.

AUTHORITY OF NOTARY.

Powers of notary public.

70. Every notary public shall have, use and exercise the power of administering oaths attested by his signature and seal, the attesting of commercial instruments brought before

him for public protestation, and the giving of notarial certificates of his acts, and may demand, receive and have all the rights, profits and emoluments rightfully appertaining and belonging thereto.

71. A notary is *ex officio* a commissioner for taking oaths in the Territory, and where the notary administers oaths or takes affidavits, affirmations or declarations within the Territory, it is not necessary to their validity that he affix his seal thereto.

A notary public is *ex officio* a commissioner for oaths in the Territory.

CHAPTER 38.

AN ORDINANCE RESPECTING EXEMPTIONS.

SHORT TITLE.

Short Title. 1. This Ordinance may be cited as the *Exemptions Ordinance*.

INTERPRETATION.

Definitions. 2. In this Ordinance,

"Creditor." (a) "creditor" means a party or person who is entitled to receive payment or to enforce a judgment or order;

"Debtor." (b) "debtor" means a party or person to make payment under any judgment or order or against whom the same may be enforced; and

"Writ of Execution." (c) "writ of execution" includes a writ of *feri facias* and every subsequent writ for giving effect thereto issued according to the provisions of the *Judicature Ordinance*.

EXEMPTIONS.

Chattels exempt from seizure. 3. The following real and personal property is exempt from seizure under any writ of execution:

(a) the household furniture, utensils and equipment that are contained in and form part of the permanent home of a debtor, (but not including furniture, utensils or equipment purchased for defeating the claims of creditors), except that under a writ of execution issued upon a judgment given upon a claim for clothing, food, fuel or shelter supplied for the debtor or his family the exemption under this paragraph is limited to household furniture, utensils and equipment not exceeding in value two hundred dollars;

(b) the necessary and ordinary wearing apparel of the debtor and his family;

(c) the food, fuel and other necessaries of life required by the debtor and his family for the next ensuing twelve months;

(d) live-stock, fowl, bees, books, tools and implements and other chattels necessary to and actually in use by the debtor in his business, profession or calling to the extent of six hundred dollars; and

(e) the house and buildings occupied by the debtor and the lot on which they are situated to the extent of three thousands dollars.

Debtor's rights where implements sold. 4. The debtor may, in lieu of the chattels referred to in paragraph (d) of section 3, elect to receive the proceeds of the sale thereof up to six hundred dollars, in which case the officer executing the writ of execution shall pay to the debtor the net

proceeds of the sale if they do not exceed six hundred dollars, or if they do exceed six hundred dollars, shall pay six hundred dollars to the debtor in satisfaction of his right to exemption under the said paragraph (d).

5. The sum to which the debtor is entitled under paragraph (d) of section 3 or under section 4 is exempt from attachment or seizure at the instance of a creditor. Money derived from sale of exempted goods.

6. Nothing in this Ordinance exempts any article (including fuel), except beds, bedding and bedsteads (including cradles) in ordinary use by the debtor and his family and except necessary and ordinary wearing apparel of the debtor and his family, from seizure to satisfy a debt contracted for such article. No exemption where debt is for chattel seized.

7. Chattels of a debtor exempt from seizure are exempt from the claims of his creditors after his death, and his widow is entitled to retain them for the benefit of herself and his family, or, if there is no widow, the family of the debtor is entitled to them. Deceased debtor.

8. The debtor, his widow or family, or in the case of infants, their guardian, may select out of any larger number the chattels exempt from seizure. Right of selection.

9. Section 3 does not apply Application.

- (a) to cases where a debtor has absconded or is about to abscond from the Territory leaving no wife or family behind; or
- (b) to writs of execution issued upon judgment or orders for the payment of alimony or judgments founded upon separation agreements.

CHAPTER 39.

AN ORDINANCE RESPECTING
FACTORS AND AGENTS.

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as the *Factors Ordinance*.

INTERPRETATION.

Definitions. **2.** (1) In this Ordinance,
 "Document of title."
 (a) "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 documents used in the ordinary course of business as proof of the possession or control of goods or authorizing or purporting to authorize either by endorsement or delivery the possessor of the document to transfer or receive goods thereby represented;
 "Goods."
 (b) "goods" includes ware and merchandise;
 "Mercantile agent."
 (c) "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; and
 "Pledge."
 (d) "pledge" includes a 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.
 (2) A person is 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.

DISPOSITIONS BY MERCANTILE AGENTS.

Powers of mercantile agents respecting disposition of goods. **3.** (1) 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 is, subject to this Ordinance, as valid as if he were expressly authorized by the owner of the goods to make the same, if 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 that would have

been valid if the consent had continued, is valid notwithstanding the determination of the consent, if 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 documents 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 by any other documents of title to the goods, his possession of the first-mentioned documents is for the purposes of this Ordinance 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.

4. A pledge of the documents of title to goods is deemed to be a pledge of the goods.

Effect of
pledge of
documents
of title.

5. Where a mercantile agent pledges goods as security for a debt or liability due from the pledger to the pledgee before the time of the pledge, the pledgee acquires no further right to the goods than could have been enforced by the pledger at the time of the pledge.

Pledge for
antecedent
debt.

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 acquires 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.

Rights
acquired by
exchange of
goods or
documents.

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 is deemed to be an agreement with the agent.

Agreements
through
clerks, etc.

8. (1) 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, in respect of advances made to or for the use of such person, has 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.

Provisions as
to consignors
and
consignees.

(2) Nothing in this section limits or affects the validity of a sale, pledge or disposition by a mercantile agent.

DISPOSITIONS BY BUYERS AND SELLERS OF GOODS.

Disposition
by seller
remaining in
possession.

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 has 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.

Disposition
by buyer
obtaining
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 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 has 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.

Effect of
transfer of
documents on
vendor's lien
or right of
stoppage
in transitu.

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 has the same effect for defeating any vendor's lien or right of stoppage *in transitu* as the transfer of a bill of lading has for defeating the right of stoppage *in transitu*.

SUPPLEMENTAL.

Mode of
transferring
documents.

12. For the purposes of this Ordinance the transfer of a document may be by endorsement 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.

Liability
of agent.

13. (1) Nothing in this Ordinance authorizes 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.

Saving for
rights of
true owner.

(2) Nothing in this Ordinance shall be construed to 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 to 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 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 be construed to 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.

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.

Saving for common law, powers of agent.

LIABILITY OF AGENT OF NON-RESIDENT PRINCIPAL.

15. (1) Any one acting as an agent, partner or in some other capacity in any trading, business or calling, in the Territory, for or on behalf of any person, partnership, association or company, not having his or its principal place of business in the Territory, or not having a regular place of business in the Territory, is personally liable upon any contract, transaction or obligation whatsoever which may be entered into, made, or incurred in the Territory for, or in the course of business, trade or calling of such person, partnership, association or company, unless he or it has previously disclosed the full name and residence of the partners composing the partnership, and if an association or a company, the principal place of business of that association or company, by a declaration registered at the office of the registration clerk of the registration district established under the *Bills of Sale Ordinance* where such contract, obligation or transaction was made or incurred, in addition to any law or Ordinance in force in the Territory concerning the registration of trading, partnership, association or company.

Person acting as agent to be liable unless full name, etc., of principal disclosed.

(2) Where a judgment is obtained against a person who has acted as an agent, partner or in some other capacity for or on behalf of a person, partnership, association or company described in subsection (1) and the judgment is based upon a contract, transaction or obligation entered into, made or incurred for, or on behalf of the person, partnership, association or company, execution may be issued and satisfied out of the assets of the person, partnership, association or company as well as out of the assets of the person who has acted as agent, partner or other capacity.

Execution may issue against principal as well as agent.

CHAPTER 40.

AN ORDINANCE RESPECTING COMPENSATION FOR FATAL ACCIDENTS.

Short Title. 1. This Ordinance may be cited as the Fatal Accidents Ordinance.

Definitions. 2. In this Ordinance, "Administrator." (a) "administrator" means an administrator appointed by a judge;

"Child." (b) "child" includes son, daughter, grandson, granddaughter, stepson, stepdaughter, adopted child and a person to whom the deceased stood in loco parentis; and

"Parent." (c) "parent" includes father, mother, grandfather, grandmother, stepfather, stepmother, a person who adopted a child and a person who stood in loco parentis to the deceased.

Liability for damages. 3. Where the death of a person has been caused by such wrongful act, neglect or default as, if death had not ensued, would have entitled the person injured to maintain an action and recover damages in respect thereof, the person who would have been liable if death had not ensued is liable to an action for damages notwithstanding the death of the person injured and although the death was caused under circumstances amounting in law to culpable homicide.

Who benefits by action. 4. (1) An action brought under this Ordinance shall be for the benefit of the wife, husband, parent or child of the person whose death was so caused, and subject to section 8, shall be brought by and in the name of the executor or administrator of the deceased, and in every such action such damages may be awarded as proportioned to the injury resulting from the death to the persons respectively for whom and for whose benefit the action is brought; and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided among the before mentioned persons in such shares as may be determined at the trial.

Additional damages. (2) In an action brought under this Ordinance damages may also be awarded in respect of

(a) any medical or hospital expenses of the person injured, which would have been recoverable as damages by the person injured if death had not ensued, and

(b) the funeral expenses of the deceased person where such expenses have been incurred by any of the parties for whom and for whose benefit the action is brought.

(3) In assessing the damages in the action there shall not be taken into account any sum paid or payable on the death of the deceased or any future premiums payable under any contract of assurance or insurance.

5. The defendant may pay into court one sum of money as compensation for his wrongful act, neglect or default, to all persons entitled to such compensation without specifying the shares into which it is to be divided. Payment into court.

6. Not more than one action lies 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. One action only for same cause.

7. (1) The plaintiff shall, in his statement of claim, set forth or deliver therewith full particulars of the persons for whom and on whose behalf the action is brought. Particulars of beneficiaries.

(2) There shall be filed with the statement of claim an affidavit by the plaintiff in which he shall state that to the best of his knowledge, information and belief the persons on whose behalf the action is brought, as set forth in the statement of claim or the particulars delivered, are the only persons entitled or who claim to be entitled to the benefit thereof. Affidavit.

(3) The judge before whom the action is brought may, if he is of opinion that there is sufficient reason for doing so, dispense with the filing of the affidavit. Exception.

8. (1) Where there is no executor or administrator of the deceased, or, there being an executor or administrator, no action is, within six months after the death of the deceased, brought by the executor or administrator, the action may be brought by all or any of the persons for whose benefit the action would have been if it had been brought by such executor or administrator. Action by persons beneficially interested.

(2) Every action brought pursuant to this section shall be for the benefit of the same persons, and shall be subject to the same regulations and procedure, as nearly as may be, as if it were brought by such executor or administrator.

9. Where the compensation has not been otherwise apportioned, a judge may apportion the same among the persons entitled, and may provide for the costs of the application. Apportionment.

10. Where actions are brought by or for the benefit of two or more persons claiming to be entitled, as wife, husband, parent or child of the deceased, the judge before whom the actions or either of them are pending may make such order as he may deem just for the determination not only of the question of the liability of the defendant but of all questions as to the persons entitled under the provisions of this Ordinance to the damages, if any, that may be recovered. Actions by rival claimants.

Application
to judge
respecting
settlement.

11. (1) Where an action is maintainable under the foregoing provisions of this Ordinance, and some or all of the persons for whose benefit the action is maintainable are infants, and where the executor or administrator of the person deceased has agreed, either before or after the commencement of an action, on a settlement of such claim or action, either the said executor or administrator or the person against whom the claim or action is made or brought, may, on ten days' notice to the opposite party, apply to a judge for an order confirming the said settlement.

(2) The judge may on the application confirm or disallow the settlement, but, if the settlement is confirmed by him, the party against whom the claim is made or action brought shall be discharged from all further claims.

(3) The judge may also on the application order the money or a portion thereof to be paid into court or otherwise apportioned and distributed as he may deem best in the interests of those entitled thereto.

CHAPTER 41.

AN ORDINANCE RESPECTING FERRIES.

SHORT TITLE.

- 1. This Ordinance may be cited as the *Ferries Ordinance*. Short Title.

INTERPRETATION.

- 2. In this Ordinance, Definitions.
 - (a) "ferry" means a scow, barge, boat or other floating conveyance used for the purpose of carrying passengers, freight, vehicles or animals across a river or other body of water for gain or reward; "Ferry."
 - (b) "licence" means a valid and subsisting licence issued under subsection (2) of section 3; and "Licence."
 - (c) "licensee" means a person who holds a licence to operate a ferry under this Ordinance or his servant or agent. "Licensee."

LICENCES.

3. (1) Every person who desires to operate one or more ferries in the Territory shall, on or before the 31st day of March in each year, apply to the Commissioner for a licence therefor and such person shall with his application pay a fee of seventy-five dollars. Application for licence. Fee.

(2) On receipt of the fee referred to in subsection (1), the Commissioner may issue a licence to the person applying therefor to operate one or more ferries and he may, in addition, grant the exclusive right to such person to operate the ferry or ferries within the limit specified in the licence upon such terms as the Commissioner considers desirable. Commissioner may issue licences.

(3) The Commissioner may, in his discretion, refuse to issue a licence, but in such case he shall return the fee referred to in subsection (1). Refusal to issue licence.

(4) A licence expires on the 31st day of March next following the day upon which it came into force. Expiry of licence.

- 4. A ferry licence shall specify What licence to specify.
 - (a) the kind and size of ferry to be used;
 - (b) the limits of the river, or other body of water within which the ferry is to be operated;
 - (c) the period of time covered by the licence;
 - (d) the conditions, if any, that, if not fulfilled, will subject the licence to cancellation; and
 - (e) the maximum tolls that may be collected by the licensee.

- Terms of licence. **5.** No licence to establish or operate a ferry is valid
 (a) if it purports to permit a ferry to be operated more than one-half mile upstream or more than one-half mile downstream from the point at which the ferry is operated, as specified in the licence; or
 (b) unless the ferry has sufficient capacity to carry safely a cargo of five tons.
- Powers of Commissioner. **6.** The Commissioner may
 (a) revoke or cancel the licence of any licensee who in the opinion of the Commissioner has contravened any provision of this Ordinance or any condition of the licence; and
 (b) set out conditions in a licence that, if not fulfilled, will subject the licence to cancellation.
- No person to operate ferry unless licensed. **7.** No person shall take, carry or convey across any river or other body of water any person or property in a ferry unless he holds a licence under this Ordinance.

INSPECTOR.

- Inspector. **8.** The Commissioner may appoint an inspector of ferries who shall be paid such salary or fee as the Commissioner may fix.
- Powers of inspection. **9.** The Commissioner may authorize an inspector appointed under section 8 to inspect and report upon the condition of any ferry or upon the complaint of any person who uses, or desires to use, such ferry.

TOLLS.

- Maximum tolls. **10.** (1) The Commissioner may fix maximum tolls which may be charged for each crossing of a licensed ferry.
 (2) Every licensee shall keep, at all times, posted up in a conspicuous place on his ferry a schedule certified by the Commissioner showing the authorized ferry rates for the different hours of crossing.
- Schedule of fees must be posted. **11.** Where 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 licence for such ferry may be charged.
- Double fares at night. **12.** Notwithstanding anything in this Ordinance,
 (a) no tolls shall be charged for children going to or returning from school; and
 (b) Her Majesty's mail shall not be obstructed or charged more than the rates that may be charged according to the terms of the licence between the hours of six o'clock in the morning and nine o'clock in the evening.
- Saving. **13.** (1) Every person who uses a licensed ferry shall pay the authorized toll chargeable for ferrying himself and his property, and if he refuses to do so the licensee may forthwith seize any property in the possession of the person so refusing and detain it.
- Lien on property of person who refuses to pay toll.

(2) The property seized pursuant to subsection (1) is liable for payment of Sale of property seized.

(a) the tolls due to the licensee;

(b) any fine that may be imposed on prosecution; and

(c) the costs of such prosecution;

and such property may be sold under a distress warrant to satisfy these charges.

OPERATION OF FERRIES.

14. A ferry licensed under this Ordinance shall operate at such hours of the day and night as may be required by the Commissioner except where loss of life or injury to or loss of property is likely to result therefrom. When ferries to be operated.

15. Where the water in a river or other body of water becomes too shallow to permit a licensee to operate his ferry he shall keep a small boat or canoe with which he shall transfer foot passengers and their baggage across the river or other body of water, and may charge the tolls prescribed in his licence for service by means of the ferry. Where water too shallow to operate ferry.

16. A licensee shall keep the immediate approaches to his ferry in the order and condition that is necessary to make the ferry accessible at all times for loaded vehicles and animals without danger or injury. Approaches to ferry to be kept in proper order.

17. A ferry on a river or other body of water that is fordable at any time shall not be used to block up or injure a ford or the landing therefrom, nor shall a licensee do any act which will make the fording of such river or other body of water more difficult or dangerous than it would otherwise be. Ferry not to interfere with ford.

OFFENCES AND PENALTIES.

18. No licensee shall use insulting language to, or ill-treat, any person who uses or desires to use the ferry or wilfully injure any property in transit across such ferry. Licensee not to ill-treat passengers.

19. (1) A person who holds a ferry licence is liable for all damages that may occur to persons or property while using such ferry resulting from any carelessness of the licensee or his agent or from any insufficiency in the strength or suitability of any of the appliances used in connection with the ferry. Liability of licensee.

(2) The Commissioner may give written instructions to a licensee to repair his ferry or provide a new one in order to safeguard persons using the ferry and the licensee shall comply with such instructions. Commissioner may instruct licensee to repair ferry.

20. No person shall hinder or interfere with a licensee in operating his ferry. No one to hinder licensee operating ferry.

Offence and
penalty.

21. Every person who violates any provision of this Ordinance is guilty of an offence and liable upon summary conviction to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

Conviction
no bar to
action.

22. No conviction for an offence under this Ordinance is a bar to a civil suit for damages by a person upon whose complaint the conviction was obtained.

CHAPTER 42.

AN ORDINANCE TO PROVIDE FOR THE FINANCIAL ADMINISTRATION OF THE GOVERNMENT OF THE YUKON TERRITORY.

SHORT TITLE.

1. This Ordinance may be cited as the *Financial Administration Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance, Definitions.
- (a) "appropriation" means any Ordinance of the Commissioner in Council authorizing the payment of money out of the Yukon Consolidated Revenue Fund; "Appropriation."
 - (b) "department" means any department of the Government of the Territory; "Department."
 - (c) "fiscal year" means the period from the 1st day of April in one year to the 31st day of March in the next following year; "Fiscal year."
 - (d) "money" includes negotiable instruments; "Money."
 - (e) "negotiable instrument" includes any cheque, draft, travellers cheque, bill of exchange, postal note, money order, postal remittance and any other similar instrument; "Negotiable instrument."
 - (f) "public money" means all money belonging to the Territory received or collected by a public officer in his official capacity or any person authorized to receive or collect such money, and includes "Public money."
 - (i) revenues of the Territory including interest on investments;
 - (ii) money borrowed by the Territory;
 - (iii) money received or collected by or on behalf of the Territory; and
 - (iv) money paid to the Territory for a special purpose;
 - (g) "public officer" includes the Commissioner and any person employed in the Public Service of the Territory; and "Public officer."
 - (h) "Yukon Consolidated Revenue Fund" means the Yukon Consolidated Revenue Fund established by the *Yukon Act*. "Yukon Consolidated Revenue Fund."

PART I.

ORGANIZATION.

3. There shall be a department of the Public Service of the Territory called the Department of the Territorial Treasurer over which the Territorial Treasurer appointed by the Commissioner shall preside. Department of the Territorial Treasurer.

Duties of
Territorial
Treasurer.

4. Subject to any Ordinance and any directions of the Commissioner, the Territorial Treasurer has the management and direction of the Department of the Territorial Treasurer, the management of the Yukon Consolidated Revenue Fund, and the supervision, control and direction of all matters relating to the financial affairs of the Territory not by law assigned to any other public officer.

Access to
records.

5. Notwithstanding any Ordinance, the Territorial Treasurer is entitled to free access at all convenient times to all files, documents and other records relating to the Territorial Accounts, and he is also entitled to require and receive from members of the Public Service such information, reports and explanations as he may deem necessary for the proper performance of his duties.

PART II.

PUBLIC MONEY.

Payment to
Treasurer.

6. (1) Subject to this Part, all public money shall be paid to the Territorial Treasurer and deposited to the credit of the Yukon Consolidated Revenue Fund.

Commissioner
to establish
accounts.

(2) The Commissioner shall establish in the name of Yukon Territory accounts with such chartered banks as he designates for the deposit of public money.

Regulation of
receipt and
collection of
money.

(3) Every person who collects or receives public money shall keep a record of receipts and deposits thereof in such form and manner as the Commissioner may prescribe by regulation.

Public money
shall be paid
to Treasurer.

(4) Every person employed in the collection or management or charged with the receipt of public money and every other person who collects or receives public money shall pay all public moneys coming into his hands to the Territorial Treasurer.

Commissioner
may acquire
securities.

7. (1) The Commissioner may purchase, acquire and hold securities and pay therefor out of the Yukon Consolidated Revenue Fund.

Commissioner
may sell
securities.

(2) The Commissioner may sell any securities purchased, acquired or held pursuant to subsection (1) and the proceeds of the sales shall be deposited to the credit of the Yukon Consolidated Revenue Fund.

Disposal of
profit or
loss from
securities.

(3) Any net profit resulting in any fiscal year from the purchase, holding or sale of securities pursuant to this section shall be credited to revenues of that fiscal year and any net loss resulting in any fiscal year from such purchase, holding or sale shall be charged to an appropriation for the purpose.

Calculation
of profit or
loss.

(4) For the purposes of subsection (3), the net profit or loss in any fiscal year shall be determined by taking into account realized profits and losses on securities sold, the amortization applicable to the fiscal year of premiums and discounts on securities, and interest applicable to the fiscal year.

8. Where a service is provided by the Territory and the Commissioner is of the opinion that the whole or part of the cost of the service should be borne by the person to whom it is provided, the Commissioner may, subject to the provisions of any Ordinances relating to that service, by regulation prescribe the fee that may be charged for the service.

Fee for services by Territory set by Commissioner.

9. (1) Where money has been paid to a public officer for any purpose in excess of the amount required for that purpose the excess amount so paid may be repaid to the person who paid it or his legal representative.

Disposal of money paid to public officer.

(2) Where money has been paid to a public officer for any purpose and the Commissioner is of the opinion that

Idem.

(a) the purpose for which the money has been paid has not been fulfilled, and

(b) no service has been rendered by or on behalf of the Territory,

the amount so paid may be repaid to the person who paid it or his legal representative.

(3) Where money has been paid to a public officer for any purpose and the Commissioner is of the opinion that the purpose for which the money has been paid has not been fulfilled but that a service has been rendered, the Commissioner shall determine the amount, if any, that is to be retained in respect of any service rendered and the balance, if any, shall be repaid to the person who paid it or his legal representative.

Idem.

(4) Where money paid into the Yukon Consolidated Revenue Fund is not public money the Commissioner may order that the amount so paid be repaid to the person who paid it or his legal representative.

Where money is not public money.

10. Money received for a special purpose and paid into the Yukon Consolidated Revenue Fund may be paid out of the Yukon Consolidated Revenue Fund for that purpose.

Money for special purpose.

11. (1) The Commissioner whenever he considers it in the public interest may remit any tax, fee or penalty.

Remission of tax, fee or penalty.

(2) A remission pursuant to this section may be total, partial, conditional or unconditional and may be granted

Idem.

(a) before, after or pending any suit or proceeding for the recovery of the tax, fee or penalty in respect of which it is granted;

(b) before or after any payment thereof has been made or enforced by process or execution; and

(c) in the case of a tax or fee, in any particular case or class of case and before the liability therefor arises.

(3) A remission pursuant to this section may be granted by (a) forbearing to institute a suit or proceeding for the recovery of the tax, fee or penalty in respect of which the remission is granted;

How remission granted.

- (b) delaying, staying or discontinuing any suit or proceeding already instituted;
- (c) forbearing to enforce, staying or abandoning any execution or process upon any judgment;
- (d) the entry of satisfaction upon any judgment; or
- (e) repaying any sum of money paid to or recovered by the Territory for the tax, fee or penalty.

Where remission subject to condition.

(4) Where a remission is granted under this section subject to a condition, and the condition is not performed, it may be enforced, or all proceedings may be had as if there had been no remission.

Effect of remission.

(5) A conditional remission, upon performance of the condition, and an unconditional remission, have effect as if the remission was made after the tax, fee or penalty in respect of which it was granted had been sued for and recovered.

Where no remission permitted.

(6) No tax paid on any goods shall be remitted by reason only that after the payment of the tax the goods were lost or destroyed.

Remissions payable out of Y.C.R.F.

(7) Remissions granted under this Ordinance may be paid out of the Yukon Consolidated Revenue Fund.

Effect of remission of penalty.

(8) Where a penalty imposed by any law relating to the revenue has been wholly and unconditionally remitted pursuant to this section, the remission has the effect of a pardon for the offence for which the penalty was incurred, and thereafter the offence has no legal effect prejudicial to the person to whom the remission was granted.

Tax defined.

(9) In this section, "tax" includes any tax, impost or toll payable under an Ordinance imposed or authorized to be imposed, and "penalty" includes any forfeiture or pecuniary penalty imposed or authorized to be imposed by any Ordinance for any contravention of the laws relating to the collection of the revenue, or to the management of any public work producing toll or revenue, notwithstanding that part of such forfeiture or penalty is payable to the informer or prosecutor or to any other person.

Deletion from accounts.

12. (1) The Commissioner may delete from the accounts, in whole or in part, any obligation or debt due to the Territory or any claim by the Territory

- (a) that does not exceed two hundred dollars and has been outstanding for five years or more; or
- (b) that does not exceed five hundred dollars and has been outstanding ten years or more.

Report in Public Accounts.

(2) The obligations, debts and claims deleted from the Territorial Accounts under this section during any year shall be reported in the Public Accounts for that year.

PART III.

PUBLIC DISBURSEMENTS.

13. No payments shall be made out of the Yukon Consolidated Revenue Fund without the authority of the Commissioner in Council. No disbursement without authority.

14. All estimates of expenditures submitted to the Council shall be for the services coming in course of payment during the fiscal year. Estimates shall be for services for fiscal year.

15. (1) Where public money is by any Ordinance appropriated for any purpose or contracted to be paid by the Commissioner, such public money shall be payable, by authority of the Commissioner directed to the Territorial Treasurer, out of the Yukon Consolidated Revenue Fund, but no payments in excess of the amount of expenditures so authorized shall be made. Authorized expenditures payable by authority of Commissioner directed to Territorial Treasurer.

(2) All persons entrusted with the expenditure of public money shall account for it in the manner and form and time as the Commissioner directs. Duty to account.

16. (1) Where an accident happens to any public work or building when the Council is not in session and an expenditure for the repair or renewal thereof is urgently required or where any other matter arises when the Council is not in session in respect of which an expenditure not foreseen or duly provided for by an appropriation ordinance is urgently required for the public good, the Commissioner may authorize payment of the amount required for such expenditure out of the Yukon Consolidated Revenue Fund. Accidents.

(2) The authorization of the Commissioner, pursuant to this section, shall be deemed to be an interim appropriation and shall be submitted as a supplementary appropriation bill to the next session of Council. Interim appropriation only.

17. At the commencement of each fiscal year and at such other times as the Commissioner may direct, the Territorial Treasurer shall prepare and submit to the Commissioner, for approval, a division of each appropriation or item into allotments and when approved, the allotments shall not be varied or amended and the expenditures charged to the appropriation shall be limited to the amounts of such allotments, but in essential instances the Commissioner may effect such transfers between allotments as will enable expenditures to be reasonably and expeditiously made in accordance with commitments not exceeding the appropriation as a whole. Allotments.

18. The Territorial Treasurer shall establish and maintain a record of all commitments chargeable to each appropriation. Record of commitments.

No charge except upon requisition.

19. (1) No charge shall be made against an appropriation except upon the requisition of the appropriate public officer or head of the department for which the appropriation was made, or by a person authorized by the Commissioner in writing.

Form of requisition.

(2) Every requisition for a payment out of the Yukon Consolidated Revenue Fund shall be in such form, accompanied by such documents and certified in such manner as the Commissioner may require.

Rejection of requisition.

(3) The Territorial Treasurer shall reject a requisition if he is of the opinion that the payment

- (a) would not be a lawful charge against the appropriation;
- (b) would result in an expenditure in excess of the appropriation; or
- (c) would reduce the balance available in the appropriation so that it would not be sufficient to meet the commitments charged against it.

Transmission of requisition for directions.

(4) The Territorial Treasurer shall transmit to the Commissioner any requisition with respect to which he desires the direction of the Commissioner, and the Commissioner may order that payment be made or refused.

Appeal to Commissioner.

(5) Where the Territorial Treasurer

- (a) declines to make payment;
- (b) disallows an item in an account; or
- (c) refuses to give a certificate required by this Ordinance;

the appropriate public officer or head of the department concerned may report the circumstances to the Commissioner for his decision, and the Commissioner may confirm or overrule the action of the Territorial Treasurer and give such directions as are necessary to carry out his decision.

Disallowance of costs or charges claimed.

(6) Where, in respect of any contract under which a cost audit is required to be made, the Territorial Treasurer reports that any costs or charges claimed by the contractor should not in his opinion be allowed, such costs or charges shall not be allowed to the contractor unless the Commissioner so directs.

Certificate required before payment made.

20. No payment shall be made for the performance of work or the supply of goods, whether under contract or not, in connection with any part of the Public Service, unless, in addition to any other voucher or certificate that is required, the appropriate public officer, head of a department or other person authorized by the Commissioner certifies that the work has been performed or the materials supplied, or both, as the case may be, and that the price charged is according to the contract, or if not specified by contract, is reasonable.

Payment by cheque.

21. (1) Every expenditure of public money shall be by cheque on a chartered bank and such cheque shall be

- (a) verified by signature of the Territorial Treasurer, or in his absence or illness, by an employee of the Department of the Territorial Treasurer appointed by the Commissioner; and

(b) signed by the Commissioner or an employee appointed by him other than the employee appointed to act in the absence or illness of the Territorial Treasurer.

22. Every cheque drawn against the Yukon Consolidated Revenue Fund, when paid, shall be delivered into the custody of the Commissioner for examination and adjustment with a statement of the cheques issued. Examination of cancelled cheques.

23. The balance of an appropriation granted for a fiscal year that remains unexpended at the end of the fiscal year shall lapse, except that during the thirty days immediately following the end of the fiscal year charges may be made to the appropriation for the purpose of discharging a debt payable Lapse of appropriation.

- (a) during or prior to the fiscal year; or
- (b) during the said thirty days for goods received or services rendered prior to the end of the fiscal year and such amounts may be charged in the accounts for the fiscal year.

24. (1) An advance for which an accounting has not been made at the termination for the fiscal year in which it was made shall be repaid or accounted for within thirty days thereafter or within such additional number of days after the termination of the fiscal year, not exceeding thirty, as the Commissioner may fix in any particular case or class of case. Accounting for advances.

(2) The Commissioner may recover any accountable advance or any portion thereof that is not repaid or accounted for as required in subsection (1) out of moneys payable by the Territory to the person to whom the advance was made. Recovery of accountable advance.

(3) Every accountable advance that is not repaid or accounted for as required by this section shall be reported in the Public Accounts. Report of advances not repaid or accounted for.

25. An amount received as a refund or repayment of an expenditure or advance and deposited in the Yukon Consolidated Revenue Fund shall be included in the unexpended balance of the appropriation against which it was charged. Disposal of refunds or repayments.

26. It is a term of every contract providing for the payment of any money by the Territory that payment thereunder is subject to there being an appropriation for the particular service for the fiscal year in which any commitment thereunder would come in course of payment. Implied term in contracts with Territory.

27. The Commissioner may make regulations Regulations.

- (a) with respect to conditions under which contracts may be entered into; and
- (b) with respect to the security to be given and in the name of the Commissioner to secure the due performance of contracts.

PART IV.

PUBLIC STORES.

- 28.** Every department of the Territory shall maintain adequate records of stores and the Commissioner may make rules and give directions governing the acquisition, receipt, custody, issue and control of stores.
- 29.** (1) The Commissioner shall at least once in every two years constitute a Board of Survey to enquire into the state of the stores under the management of a department.
- (2) Where a Board of Survey constituted under subsection (1) recommends the deletion from inventory of any obsolete or unserviceable stores or materials or any stores or materials lost or destroyed, the Commissioner may direct the deletion of all or any part of such stores or materials from the inventory.
- (3) A statement of all stores and materials deleted from inventories pursuant to subsection (2) shall be included annually in the Public Accounts.
- 30.** For the purposes of this Part the Commissioner may define the expressions "stores", "materials" and "issues".

PART V.

PUBLIC ACCOUNTS.

- 31.** (1) The Territorial Treasurer shall cause accounts to be kept in such a manner as to show
- (a) the expenditures made under and commitments chargeable against each appropriation;
- (b) the revenues of the Territory; and
- (c) the other payments into and out of the Yukon Consolidated Revenue Fund.
- (2) The Territorial Treasurer
- (a) shall cause accounts to be kept to show such of the assets and direct and contingent liabilities of the Territory; and
- (b) by authority of the Commissioner, may establish such reserves with respect to the assets and liabilities;
- as are required to give a true and fair view of the financial position of the Territory.
- 32.** Only public moneys applicable to the current fiscal year or prior fiscal years shall be included in the annual revenues of the current fiscal year.
- 33.** (1) An annual report called the Public Accounts shall be laid before the Council by the Commissioner on or before the 31st day of December, or if Council is not then in session, at the next ensuing session thereof.
- (2) The Public Accounts shall be in such form as the Commissioner may direct.

PART VI.

CIVIL LIABILITY AND OFFENCES.

34. (1) Whenever the Commissioner has reason to believe Accountability for money. that any person

- (a) has received money for the Territory and has not duly paid it over;
- (b) has received money for which he is accountable to the Territory and has not duly accounted for it; or
- (c) has in his hands any public money applicable to any performance and has not duly applied it;

the Commissioner may cause a notice to be served on such Notice. person, or his representative in case of his death requiring him within such time from the service of the notice as may be named therein, duly to pay over, account for, or apply such money, as the case may be, and to transmit to the Commissioner proper vouchers that he has done so.

(2) Where a person has failed to comply with a notice served Where person fails to comply with notice. on him under subsection (1) within the time stated therein, the Commissioner shall state an account between such person and the Territory showing the amount of the money not duly paid over, accounted for or applied, as the case may be, and, in the discretion of the Commissioner, charge interest on the whole or any part thereof at the rate of five per cent per annum from such date as the Commissioner may determine, and in any proceedings for the recovery of such money a copy of the account stated by the Commissioner, certified by him, shall be prima facie proof that the amount stated therein, together with interest, is due and payable to the Territory without proof of the signature of the Commissioner or his official character, and without proof thereof, and such amount and interest may be recovered as a debt due to the Territory.

35. Where it appears Affidavit.

- (a) by the books or accounts kept by or in the office of any person employed in the collection or management of the revenue,
 - (b) in any accounting by such person, or
 - (c) by his written acknowledgement or confession,
- that such person has, by virtue of his office or employment, received money belonging to the Territory and has refused or neglected to pay over such money to the proper persons at the proper times, an affidavit deposing to such facts taken by any other person having knowledge thereof, shall in any proceedings for the recovery of such money be received in evidence and shall be prima facie proof of the facts stated therein.

36. Where by reason of any malfeasance, wilful neglect of Accountability for money. duty or gross negligence by any person employed in the collecting or receiving any public money, any sum of money is lost

to the Territory, such person is accountable for such sum as if he had collected and received it and it may be recovered from him as if he had collected and received it.

Offences
and penalty.

37. Every officer or person acting in any office or employment connected with the collection, management or disbursement of public money who

- (a) receives any compensation or award for the performance of any official duty, except as by law prescribed;
- (b) conspires or colludes with any other person to defraud the Territory;
- (c) designedly permits any violation of the law by any other person;
- (d) wilfully makes or signs any false entry in any book or wilfully makes or signs any false certificate or return in any case in which it is his duty to make an entry, certificate or return;
- (e) having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the Territory, under any revenue ordinance of the Territory, fails to report, in writing, such knowledge or information to his superior officer; or
- (f) demands or accepts or attempts to collect, directly or indirectly, as payment or gift or otherwise, any sum of money, or other thing of value, for the compromise, adjustment or settlement of any charge or complaint for any violation or alleged violation of law;

Penalty.

is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars and to imprisonment for a term not exceeding five years.

Idem.

38. Every person who

- (a) promises, offers or gives any bribe to any officer or any person acting in any office or employment connected with the collection, management or disbursement of public money, with intent
 - (i) to influence his decision or action on any question or matter that is then pending, or may, by law, be brought before him in his official capacity; or
 - (ii) to influence such officer or person to commit, or aid or abet in committing any fraud on the revenue, or to connive at, collude in, or allow to permit any opportunity for the commission of any such fraud; or
- (b) accepts or receives any such bribe;

is guilty of an offence and liable on summary conviction to a fine not exceeding three times the amount so offered or accepted and to imprisonment for a term not exceeding five years.

39. All books, papers, accounts and documents kept or used by, or received or taken into the possession of any person who is or has been employed in the collection or management of the revenue or in accounting for the revenue by virtue of that employment, shall be deemed to be chattels belonging to the Territory; and all money or valuable securities received or taken into the possession of any such officer or person by virtue of his employment shall be deemed to be money and valuable securities belonging to the Territory.

Documents
of account,
etc., property
of Territory.

PART VII.

MISCELLANEOUS.

40. Where, in the opinion of the Commissioner, any person is indebted to the Territory in any specific sum of money, the Commissioner may authorize the Territorial Treasurer to retain by way of deduction or set-off out of any sum of money that may be due and payable by the Territory to such person.

Retention
of money
by deduction
or set-off.

41. The Commissioner may make regulations for carrying the purposes and provisions of this Ordinance into effect.

Regulations.

CHAPTER 43.

**AN ORDINANCE RESPECTING A FINANCIAL
AGREEMENT BETWEEN THE YUKON
TERRITORY AND THE GOVERNMENT
OF CANADA.**

- Short Title. **1.** This Ordinance may be cited as the *Financial Agreement Ordinance, 1957*.
- Definitions. **2.** In this Ordinance,
- “Agreement.” (a) “Agreement” means the Agreement entered into under section 3 and includes any amending Agreement entered into under section 5;
- “Fiscal year.” (b) “fiscal year” means the period beginning on and including the 1st day of April in one year and ending on the 31st day of March in the next year;
- “Municipality.” (c) “municipality” includes any board, commission or other authority created by the Territory which levies or has the right to levy taxes, licence fees, royalties or rates;
- “Population of Canada.” (d) “population of Canada” means
- (i) for a calendar year in which a census thereof was taken, the population as ascertained by the census, and
- (ii) for any other year, the population on the 1st day of June in that year as estimated by the Dominion Statistician, on the assumption that the population changed at a uniform rate annually between censuses;
- “Value of the gross national product.” (e) “value of the gross national product” means, for any year, the total value at market prices of all goods and services produced in the year by the labour, capital and enterprise of persons resident in Canada as determined by the Dominion Statistician minus the amount that the Dominion Statistician determines to be the component thereof representing indirect taxes after first deducting from such taxes the amount of any subsidies by governments towards current cost of production; and
- “Value of the gross national product per capita.” (f) “value of the gross national product *per capita*” means, for any year, the value of the gross national product divided by the population of Canada for that year.
- Commissioner may execute Agreement. **3.** The Commissioner may, on behalf of the Yukon Territory, enter into an Agreement with the Minister of Finance of Canada on behalf of the Government of Canada that provides
- (a) that the Government of Canada will pay to the Government of the Yukon Territory
- (i) for the fiscal year ending in 1958, and in each of the four immediately following fiscal years, a subsidy of

nine thousand seven hundred and fifty-two dollars being eighty cents per head in respect of a population of twelve thousand one hundred and ninety persons, being the population of the Yukon Territory for the year 1956 as ascertained by the census taken in that year;

- (ii) for the fiscal year ending in 1958, and for each of the four immediately following fiscal years, a grant of thirty thousand dollars in aid of the Government and Council of the Yukon Territory; and
- (iii) for the fiscal year ending in 1958, the sum of four hundred and nineteen thousand dollars and for each of the four immediately following fiscal years the greater of
 - (A) the quotient obtained by dividing
 - 1. four hundred and nineteen thousand dollars multiplied by the value of the gross national product *per capita* for the calendar year immediately preceding the calendar year in which the fiscal year for which the payment is made commenced,
 - by
 - 2. the value of the gross national product *per capita* for the calendar year 1956, or
 - (B) ninety-five per cent of the sum paid under this subparagraph in the immediately preceding fiscal year; and
- (b) that the Government of the Yukon Territory will suspend and refrain, and require municipalities in the Territory to suspend and refrain from the imposition, levying and collection of
 - (i) individual income taxes, corporation taxes and corporation income taxes in respect of the period of five years commencing on the 1st day of January, 1957, and ending on the 31st day of December, 1961, and
 - (ii) succession duties in respect of successions or transmissions consequent upon or upon property passing upon death occurring during the period of five years commencing on the 1st day of April, 1957, and ending on the 31st day of March, 1962.

4. The Agreement entered into under this Ordinance shall also provide Additional provisions of Agreement.

- (a) that payments on account of the amounts payable by the Government of Canada to the Government of the Yukon Territory referred to in subparagraph (iii) of paragraph (a) of section 3 under the Agreement in respect of a fiscal year shall be made quarterly on the 30th day of June, the 30th day of September, the 31st day of December and the 31st day of March, respectively, in

the fiscal year, and the payments on account of population subsidy and in aid of the Government of the Yukon Territory and its Council shall be made semi-annually on the 1st day of July and on the 1st day of January in the fiscal year, and

- (b) such other terms as may be agreed upon for the purpose of giving full effect to the provisions of this Ordinance, for improvement in the technical procedures required to give effect to the Agreement and generally to give effect to the meaning and intent of this Ordinance.

Terms or conditions may be amended.

5. The Commissioner on behalf of the Yukon Territory may enter into an Agreement, not inconsistent with the provisions of this Ordinance, amending the terms or conditions of the Agreement.

Suspension of Ordinances.

6. Upon execution of the Agreement, the Ordinances of the Territory, and any regulations, rules, by-laws or orders made thereunder, including those of any municipality, shall, for the relevant periods provided in the Agreement, but no longer, be deemed to be amended, suspended or inoperative, as the case may be, to the extent necessary to give effect to the Agreement and to permit the Government of the Yukon Territory to fulfil every obligation assumed by it under the Agreement.

No tax collections contravening Agreement.

7. Neither the Commissioner nor any municipality shall do any act or exercise any power or collect any tax in contravention of the provisions of the Agreement.

Taxes reduced for period of Agreement.

8. In any case in which by the Agreement any tax or fee is required to be reduced, such tax or fee is, for the relevant periods provided in the Agreement, but no longer, reduced in accordance with the Agreement, and the tax or fee in the reduced amount only shall continue to be payable, exigible and recoverable in the same manner as if it had not been reduced.

Powers of Commissioner.

9. The Commissioner has power to do every act and exercise every power for the purpose of implementing in every respect every obligation assumed by the Government of the Yukon Territory under the Agreement.

Operation of sections 6 to 9.

10. Sections 6 to 9 shall remain in operation only so long as necessary to give effect to the terms of the Agreement.

Retroactive effect.

11. This Ordinance is retroactive to the extent necessary to give effect to the Agreement.

CHAPTER 44.

AN ORDINANCE RESPECTING THE INVESTIGATION OF ACCIDENTS BY FIRE.

1. This Ordinance may be cited as the *Fire Investigation Ordinance* Short Title.
2. Subject to this Ordinance, a justice of the peace may institute an inquiry into the cause or origin of a fire to determine whether it was set by design or was the result of negligence or accident. Justice of the peace may inquire into cause of fire.
3. No justice of the peace shall institute an inquiry under this Ordinance until a sworn statement has been made before him by a person stating that he believes the fire No inquiry to be held except on information.
 - (a) resulted from culpable or negligent conduct or design, or
 - (b) occurred under circumstances that, in the interests of justice and the protection of property, require an investigation.
4. For the purposes of an inquiry under this Ordinance a justice of the peace may Powers of justice.
 - (a) summon before him any person whom he considers necessary for the purpose of the investigation,
 - (b) examine witnesses under oath, and
 - (c) take a written record of the proceedings.
5. A person who has been summoned as a witness to give evidence before a justice of the peace pursuant to this Ordinance, and who without valid excuse fails to appear or refuses to be examined under oath is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment. Penalty.
6. Upon completion of an inquiry under this Ordinance, the justice of the peace shall prepare a written report thereof and forward it to the Commissioner. Report to Commissioner.

CHAPTER 45.

AN ORDINANCE RESPECTING THE ERECTION AND INSPECTION OF BUILDINGS AND FIRE PREVENTION.

- Short Title. **1.** This Ordinance may be cited as the *Fire Prevention Ordinance*.
- Definitions. **2.** In this Ordinance,
- “Auditorium.” (a) “auditorium” means the main space allotted to or provided for the accommodation of an audience;
- “Public building.” (b) “public building” includes a church, theatre, hall or other building used as a place of worship, public meeting or amusement;
- “Taxation area.” (c) “taxation area” means an area so designated by proclamation of the Controller pursuant to *The Assessment Ordinance*, chapter 5 of the Consolidated Ordinances of the Yukon Territory, 1914; and
- “Yukon chimney.” (d) “Yukon chimney” means a double metal chimney constructed of rivetted galvanized iron with all sections rivetted together; such chimney being of two parts and having not less than three inches air space with vent holes at top and bottom to permit of a circulation of air around the smoke flue.
- Appointment of Building Inspectors and Fire Chiefs. **3.** The Commissioner may from time to time appoint Inspectors of Buildings and Fire Chiefs in taxation areas, and where one appointee only is named he shall perform the duties prescribed by this Ordinance to be performed by both officers.
- Requirement re filing plans before commencing work. **4.** Every person intending to erect, enlarge, remove, alter or repair any building within the limits of any taxation area shall deposit with the Building Inspector in and for such area before commencing the erection, enlargement, removal, alteration or repair, a plan or plans of such proposed erection, enlargement, removal, alteration or repair drawn to a scale of not less than eight feet to an inch and showing the levels of the cellars and basements thereof with reference to the actual grade or surface of the street on which the building fronts or that is nearest to the site of the building.
- Amended or new plans. **5.** In case any deviation is made during the erection, enlargement, alteration or repair of such building from the original plan thereof as filed under section 4 it shall be the duty of the person who filed the same to alter or procure the alteration of such original plan or to file a new and correct plan before commencing the work of any such deviation or alteration.

6. (1) No person shall erect upon or remove to any site within a taxation area, any building within a lesser distance than six feet from an existing building without the written permission of the Building Inspector; the issuing or withholding of such permission shall be in the discretion of the Building Inspector.

Permit must be obtained.

(2) No person shall commence the erection of or the enlargement, removal, alteration or repair of any old building when the cost of such enlargement, removal, alteration or repair exceeds one hundred dollars until he has submitted the plans provided for in sections 4, 5 and this section, and also the specifications for the proposed building, enlargement, alteration or repair, and has obtained the written permission of the Building Inspector to proceed with the proposed work.

7. The Building Inspector shall be responsible for the safe keeping of the plans and specifications in this Ordinance provided for and shall upon request give to the person filing the same a certificate of the date of deposit.

Certificate of date of deposit.

8. (1) The Building Inspector may order the removal or dismantling of any building that is located either wholly or partly upon any street, alley or lane in a taxation area.

(2) Neglect or failure to comply with such an order constitutes an offence under this Ordinance.

9. (1) It shall be the duty of every builder and of the owner where there are two or more buildings for the same structure to give the Building Inspector at least three days before commencing the excavation for or erection of any building or the enlargement, removal, alteration or repair of any building already erected, full particulars in writing of the situation, length, breadth and height and the intended use of the house or building about to be commenced or altered and the number of such buildings if more than one, and also the name of the owner, architect and builder to be engaged in the completion or alteration thereof.

Building Inspector to be given particulars in writing.

(2) Upon receiving such notice the Building Inspector shall as soon as possible visit the site of the intended building, enlargement, removal, alteration or repair and make all necessary enquiries and if such building, enlargement, removal, alteration or repair is not contrary to this Ordinance or to any valid subsisting by-law or regulation it shall be the duty of the Building Inspector, if in his opinion the temporary use of any portion of the sidewalk or street is necessary for the completion of the proposed work, to give to the builder on demand a permit in writing defining what portion of the sidewalk or street, if any, may be temporarily used by the builder during the completion of the proposed work; but such portion shall in no case exceed one-third of the whole breadth of the sidewalk and street immediately fronting on the space to be built upon or the building to be enlarged, removed, altered or repaired.

Temporary use of sidewalks.

Danger
lights.

10. (1) Any person having the use of any portion of the street or sidewalk for the purpose of erecting, enlarging, removing, altering or repairing any building or for any other purpose shall cause sufficient red lights to be placed in conspicuous positions around such obstruction from dark each night until sunrise the following morning during the time such obstruction remains.

Protective
fence.

(2) The Building Inspector may require the builder or person in charge of such work to erect a temporary fence around the premises or any part thereof where such work is being carried on.

Removal of
material.

11. Where any person deposits any building or other material or allows the same to remain upon any street or sidewalk in a taxation area, such person is liable for any damages that may be occasioned to persons, animals or property by reason of negligence in any manner connected with the said material.

British
Columbia
Regulations
adopted.

12. The terms used in this Ordinance indicating the types and classification of building construction are identical with those used in the Rules and Regulations and Tariff "A" of the British Columbia Insurance Underwriters Association and shall have the respective meanings attributed to them by that Association.

Classification
of buildings.

13. All buildings erected or to be erected within taxation areas shall be of Class A Construction, First Class Construction, Second Class Construction or Third Class Construction, except that where special circumstances exist the Building Inspector may in his discretion permit the continued existence or the erection of buildings of Fourth Class Construction.

Safeguards
re stoves.

14. No person shall hereafter place any stove or range in any house or building in a taxation area 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 leaves a clear open space between such stove or range; floors under all stoves shall be protected by a covering of incombustible material.

Chimney
connections.

15. (1) All ovens, furnaces or stoves shall be properly connected with a chimney of brick or stone or with a Yukon chimney 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 the thimble shall be the full width of floor, wall, partition or roof through which it passes.

Inspection.

(2) The Inspector of Buildings or Fire Chief may enter any building, including a dwelling house, or any part of any building in the taxation area for which he holds office at any time or times

between the hours of nine o'clock in the forenoon and seven o'clock in the afternoon or, with the consent of the owner, lessee or occupant of such building or part of a building, at any hour and make an inspection of all or any of the chimneys and stovepipes installed therein.

(3) Where the Inspector of Buildings or Fire Chief finds that any such chimneys or stovepipes are not installed or used in accord with this Ordinance, he shall by notice in writing served upon the owner, lessee or occupant of such building, or either of them, require such owner, lessee or occupant, or either of them, to install and use chimneys and stovepipes that meet the requirements of this Ordinance. Notice.

(4) Any such owner, lessee or occupant who is served with a notice under subsection (3), who does not forthwith comply with the requirements of this Ordinance in respect of chimneys and stovepipes, is guilty of an offence and every week of such neglect or failure to so comply after receipt of such notice shall be a further and separate offence. Penalty.

16. No stovepipe shall pass through any attic, garret or loft unless the same is protected by a regulation thimble, extending from the ceiling below such attic, garret or loft to the required distance above the roof. Thimble required.

17. Every brick chimney or flue built or constructed within a taxation area shall have walls of at least five inches in thickness, exclusive of plastering, and shall be well and sufficiently plastered, and every such chimney shall rise at least four feet above the ridge or deck of any roof; and every chimney or flue shall be so constructed as to admit of its being scraped, brushed or cleaned. Brick chimneys.

18. No chimney or flue shall be commenced in any attic, garret or loft unless there are fixed stairs leading to the same, easy of access at all times. Stairs required.

19. All brick chimneys shall be left exposed for inspection throughout their entire length, except that they may be covered with asbestos paper in living rooms and offices. Chimneys to be exposed for inspection.

20. (1) The standard weight of metal for stove pipes shall be as follows: inside or interior pipes, number 24 gauge galvanized steel; exposed or exterior pipes, number 24 gauge galvanized steel, all of which must be properly guyed and rivetted and so constructed as to admit of their being scraped, brushed or cleaned. Standard weight of metal for stovepipes.

(2) No person shall maintain, use or permit to be used within a taxation area 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 the Building Inspector or Fire Chief, and may be removed or destroyed upon his order.

Cleaning
chimneys.

21. All persons shall keep their chimneys and stove pipes in good repair and have the same properly cleaned twice at least during each of the months of October, November, December, January, February, March and April and once at least during each other month of each year.

When roof
damaged
by fire.

22. The roof of any frame building within the fire limits of a taxation area that is damaged by fire or other cause to the extent of less than twenty per cent of the cost of a new similar roof may be repaired; where the roof is damaged to a greater extent than twenty per cent of its value, the entire roof shall be taken off and a new roof put on of incombustible material; in no case shall the highest point of the new roof exceed the highest point of the old roof, but if a flat roof is substituted for a pitched roof the walls of the building may be extended to meet the requirements of such change in the pitch of the roof.

Doors, seats,
stairways
and aisles.

23. (1) The doors of all public buildings, already erected or hereafter built, shall open outwards.

(2) The hallways, stairways, seats and aisles shall be so arranged as to facilitate egress in case of fire or accident, to afford the necessary accommodation for the public protection in such case.

(3) All aisles and passageways in such buildings shall be kept free from camp stools, chairs, sofas and other obstructions during the service, exhibition, lecture, performance, concert, ball or other public assemblage.

(4) All seats in such buildings, excepting those in the boxes, shall if practicable be firmly secured to the floor, and no seat in any such building shall have more than six seats intervening between it and the aisle.

Frontage
provisions.

24. (1) Every public building hereafter erected and every public building hereafter altered to be used as a public building in addition to all other provisions applicable to such buildings, shall have at least one frontage for its entire height of at least one entire side of its auditorium and lobbies, passageways and stairways for exit on that side on a street, court or open passageway fifteen feet or more wide and at least two-thirds of the entire width of exits and entrances shall open on to such court or passageway.

Means of
egress.

(2) Every such building shall have the doors, corridors, halls, lobbies, stairways, passages and aisles, wide, direct and so constructed and arranged as to afford easy egress for the occupants under all circumstances and entrances and exits shall have all doors open outwards and of the full width of the passages from which they open, and shall have the passage of exits and stairways at least five feet wide and of an aggregate capacity in width of not less than twenty-four inches for each hundred persons that the said building may at any time contain; this

Safety
provisions
re stairways,
galleries,
lobbies, etc.

provision shall apply to the exits from each division, gallery or compartment of such building as well as to the exterior opening.

(3) Every building shall have the corridors, lobbies, stair-ways, passages and aisles of equal or increasing width towards the exits without any projection into them within six feet of the floors; shall have the corridors, doors, stairways, seats and aisles so arranged as to facilitate egress, and shall have all such apparatus used in heating, lighting and all lights protected to the satisfaction of the Building Inspector, and shall have all such fire service and apparatus for the extinguishing of fire as the said Inspector may deem necessary; all exits from public buildings shall be opened for the use of any departing audience.

25. The rise of stairs to public buildings shall not exceed seven and one-half inches, or the tread be less than twelve inches; no winders less than seven inches wide at the narrowest end, or flight of less than three steps shall be introduced, and there shall be a full landing to at least every fifteen steps.

26. No winders shall be allowed in theatres, churches, schools or any building where large numbers of people assemble.

27. The lights for the rear of the auditorium, and for all passage and stairways of exit of every public building shall be independent of the rest of the lights of the auditorium and platform, and shall be so arranged that they cannot be turned down or thrown off from the platform.

28. The stage of every theatre shall be separated from the auditorium by a wall of some incombustible material, which wall shall extend the entire width of the building, and from ground to roof there shall be no openings through this wall except the curtain openings, and not more than two others to be located at or below the level of the stage.

29. Every public building shall have not less than two-thirds of its seats on the ground floor.

30. The finish or decorative features around the curtain opening of every theatre shall be of incombustible material.

31. No public building shall be used as such unless and until it is provided with straight stairways between the auditorium and the floors above and unless and until such stairways and the system of exits and fire escapes have been inspected and approved in writing by the Fire Chief.

32. No person shall smoke any cigarette, cigar or pipe in any theatre, dance hall or place of assembly during the time any motion picture show, theatrical performance, dance, concert

or public assembly is being shown or held therein except in a smoking-room or room specially provided for such purpose and so designated.

Notice to be given re unsafe buildings.

33. (1) Whenever any building in a taxation area is by reason of age, fire, decay or accident or from any other cause, in danger of falling or being set on fire and endangering the surrounding property or the lives of the citizens, it shall be the duty of the Building Inspector to notify the owner or agent or other person having charge of or in possession of such building to put the same at once in a safe condition to guard against such fire or dangerous accident, or to entirely pull down and demolish the same.

Penalty on non-compliance.

(2) Where such owner, agent or other person in charge or in possession of such building for twenty-four hours after receipt of such notice neglects to comply with the same, he is subject to the penalties provided by this Ordinance, and every subsequent failure or neglect for twenty-four hours after any and every similar subsequent notice shall be deemed a new and subsequent offence, and shall render the owner, agent or other person having charge or in possession of such building so notified and making default, liable again to the penalties provided by this Ordinance.

Notice to be given re unsightly rubbish.

34. (1) Whenever any unoccupied lot, or unoccupied part of a lot, or part of a lot not covered by a building in a taxation area, by reason of the presence thereon of rubbish or debris of any description, is in the opinion of the Building Inspector unsightly or untidy, it shall be the duty of the Building Inspector to notify the owner or agent or other persons having charge of or in possession of such property, to remove or destroy such rubbish or debris.

Penalty on non-compliance.

(2) Where such owner, agent or other person having charge of or in possession of such property for five days after the receipt of such notice neglects to comply with the same, he is subject to the penalties provided by this Ordinance, and every subsequent failure or neglect for five days after any and every similar subsequent notice shall be deemed a new and subsequent offence and renders the owner, agent or other person having charge of or in possession of such property so notified and making default liable again to the penalties provided by this Ordinance.

Notice to be given in other cases.

35. In all other cases not otherwise specified in this Ordinance, where the Building Inspector detects any imperfection, improper construction or defect by which any building or any part thereof may become dangerous to the public safety, either by fire or otherwise, he shall immediately notify the owner, agent or other person having charge or possession of such building or such other part thereof to repair or remove such imperfection within five days after the service of such notice upon him, and in default of the said owner, agent or person having the charge or possession as aforesaid complying with the notice within the time therein limited, he is liable to the penalties provided by this Ordinance.

Penalty.

36. In all cases where the Building Inspector determines that any building or part of any building is dangerous to the public safety, either by fire or otherwise, it shall be lawful for such Inspector at all reasonable times to enter upon any such premises or part of a building and thereon at his discretion, and in the most convenient place or places to post up notices giving warning of the fact of the unsafe condition of the building or part of a building, and no person shall interfere with, destroy or remove the said notice unless authorized so to do by the Inspector under the penalties provided by this Ordinance.

Proviso for entry and posting of notice.

37. (1) When any person has been convicted of an offence under this Ordinance and such an offence is in the nature of an omission or neglect, or is in respect of any dangerous building as mentioned in sections 34 to 36, then in case the Building Inspector gives twenty-four hours notice to such person to make good such omission or neglect or to remove such dangerous building, or to remove the thing erected or constructed contrary to this Ordinance, and default is made in respect thereto, the person offending may be convicted for such default and is liable to the same 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.

Provision re continuing default.

(2) In 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.

38. The Building Inspector, besides prosecuting the owner, contractor, agent or other person in charge or possession for each and every offence under this Ordinance, before or after any one or more convictions may take down and remove at the expense of the owner every building or erection or any part thereof that may be put up or may be contrary to this Ordinance, or take down, remove or make secure any such building or erection that may have become unsafe or dangerous as aforesaid from any cause whatsoever; but, except in cases of emergency, the Building Inspector shall give twenty-hours' notice to the owner or agent, but if such owner or agent cannot be found or is a non-resident of the taxation area, and no person is in actual charge or possession, then notice may be given by posting up such notice on the building or section intended to be removed or taken down.

Power of Building Inspector to take down, remove or make buildings secure.

39. The expenses of the Building Inspector in taking down, removing or making secure any building under this Ordinance shall be immediately paid by the owner or agent or person in charge or possession of the property to the Territorial Treasurer and in default of such payment the said expenses may be

Expense thereof payable by owner, etc.

collected by action at law at the suit of the Territorial Treasurer against the owner of the property or other person who ought to pay the same.

Vacant buildings to be kept locked.

40. All buildings during the time they remain vacant and unoccupied shall have the doors thereof locked and all windows securely fastened and closed.

Doors and stairways in stores, etc., to be adequate.

41. No person shall hereafter, as owner, lessee, tenant or agent or otherwise, use or occupy or permit to be used or occupied any store, factory, workshop or other structure or any part thereof where any person or persons are employed as workmen or workwomen for wages in any trade or occupation unless every such store, factory, workshop or other structure is provided with sufficient doors and stairways for the escape of the employees in the event of fire or other accident happening and is further provided with such fire extinguishers, fire service and apparatus for the extinguishing of fire as the Building Inspector may deem necessary.

Inspection of lumber yards, etc.

42. It shall be lawful for the Commissioner or his duly authorized officer to have all lumber yards, wood yards and all other places, where wood, lumber or other inflammable material is to be stored, inspected by the Building Inspector or other duly authorized officer with a view to enforcing compliance with this Ordinance, and to require the owner or occupants to take such precautionary measures against fire as may be necessary and proper.

Restrictions re lumber and wood piles.

43. No lumber or wood in any wood yard or lumber yard shall be piled within a distance of ten feet from any wooden building in the vicinity of such wood yard or lumber yard.

Persons subject to penalty.

44. Any person who sets up, erects, works, constructs or builds, uses, continues to use or causes or procures to be erected, constructed, built or continued, any engine, boiler, furnace or heating apparatus contrary to the true intent and meaning of this Ordinance, is subject to the penalty hereinafter mentioned.

Steam boilers.

45. All steam boilers that may be required for heating or other purposes shall be enclosed by walls of brick, stone or other incombustible material, on all sides, and the ceiling shall be constructed of fire proof material; all doorways in said walls shall be constructed of fire proof material.

Boiler rooms.

46. The wood-work of all boiler houses and boiler rooms shall be kept at least six feet from the boiler and four feet from the breeching or smoke conductor, and one foot from the dome of the boiler, unless such wood-work is properly protected with incombustible material, and then there shall be at least two feet space from the boiler or smoke pipe and the protection; no timber

shall be laid within two feet of the inside of any oven, copper still, boiler or furnace, or within nine inches of the opening of any chimney, or within seven inches of the inside of any flue.

47. The floors of all rooms containing stationary boilers shall be made of incombustible material five feet on all sides and at least eight feet in front of any boiler. Floors of boiler rooms.

48. Steam pipes shall be kept at least two inches from all wood-work, otherwise they shall be protected by a soapstone or earthen ring or tube or rest on iron supports. Steam pipes.

49. (1) All hot air register tubes placed in the floors or partitions of buildings shall be set in incombustible material, borders not less than two inches in width, firmly set in plaster of paris or gauged mortar or such other protection as in the judgment of the Building Inspector is sufficient, shall be made of tin plate with flange on the top to fit the grooves in the plaster of paris or gauged mortar, and shall have an open space of one inch on all sides extending from the underside of the ceiling below the register to the plaster of paris or mortar in the floor or partition; the outside of such space shall be covered with a casing of tin plate, tight on all sides and extending from the underside of the aforesaid ceiling up to and under the said plaster of paris or gauged mortar. Hot air pipes.

(2) Register boxes of fifteen inches by twenty-five inches or more shall have a space of two inches. Registers.

50. (1) Hot air, hot water, steam or other furnaces, whether brick or metal shall be kept at least twelve inches and the smoke flue at least twenty-four inches from any unprotected wood-work. Furnaces.

(2) All furnaces shall be placed in foundations of incombustible material extending at least twenty-four inches in front of the ash pit.

(3) All hot air conductors that are placed within ten inches of any wood-work, shall be made double one within the other, with at least one-half inch space between the two, 1 C or 1 X, bright tin shall be used in the construction of all hot air flues and their appendages. Hot air conductors.

51. All smoke houses within any taxation area shall be constructed throughout with incombustible material, with ventilation at or near the top, and guards not less than four feet above the fire bed, sufficient to prevent the meats from falling into the fire; where any smoke house opens into any other building, such opening shall be protected by iron doors or shutters properly and thoroughly constructed. Construction of smoke houses.

Ladders and fire escapes.

52. All buildings of more than one storey in height shall be provided with one or more ladders or metallic fire escapes, extending from within ten feet of the ground to four feet above the eave and above the roof, and on the outer walls thereof in such position and location that they may be easily and readily reached at all times by the persons occupying such buildings or any part thereof and to the satisfaction of the Building Inspector.

Building Inspector may require installation of by notice.

53. It shall be lawful for the Building Inspector and he may at any time by notice in writing served upon the owner or lessee or occupant, require such owner or lessee or occupant or either of them to cause such ladder or metallic fire escape to be placed upon such building within thirty days after the service of such notice, and any such owner, lessee or occupant or either of them who is served with notice as aforesaid, who does not within thirty days after the service of such notice upon him or them, place or cause to be placed such ladders or metallic fire escape upon such buildings as required by section 52 and the terms of such notice, is subject to the penalties of this Ordinance and to like penalties for each week of such neglect to comply with such notice, after the expiration of the time therein limited.

Penalty.

Limitation on amount to be stored.

54. No person shall have or keep in any building within a taxation area at any one time more than twenty-five pounds of explosives or any other combustible substances and all explosives under the said quantity that are kept on hand by any person within a taxation area shall be deposited in a fire-proof box or safe, such fire-proof box or safe to be kept near front or rear entrance of building or place to be approved of by the Building Inspector.

Requirements re storage.

Limitations re oils and fluids.

55. No person shall keep any larger quantity than fifty gallons of rock oil, coal oil, water oil, case oil or any other such oils, nor any larger quantity than twenty-five gallons of crude oil, burning fluid, naphtha, gasoline, benzole, benzine or other similar combustible or dangerous materials at any one time in any house, shop or building, or in other place whatsoever within the limits of any taxation area without the permission of the Commissioner or his duly authorized agent, nor shall any person permit any of the above mentioned fluids to flow into any drain or sewer of any taxation area.

Permit.

Drainage.

Manner of storage.

56. No explosive or inflammable compound or combustible material shall be stored or placed under any stairway of any building or used in any such manner as to obstruct or render egress dangerous or hazardous in case of fire.

Storage buildings to be isolated.

57. All buildings in any taxation area used or to be used for the purpose of keeping or storing rock oil, coal oil, water oil or other such oils shall be isolated or detached at least one

hundred feet from any other building and when such buildings are used for the storing of burning fluids, crude oil, gasoline, naphtha, benzole, benzine or other similar dangerous material, all such buildings shall be constructed fire-proof, and so as to secure a thorough ventilation thereof at all times.

58. No larger quantity than fifty gallons of rock oil, coal oil, carbon oil or any other such oils, nor any larger quantity than twenty-five gallons of crude oil, gasoline, naphtha, benzole, benzine or other similar combustible or dangerous materials shall be kept at any time in any house, shop or building or in any other place whatsoever, unless the same is thoroughly covered with at least twelve inches of soil, or protected in such other way as may be approved by the Building Inspector or Fire Chief, within the limits of any taxation area, nor shall any of the before mentioned fluids be permitted to drain or empty into any sewer or drain within any taxation area.

Protection of storage buildings.

Drainage.

59. The sale of any fire-ball, fire cracker, squib, cannon cracker, basket-bomb, giant cracker, sky-rocket, Roman candle, mine, torpedo or other fireworks, is prohibited except to an adult on the written authority of the Fire Chief or an officer of the Royal Canadian Mounted Police; the adult so purchasing the said fireworks shall be responsible for the proper use thereof and for any damage arising therefrom.

Fire works, control of sale.

60. No person shall place or keep any ashes, removed from any stove or fire place, in any wooden box, or other wooden vessel, or within three feet of any wooden partition in his house or in any outhouse or shed.

No wooden containers.

61. Every person keeping or occupying a shop or other building wherein shavings, chips, paper or any kind of other combustible materials are made, accumulated or may be contained, is liable to the penalties of this Ordinance for any and every neglect to clear or remove such shavings, chips, paper of any kind or other combustible materials out of such building and the yards belonging thereto, at least three times each week, unless such building is situated more than two hundred feet from any other building; and no stove shall be used in any such shop or other building unless the same is set in a box surrounded with fire-proof material, with the pipe carefully set up according to this Ordinance, and no open light shall be used.

Removal of shavings, etc.

Proviso re storage.

62. No person shall place or permit to be placed within the limits of any taxation area any hay, straw or like combustible material uncovered in his courtyard or lot of ground, within two hundred yards of any building, and no person shall have or keep hay, straw, cotton, hemp, wood-shavings or rubbish in stacks or piles within any taxation area, without securely covering the same so as to protect them from flying sparks or other sources of danger from fire.

To be covered and protected from fire.

Prohibited
in stables,
etc.

63. No person shall smoke or have in his possession any lighted pipe or cigar, in any stable, carpenter or cabinet-maker's shop or other shop, building or place within any taxation area, where straw, hemp, cotton, flax, rushes, explosives, shavings, chips or other combustible material are stored or kept or may be, or carry, keep or suffer to be carried or kept any open light in any livery or other stable within any taxation area.

Prohibitions
re open fires.

64. (1) No person shall set on fire or burn in the open air within any taxation area stump-wood, logs, trees, brush, straw, shavings or refuse without a permit from the Fire Chief authorizing the same and prescribing where and under what precaution fire may be used, and in case of such permission not having first been had or obtained or for non-observance of the precaution therein prescribed then the party using fire is liable to all penalties of this Ordinance.

(2) This section does not apply to fires made by blacksmiths, plumbers, tinmiths and other mechanics for the purpose of their trade.

Manufacture
of explosives
and
inflammables
prohibited.

65. No person shall use or occupy within any taxation area any building or place for the manufacture of turpentine, refined petroleum, oil or kerosene, paraffin, benzine, benzole, camphorine, fire-works or other dangerous or easily inflammable or explosive substances, or for the loading of cartridges or shells or for the storage of fire-works of any description whatever, or loaded cartridges or shells.

Defined.

66. All the area lying within the boundaries of the taxation areas as heretofore defined shall constitute and be the fire limits of such taxation areas.

Fire alarm
boxes.

67. (1) Any one interfering with any fire alarm box in any taxation area, except for the purpose of giving a bona fide alarm of fire or unless authorized by the Fire Chief of such taxation area, and every one tampering with, injuring or destroying any such fire alarm box, is guilty of an offence and liable on summary conviction to the penalty provided for under this Ordinance.

Interference
with.

False
alarm.

(2) It shall be an offence under this Ordinance for any person to give an alarm indicating a fire or to report a fire when no fire exists.

Parking
restriction.

(3) It shall be an offence under this Ordinance for any person to park any vehicle within one hundred feet of any firehall or within ten feet of any hydrant.

Injury to
fire hose.

68. Any person driving or hauling any vehicle upon or over any hose, for or in use at any fire or in any manner wilfully destroying or damaging such hose, is guilty of an offence and liable to the penalties imposed by this Ordinance.

69. Whenever there is a fire in any building, buildings or material whatsoever within any taxation area, the Fire Chief or anyone acting in his place called to extinguish any such fire, is empowered to give any orders he may think fit, or to remove or have removed or ordered away any person or persons who by being too near or otherwise might be an obstacle to properly extinguishing such fire or saving property threatened thereby; any one disobeying such instructions by not immediately moving away and keeping at such distance as the Fire Chief or his representative may direct, is liable to the penalties imposed by this Ordinance.

Powers of Fire Chief re persons.

70. The Fire Chief is also empowered to order the destruction of any building or materials whatsoever, whether the fire has originated or is burning therein or whether they are in the vicinity, that in his honest opinion could not be saved from the fire and the eventual burning of which would expose any other building or material to destruction by fire, and it is hereby declared that by so acting the Fire Chief or his representative is not in any way liable for any damage suffered through the destruction of any such buildings or materials.

Re destruction of buildings or materials.

Not to be held liable.

71. It is the duty of the Fire Chief of every taxation area to cause the provisions of this Ordinance to be observed, and the Fire Chief or any person authorized by him in writing may at any time of the day or night enter into any building within the fire limits aforesaid, in order to ascertain if the provisions of this Ordinance are being properly observed.

General powers of Fire Chief.

72. The owner, lessee, contractor, occupant, user or other person in charge of any building or material maintained, occupied, used, existing or being constructed in contravention of any of the provisions of this Ordinance, is liable to the penalties imposed by this Ordinance.

Persons liable for contravention.

73. There shall be an Inspector of electrical installation and appliances for each taxation area who may be called Chief Electrician, and until further or other appointment the Building Inspector shall be such Chief Electrician.

Chief Electrician.

74. No electric current shall be used for illumination, decoration, power or heating except in accordance with this Ordinance or the regulations.

Electric current.

75. Before commencing any electrical construction work of any kind whatsoever, either installing new electrical apparatus or repairing apparatus already in use, the owner, occupant or contractor shall apply for and obtain a permit therefor from the Chief Electrician; the application shall describe in detail such material and apparatus as it is desired to use, giving particulars of the locality where its use is contemplated.

Permit required.

Application for.

Inspection
before and
after
installation.

76. (1) Upon the making of the application, the Chief Electrician has the power and duty, when by him deemed necessary, to carefully inspect any such installation previous to and after its completion, and it shall be competent for him to remove any existing obstructions which may prevent a perfect inspection of the current carrying conductors, such as laths, plastering, boarding or partitions; and if such installation proves to have been constructed in accordance with the rules and requirements of the Fire Department of such taxation area and the rules and regulations forming part of this Ordinance, he shall issue a certificate of such inspection which shall contain a general description of the installation and the date of said inspection.

Certificate.

Temporary
permit.

(2) The use of electric current is hereby declared to be unlawful previous to the issuance of such certificate, but the Chief Electrician may issue a temporary permit for the use of electrical current during the course of construction or alteration of buildings, which permit shall expire when the electrical apparatus for such building is fully installed.

Current
not to be
introduced
until final
certificate.

77. (1) A preliminary certificate may be issued by the Chief Electrician in the case of completed installation but upon which no current will be used in the immediate future.

(2) Such preliminary certificate shall show that on the date of inspection the installation was erected in accordance with this Ordinance.

Hidden
wiring.

(3) Prior to the introduction of electric current into the premises, a second inspection shall be made, when, if the said installation is still in accordance with this Ordinance, a complete and final certificate shall issue; any owner or owners of property installing electric wires to be hidden from view shall, prior to such installation, give the Chief Electrician reasonable notice in order to give ample time for inspection.

Inspection
and notice.

78. The Chief Electrician is empowered to inspect or re-inspect all overhead, underground and interior wires and apparatus conducting electric current for light, heat or power, and all overhead and interior wires and apparatus used for the purpose of carrying or conveying electric or magnetic current or currents for telephone, telegraph, district messenger, call bell, burglar alarm or other similar purposes, and when such conductors or apparatus are found to be unsafe to life and property, shall notify the persons, firms or corporations owning, using or operating them to place the same in a safe and secure condition within forty-eight hours.

Notice to
be given.

79. No alterations shall be made in any installation without first notifying the Chief Electrician and submitting the same for similar inspection as above provided.

Current may
be cut off.

80. Any person who uses electric current in violation of this Ordinance is subject to the penalties imposed by this Ordinance; and the Chief Electrician may, for any violation of this Ordinance,

nance, order and compel the cutting off and stopping such current until the provisions of this Ordinance are fully complied with.

81. In addition to but not so as to limit the generality of the foregoing provisions of this Ordinance, the Commissioner may make regulations applicable to all or any or any part of any taxation area governing the construction of buildings and the installation, maintenance, storage or use of acetylene, alcohol, chemicals, diesel oil, electricity, explosives, fuel oil, gas, gasoline, kerosene, lubricating oil or sawdust. Power of Commissioner to make regulations.

82. Every person who violates any of the provisions of this Ordinance or of the regulations is guilty of an offence under this Ordinance and liable upon summary conviction to a fine of not less than twenty-five dollars nor more than two hundred dollars, and a further fine of twenty-five dollars a day for every day after conviction upon which such offence is continued, and in default of immediate payment, to imprisonment for a period not exceeding three months. Penal clause.

CHAPTER 46.

**AN ORDINANCE RESPECTING THE FLORAL
EMBLEM OF YUKON TERRITORY.**

Adoption
of floral
emblem.

1. The flower known botanically as *Epilobium angustifolium* and popularly known as "fireweed" is adopted and shall be deemed to be the floral emblem of the Yukon Territory.

CHAPTER 47.

AN ORDINANCE RESPECTING THE
PROTECTION OF FORESTS.

SHORT TITLE.

1. This Ordinance may be cited as the *Forest Protection Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance, Definitions.
- (a) "closed area" means an area in respect of which an order under section 15 is in effect; "Closed area."
- (b) "fire season" means the period during which the setting out, starting or kindling of fires is restricted under this Ordinance; "Fire season."
- (c) "engine" means any railway locomotive, traction engine, logging, stationary or portable engine or other power producing plant or similar device; "Engine."
- (d) "forest area" means any uncultivated land that by reason of the existence of trees, grass or other vegetation thereon, possesses economic, recreational, wildlife or other value, and includes any ditch, flume, highway, road or trail, or right of way for a telephone, telegraph, power or pipe line running on or adjacent to such uncultivated land; "Forest area."
- (e) "forest officer" means "Forest officer."
- (i) a person appointed to be a forest officer under section 4, or
- (ii) a member of the Royal Canadian Mounted Police;
- (f) "inflammable material" includes trees, timber, brush, slash, grass, vegetation, garbage, debris and things of a similar nature; "Inflammable material."
- (g) "owner" when used with respect to land includes any person having any right, title or interest in or to the land whether by use, occupation, registration or otherwise; "Owner."
- (h) "permit" means a valid and subsisting permit issued under section 16; and "Permit."
- (i) "prescribed" means prescribed by the regulations. "Prescribed."

APPLICATION.

3. The provisions of this Ordinance shall apply to every municipality as defined in the *Municipal Ordinance*; but the provisions of this Ordinance shall be deemed not to repeal, abrogate or derogate from any municipal by-law. Application to municipalities.

APPOINTMENT, POWERS AND DUTIES OF OFFICERS.

Appointment of Forest Supervisor and forest officers.

4. The Commissioner may appoint a Forest Supervisor and forest officers to carry out the provisions of this Ordinance.

Oath of office.

5. A forest officer appointed under section 4 shall, before entering upon the performance of his duties, take and subscribe to the following oath:

"I,, a forest officer appointed under the Forest Protection Ordinance, do solemnly swear that to the best of my ability and judgment I will faithfully, honestly and impartially perform my duties as forest officer according to the true intent and meaning of the Forest Protection Ordinance and the regulations made at any time thereunder. So help me God."

Rights of Supervisor.

6. The Forest Supervisor has all the rights and powers of a forest officer.

Duties and powers of Forest Supervisor.

7. Where any person fails to comply with any direction, notice, demand or order made under this Ordinance, the Forest Supervisor may cause it to be carried out by such other person as he may direct.

Right of officers to enter property and arrest summarily.

8. A forest officer may, in carrying out his duties, (a) enter upon or into any lands or premises other than a dwelling house at any time of the day or night, and (b) arrest without warrant any person whom he finds in the act of violating this Ordinance and take him before a magistrate.

LEAVING FIRES.

Leaving fires.

9. Except with the written permission of a forest officer, no person shall leave the vicinity of a fire that he has set out, started or kindled, other than a fire kindled in a stove, furnace or other device suitably designed and capable of confining it, until he has totally extinguished it.

FIRE SEASON.

Fire season.

10. There shall be a fire season in each year beginning on the first day of May and ending on the thirtieth day of September, except that the fire season may be extended, shortened or designated for one or more additional periods as the Commissioner may prescribe.

No fires during closed season without a permit.

11. Subject to section 13, no person shall during the fire season set out, start or kindle any fire for the purpose of clearing land or burning any inflammable material or for any industrial purpose except pursuant to a permit therefor issued under section 16.

12. During the fire season a person who sets out, starts or kindles a fire pursuant to a permit shall select a site for the fire as free from inflammable material as possible and exercise every precaution to prevent the fire from spreading.

Sites for open fires to be carefully chosen.

13. No person acts in contravention of sections 11 and 12 by reason only of his starting or kindling and leaving a fire in any stove, furnace or other device designed to confine the fire and suitable for that purpose.

Fires started in stoves, etc.

14. (1) A person who, during the fire season, in or within one-half of a mile from a forest area,

To extinguish fires before leaving them.

(a) uses any explosives, or

(b) throws or drops a burning match, ashes of a pipe, lighted cigarette or cigar or other burning substance, shall totally extinguish the fire of the explosive, match, ashes, cigarette, cigar or other burning substance and any fire caused thereby before leaving the vicinity of the fire.

(2) No person shall, during the fire season, in or within one-half of a mile from a forest area,

Requirements for engines.

(a) operate an engine unless it is equipped with a prescribed fire prevention device for arresting sparks and for preventing the escape of fire or live coals from ashpans and fire boxes,

(b) operate a steamboat on any water in the Territory unless it is equipped with a prescribed fire prevention device for arresting sparks,

(c) burn any wood-waste in any burner or destructor unless it is equipped with a prescribed fire prevention device for arresting sparks, or

(d) use or operate any engine, steamboat, burner or destructor or conduct any logging or other industrial operations unless he has available and in good operating condition such tools, pumps, hoses and other fire-fighting equipment as the Forest Supervisor may prescribe.

CLOSED AREAS.

15. (1) When the Forest Supervisor considers that the safety of life or property in any area of the Territory is endangered by the hazardous condition of the forest-cover or by fire, he may, by order in writing signed by him, declare the area a closed area and prohibit anything therein that he considers likely to cause or spread fire.

Closed areas.

(2) A forest officer may take such emergency action in a closed area as he considers necessary to control and extinguish fire and safeguard life and property.

Emergency action to control fire.

(3) Subject to subsection (4), no person shall

(a) enter or remain in a closed area for the purpose of travelling, camping, fishing or hunting or for any similar purpose, or

No camping, etc., within closed areas without a permit.

(b) do anything prohibited by an order under subsection (1) in or within one-half of a mile from a forest area in a closed area,
except pursuant to a permit therefor issued under section 16.

Does not apply to prospectors, residents, land owners, etc.

(4) Subsection (3) does not apply to

(a) miners or prospectors while actively engaged in mining or prospecting,

(b) permanent residents living within a closed district, or

(c) land owners or persons doing anything not prohibited in an order under subsection (1),

and such persons are entitled to free access to and egress from their property or operation in a closed area without securing a permit therefor.

Forest Supervisor may cancel order.

(5) When, with respect to a closed area established under subsection (1), the Forest Supervisor considers the danger to have abated, he shall, by order in writing signed by him, cancel the order establishing the closed area.

PERMITS.

Issue of permits.

16. (1) The Commissioner, the Forest Supervisor or a person authorized in writing by the Forest Supervisor may issue permits authorizing, subject to orders and regulations,

(a) the use of fire during the fire season for the purpose of clearing land,

(b) the burning of inflammable material during the fire season,

(c) the use of fire during the fire season for any industrial purpose, and

(d) the entry of a closed area and the doing of anything prohibited by an order under subsection (1) of section 15, for such periods of time and upon such terms and conditions as the Commissioner or the Forest Supervisor may specify in the permit.

Cancellation or suspension of permit.

(2) Notwithstanding anything contained in this Ordinance, the Commissioner, the Forest Supervisor or a forest officer may, for any cause that he deems sufficient, suspend or cancel any permit.

Surrender of permit.

(3) Where a permit has been suspended or cancelled, the holder shall forthwith surrender it to the person who made the order of suspension or cancellation.

OPERATIONS IN FOREST AREAS.

Operations in forest areas.

17. (1) A person carrying on an operation for the cutting or removal of trees or timber shall, on demand of the Forest Supervisor and in a manner satisfactory to him, dispose of all inflammable material occasioned by or accumulated in the operation.

Care required with inflammable materials.

(2) A person who, in or within one-half of a mile from a forest area, carries on any lumbering or other operation that occasions or accumulates inflammable material, or the owner of the land

on which the inflammable material exists, shall, on demand of the Forest Supervisor, cut down all dead trees and stubs within the area where the inflammable material exists and establish a fire guard, satisfactory to the Forest Supervisor, around the area.

(3) The owner of every camp, mine, sawmill or engine that is situated within one-half of a mile from a forest area shall establish a fire guard, satisfactory to the Forest Supervisor, around the camp, mine, sawmill or engine. Fire guards.

(4) Every person clearing a right of way for any trail, telephone, telegraph, power or pipe line, road, highway, ditch or flume shall, if directed to do so by the Forest Supervisor, pile, burn or otherwise dispose of all inflammable material on the right of way to the satisfaction of the Forest Supervisor, as rapidly as the clearing progresses and the weather conditions permit, or at such other time as the Forest Supervisor orders. Clearance of right of way.

(5) No person clearing any land or carrying on any lumbering operation shall fell or permit to be felled any trees or brush in such a manner that the trees or brush fall and remain on land of which he is not the owner. Not to leave inflammable material on land of others.

(6) Subject to sections 10 and 15, every person who causes an accumulation of inflammable material within three hundred feet of the right of way of any railway shall immediately pile and burn the inflammable material. Not to leave inflammable material near railway right of way.

18. Where the Forest Supervisor considers any inflammable material so dangerous to life or property as to be a public nuisance, he shall so notify in writing the owner of the land on which the inflammable material exists and the owner shall immediately abate the nuisance to the satisfaction of the Forest Supervisor. Public nuisance.

FIRE-FIGHTING.

19. A person who finds that fire exists in or within one-half of a mile from a forest area shall do his utmost to prevent the fire from spreading and to extinguish it and, if someone has not already done so, shall report the fire to the nearest forest officer by the speediest means practicable. Duty to extinguish and report fire.

20. (1) Where a fire is burning on land on which a person is conducting land clearing, lumbering, industrial, engineering or construction operations, or that he is otherwise occupying, he shall do his utmost to prevent the fire from spreading and to extinguish it, and, at his own expense, shall place his services and the services of any of his employees at the disposal of any forest officer for that purpose. Duty to assist in preventing fire.

(2) No person shall, without the written consent of a forest officer, continue or resume any land clearing, lumbering, industrial, engineering or construction operations on land while a fire is burning thereon. Operations to be discontinued while fire burning.

Assistance may be summoned.

21. (1) Where the Forest Supervisor, forest officer or magistrate considers it necessary, he may employ or summon orally or in writing the assistance of any male person who

(a) is not less than eighteen and not more than sixty years of age, and

(b) is not physically unfit for the purpose, a medical practitioner or a person whose absence would disturb the operation of a railway or an essential transportation, public utility or communication service,

for the purpose of controlling or extinguishing fires.

Offence for refusing to obey summons.

(2) Any person who refuses or neglects to obey a summons given under subsection (1) is guilty of a separate offence for each day that he continues to refuse or neglect to obey the summons during the continuance of the fire and liable for each offence on summary conviction to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding seven days or to both fine and imprisonment.

Right to enter upon lands or premises.

22. Every person employed in connection with a fire patrol or a forest protection force maintained under this Ordinance may, in carrying out his duties, enter upon or into any lands or premises other than a dwelling house at any time of the day or night.

Obstructing persons in carrying out duties.

23. No person shall hinder, obstruct or impede the Forest Supervisor or any forest officer or other person in carrying out his duties under this Ordinance and every person shall upon request give any forest officer information as to his name, address, routes to be followed, locations of camps and other information pertaining to the protection of the forest from fire.

No compensation for fire fighting.

24. Persons who assist at fire fighting for the protection of the settlement in which they live or their place of residence, mine, mill or other real or personal property is located, shall do so without recompense.

INJURIOUS INSECTS AND DISEASES.

Injurious insects and diseases.

25. (1) Where any trees, timber, slash, brush or debris on any land are found to be infested with any species of injurious insect or plant disease, in circumstances that the Forest Supervisor considers constitute a menace to adjacent timber or a dangerous source for the spread of the insect or plant disease, the Forest Supervisor shall give a written notice over his signature to the owner of such land requiring him to dispose of the infested trees, timber, slash, brush or debris and directing him how to do so.

Time for compliance with notice.

(2) An owner of land shall immediately comply with a notice given to him under subsection (1).

NOTICES.

26. No person other than the Forest Supervisor or a forest officer shall mark, remove or destroy any notice that is posted by the Forest Supervisor or a forest officer, Removal of notices.

- (a) as a fire warning,
- (b) respecting the ownership of property, or
- (c) for any purpose of this Ordinance.

27. Any notice or order that is required under this Ordinance to be given to a person in writing is properly given when a copy thereof is personally served on the person to whom it is addressed, or sent by registered mail to the last known address of that person, and posted up in two conspicuous places on any lands affected by it. Service of notice.

REGULATIONS.

28. (1) The Commissioner may make orders and regulations for carrying out the purposes and provisions of this Ordinance, and, without limiting the generality of the foregoing, may make orders and regulations, Regulations.

- (a) respecting the issue of permits under section 16;
- (b) prohibiting the setting out, starting, kindling or spreading of fires in any area of the Territory for such time as he considers necessary, whether in the fire season or otherwise;
- (c) extending, shortening or designating other periods as part of the fire season if he considers there is an unusual danger of forest fire; and
- (d) prescribing the fire prevention devices and the fire-fighting equipment required for any engine, steamboat, burner or destructor and any logging or other industrial operations.

(2) All regulations made under the authority of this section shall be tabled at the session of Council next following their enactment.

PENALTIES.

29. A person who violates any provision of this Ordinance or the regulations for which violation no further fine or imprisonment is provided in this Ordinance, is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding two years, or to both fine and imprisonment. General penalty.

30. Where an information is laid with respect to any violation of paragraph (a), (b), (c) or (d) of subsection (2) of section 14, a magistrate may prohibit logging or other operations or the further use of the engine, steamboat, burner or destructor involved pending the outcome of the proceedings or until it is equipped with fire prevention devices and fire-fighting equipment satisfactory to the Forest Supervisor. Where information laid operations may be suspended.

Crown may recover expenses caused by an offence.

31. In addition to any penalty that may be imposed upon a person on his conviction for an offence under this Ordinance, Her Majesty may, in any court of competent jurisdiction, take proceedings to recover from such person, all expenses incurred by Her Majesty in controlling and extinguishing any fire that originated or resulted by reason of the offence.

Recovery where person fails to carry out duty.

32. Where any person fails to comply with any direction, notice, demand or order made under this Ordinance and the Forest Supervisor has the direction, notice, demand or order carried out by another person, Her Majesty may, in any court of competent jurisdiction, take proceedings to recover from the person in default all expenses incurred by Her Majesty by reason of such default.

Limitation of time for prosecution.

33. No prosecution for an offence under this Ordinance or the regulations shall be commenced after one year from the date when the offence is alleged to have been committed.

CIVIL REMEDIES PRESERVED.

Civil right to sue not affected.

34. Nothing in this Ordinance limits or interferes with the right of any person to bring and maintain a civil action for damages occasioned by fire.

CHAPTER 48.

**AN ORDINANCE RESPECTING CERTAIN
CONTRACTS THAT HAVE BECOME IMPOSSIBLE
OF PERFORMANCE OR HAVE BEEN
OTHERWISE FRUSTRATED.**

SHORT TITLE.

1. This Ordinance may be cited as the *Frustrated Contracts* Short Title Ordinance.

INTERPRETATION.

2. In this Ordinance,
- (a) "contract" includes a contract to which the Crown is a party; Definitions.
"Contract."
- (b) "court" means the court or arbitrator by or before whom a matter falls to be determined; and "Court."
- (c) "discharged" means relieved from further performance of the contract. "Discharged."

APPLICATION OF ORDINANCE.

3. (1) This Ordinance applies to any contract governed by the law of the Territory whether made on, before or after the 30th day of November, 1956, that after the 1st day of December, 1956, has become impossible of performance or been otherwise frustrated and the parties to which for that reason have been discharged. Application of Ordinance.

- (2) This Ordinance does not apply Exceptions.
- (a) to a charterparty or a contract for the carriage of goods by sea, except a time charterparty or a charterparty by way of demise;
- (b) to a contract of insurance; or
- (c) to a contract for the sale of specific goods where the goods, without the knowledge of the seller, have perished at the time when the contract is made, or where the goods, without any fault on the part of the seller or buyer, perish before the risk passes to the buyer.

4. (1) The sums paid or payable to a party in pursuance of a contract before the parties were discharged Adjustment of rights and liabilities.
- (a) in the case of sums paid, are recoverable from him as money received by him for the use of the party by whom the sums were paid; and
- (b) in the case of sums payable, cease to be payable.
- (2) If, before the parties were discharged, the party to whom the sums were paid or payable incurred expenses in connection with the performance of the contract, the court, if it considers Expenses.

it just to do so having regard to all the circumstances, may allow him to retain or to recover, as the case may be, the whole or any part of the sums paid or payable not exceeding the amount of the expenses; and without restricting the generality of the foregoing the court, in estimating the amount of the expenses, may include such sum as appears to be reasonable in respect of overhead expenses and in respect of any work or services performed personally by the party incurring the expenses.

Benefits.

(3) If, before the parties were discharged, any of them has, by reason of anything done by any other party in connection with the performance of the contract, obtained a valuable benefit other than a payment of money, the court, if it considers it just to do so having regard to all the circumstances, may allow the other party to recover from the party benefited the whole or any part of the value of the benefit.

Assumed obligations.

(4) Where a party has assumed an obligation under the contract in consideration of the conferring of a benefit by any other party to the contract upon any other person, whether a party to the contract or not, the court, if it considers it just to do so having regard to all the circumstances, may, for the purposes of subsection (3), treat any benefit so conferred as a benefit obtained by the party who has assumed the obligation.

Insurance.

(5) In considering whether any sum ought to be recovered or retained under this section by a party to the contract, the court shall not take into account any sum that, by reason of the circumstances giving rise to the frustration of the contract, has become payable to that party under any contract of insurance unless there was an obligation to insure imposed by an express term of the frustrated contract or by or under any enactment.

Special contractual provisions.

(6) Where the contract contains a provision that, upon the true construction of the contract, is intended to have effect in the event of circumstances that operate, or but for the provision would operate, to frustrate the contract, or is intended to have effect whether such circumstances arise or not, the court shall give effect to the provision and shall give effect to this section only to such extent, if any, as appears to the court to be consistent with the provision.

Where contract severable.

(7) Where it appears to the court that a part of the contract can be severed properly from the remainder of the contract, being a part wholly performed before the parties were discharged, or so performed except for the payment in respect of that part of the contract of sums that are or can be ascertained under the contract, the court shall treat that part of the contract as if it were a separate contract that had not been frustrated and shall treat this section as applicable only to the remainder of the contract.

CHAPTER 49.

AN ORDINANCE RESPECTING THE EXPORTATION OF FURS.

SHORT TITLE.

1. This Ordinance may be cited as the *Fur Export Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance, Definitions.
- (a) "export" means to send, ship or otherwise convey or "Export." cause to be sent, shipped or otherwise conveyed from or out of the Territory to any place outside the Territory;
 - (b) "fur-bearing animal" means any animal referred to in "Fur-bearing animal." Schedule A;
 - (c) "furs" means the raw pelt or skin or any part thereof of "Furs." any fur-bearing animal caught in the Territory;
 - (d) "officer" means "Officer."
 - (i) a permit officer, or
 - (ii) a game guardian under the *Game Ordinance*;
 - (e) "package" includes a box, bale, trunk, bag, barrel or "Package." other container used in packing or marketing furs;
 - (f) "permit" means a permit to export furs in the form set "Permit." out in Schedule B;
 - (g) "permit officer" means "Permit officer."
 - (i) a member of the Royal Canadian Mounted Police, or
 - (ii) a person appointed by the Commissioner to issue permits;
 - (h) "tax" means the sum or rate payable on exporting furs "Tax." of animals referred to in Schedule A; and
 - (i) "Territorial employee" means a person who receives a "Territorial salary paid out of the Yukon Consolidated Revenue employee." Fund.

PERMITS.

3. A permit officer may, upon receipt of the appropriate tax, Issue of permits. issue a permit for the exportation of furs.

4. A permit officer shall stamp, tag or seal, with a stamp, Stamp, tag or seal. tag or seal approved by the Commissioner, each fur or package of furs for which a permit has been issued.

5. No person shall export any furs unless the furs are No export without stamp, tag or seal. stamped, tagged or sealed as provided for in section 4.

Transportation companies, etc.

6. No person, transportation company or common carrier shall accept for transportation furs for export unless the furs or package containing the furs has been stamped, tagged or sealed pursuant to section 4.

Unauthorized permits.

7. No person, other than a permit officer, shall have in his possession blank permits, seals, stamps or other equipment prescribed or authorized by or under this Ordinance to be used by permit officers.

Destruction of seals, tags or stamps.

8. No person other than a permit officer shall remove, mutilate or destroy any tags, seals, stamps or other markings attached to any furs or package of furs by a permit officer.

Scientific purposes.

9. The Commissioner may authorize the issue of a permit without payment of tax where furs are to be used for scientific purposes.

SEIZURE AND FORFEITURE.

Inspection.

10. (1) An officer may enter and search any aircraft, vessel or vehicle in or upon which he reasonably believes furs subject to tax under this Ordinance may be found and may open and inspect any package that he has reason to believe contains such furs.

Seizure.

(2) Where in the opinion of an officer the furs inspected by him are intended for export and they are not stamped, tagged or sealed as required by section 4, the officer may seize the furs.

Double tax.

(3) The person from whom furs have been seized or a person who has an interest in them is liable to pay double the amount of tax in respect of the furs in addition to any other penalties to which he may be liable under this Ordinance.

Forfeiture.

(4) Unless within thirty days after the date of seizure a person from whom furs have been seized or a person who has an interest in them

(a) pays the double tax under subsection (3), or

(b) satisfies a justice, upon summary application made to him for that purpose, that the furs were not intended for export,

furs seized under subsection (2) are forfeited to Her Majesty.

OFFENCES.

Offences and penalties.

11. Every person who violates a provision of this Ordinance is guilty of an offence and liable upon summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

Time for prosecution.

12. No prosecution for an offence under this Ordinance shall be commenced after one year from the day when the offence is alleged to have been committed.

13. In any prosecution for an offence under this Ordinance, the onus of proof that any pelt, skin or part thereof in respect of which the prosecution is made is not the pelt, skin or part thereof of a fur-bearing animal caught in the Territory is on the person accused of the offence. ^{Onus of proof.}

PERMIT OFFICER'S FEE.

14. Out of the Yukon Consolidated Revenue Fund, the Commissioner may pay to a permit officer, other than a Territorial employee, fees not exceeding five per cent of the tax collected by the permit officer.

SCHEDULE A.

TAX PAYABLE ON FURS EXPORTED FROM THE YUKON TERRITORY.

On each bear, white or polar	\$5.00
On each beaver	1.00
On each cougar .....	.25
On each fisher	1.50
On each fox, black .....	.10
On each fox, cross .....	.10
On each fox, red .....	.10
On each fox, silver .....	.10
On each fox, white or blue .....	.50
On each lynx .....	.25
On each marten .....	.50
On each mink .....	.50
On each muskrat (musquash) .....	.02
On each otter	1.00
On each squirrel .....	.01
On each weasel (ermine) .....	.05
On each wolf or coyote .....	.25
On each wolverine .....	.50

SCHEDULE B.

No.....

PERMIT.

FUR EXPORT ORDINANCE.

Permission is hereby given to
of
to export from the Yukon Territory the following raw furs
or pelts:

..... Bear, white, @	\$
..... Bear, other, @	\$
..... Beaver, @	\$
..... Fisher, @	\$
..... Fox, black, @	\$
..... Fox, blue, @	\$
..... Fox, cross, @	\$
..... Fox, red, @	\$
..... Fox, silver, @	\$
..... Fox, white, @	\$
..... Lynx, @	\$
..... Marten, @	\$
..... Mink, @	\$
..... Muskrat, @	\$
..... Otter, @	\$
..... Weasel, @	\$
..... Wolverine, @	\$
..... Squirrel, @	\$
..... Wolf, @	\$
..... Coyote, @	\$

Total

Number of bales or packages

Examined by

The said

having paid the required fees and complied with the *Fur Export Ordinance*.

DATED at _____, in the Yukon Territory,
this _____ day of _____, 19 _____.

Issuer

Original—*See Instructions at back.*

CERTIFICATE TO BE ENDORSED ON PERMIT.

(Reverse Side of Permit Form)

(The certificate below is required to be filled out and signed by the Agent of Railway, Steamship or Express Companies or Postmasters and forwarded to the Commissioner of the Yukon Territory, Whitehorse, Y.T.)

I,
(Agent, Pursuer, Conductor, Postmaster, etc.)

do hereby declare that the within described furs or pelts have been exported from the Yukon Territory by the within described person or firm, by
(state whether by post or how otherwise)

DATED at this day of
.....19.....

.....
(Agent, Pursuer, Conductor, Postmaster, etc.)

OFFICE
STAMP

CHAPTER 50.

AN ORDINANCE RESPECTING THE
CONSERVATION OF GAME IN
THE YUKON TERRITORY.

SHORT TITLE.

Short Title. 1. This Ordinance may be cited as the *Game Ordinance*.

PART I.

INTERPRETATION AND APPLICATION.

INTERPRETATION.

- Definitions.
- "Big game." 2. (1) In this Ordinance,
- (a) "big game" means bison (buffalo), mountain sheep, mountain goat, any member of the deer family, whether known as caribou, moose, deer, wapiti (elk) or otherwise, bear and any other animal declared by the Commissioner to be big game;
- "Certificate of registration." (b) "certificate of registration" means a valid and subsisting certificate of registration for a trapping or a guiding area issued under this Ordinance;
- "Director." (c) "Director" means the Director of Game;
- "Eskimo." (d) "Eskimo" includes
- (i) a male person who is a direct descendant in the male line of a male person who is or was of the race of aborigines commonly referred to as Eskimos,
 - (ii) the legitimate child of a person described in subparagraph (i),
 - (iii) the illegitimate child of a female person described in subparagraph (ii), and
 - (iv) the wife or widow of a person described in subparagraph (i), (ii) or (iii),
- but does not include the Eskimo wife of a person other than an Eskimo, unless she has been deserted by or divorced from that person or has become the widow of that person, except that any person who, upon the 1st day of July, 1958, was considered to be an Eskimo for the purposes of the game laws of the Territory shall, unless he elects not to be so considered, be deemed to continue to be an Eskimo;
- "Fur-bearing animal." (e) "fur-bearing animal" means beaver, fisher, fox, lynx, marten, mink, muskrat, otter, squirrel, weasel or ermine and any other animal declared by the Commissioner to be a fur-bearing animal;

- (f) "fur farm" means a place where fur-bearing animals "Fur farm." are kept in captivity;
- (g) "game" means big game, fur-bearing animals and game "Game." birds which are wild by nature and while in a state of nature and includes the head, skin or other part thereof;
- (h) "game bird" means a bird of any species of the following "Game bird." groups: *Anseriformes*, commonly known as ducks, geese and swans; *Gruiformes*, commonly known as cranes, rails and coots; *Charadriiformes*, commonly known as plovers, turnstones, snipe, sandpipers, curlews, yellowlegs, knots, dowitchers, godwits, sanderlings and phalaropes; *Galliformes*, commonly known as grouse, partridge, ptarmigan, prairie chicken and pheasants;
- (i) "game guardian" means any person appointed as such "Game guardian." under this Ordinance;
- (j) "guide" means a person who holds a chief guide or "Guide." assistant guide licence;
- (k) "hunting" means any chasing, pursuing, worrying, following after or on the trail of, stalking or lying in wait "Hunting." for the purpose of taking game, and any trapping, attempting to trap, or shooting at game, whether or not the game is then or subsequently captured, killed or injured, and other forms of the verb "to hunt" have corresponding meanings;
- (l) "Indian" means a person who is defined as such in the "Indian." *Indian Act*, and includes the Indian wife of a person other than an Indian who has been deserted by or divorced from that person or has become the widow of that person;
- (m) "licence" means a valid and subsisting licence issued "Licence." under this Ordinance or the regulations;
- (n) "licence year" means the period from the 1st day of "Licence year." July to the 30th day of June next following;
- (o) "motor vehicle" means a vehicle that is drawn, propelled "Motor vehicle." or driven by any means other than by muscular power, but does not include a vehicle that runs or is intended to run only upon rails;
- (p) "open season" with respect to any kind of game means "Open season." the period during which that kind of game may be hunted or taken;
- (q) "outfitter" means a person who holds an outfitter's "Outfitter." licence;
- (r) "predatory animal" means a cougar, coyote, wolf, "Predatory animal." wolverine or any other animal declared by the Commissioner to be a predatory animal;
- (s) "prescribed" means prescribed by or under this Ordinance; "Prescribed."

- "Registered guiding area." (t) "registered guiding area" means an area or location defined and registered under this Ordinance for the outfitting and guiding of non-residents who desire to engage in the hunting of big game;
- "Registered trapping area." (u) "registered trapping area" means an area or location defined and registered under this Ordinance for the taking of fur-bearing animals;
- "Regulations." (v) "regulations" means the regulations issued under this Ordinance; and
- "Resident." (w) "resident" means
- (i) any Canadian citizen who has resided continuously in the Territory for not less than six months prior to the date of his application for a licence, or
 - (ii) an alien who has resided continuously in the Territory for not less than two years immediately prior to the date of his application for a licence.
- Period includes first and last days. (2) Where a period is expressed in this Ordinance or regulations to be a period from one day to another, the period shall be reckoned inclusively of the first and last days so expressed.
- Possession defined. (3) For the purposes of this Ordinance, a person has anything in possession when he has it in his personal possession, or knowingly
- (a) has it in the actual possession or custody of another person, or
 - (b) has it in any place whether or not that place belongs to or is occupied by him, for the use or benefit of himself or another person.

APPLICATION.

- Subject to Act. 3. (1) This Ordinance is subject to the *Migratory Birds Convention Act* and the regulations thereunder.
- Ownership of game. (2) The property in all game within the Territory is vested in Her Majesty and no person shall acquire any right or property therein otherwise than in accordance with this Ordinance and the regulations.

PART II.

GENERAL PROHIBITIONS AND RESTRICTIONS.

- Not to hunt without licence. 4. (1) No person shall hunt game in the Territory unless authorized by this Ordinance or the regulations, or by a licence issued to him.
- Exceptions in licence. (2) A licence to hunt game shall not entitle the holder to
- (a) hunt game except during an open season for that game and in an area to which that open season extends,
 - (b) hunt in excess of the quota permitted by the Ordinance or the regulations,

- (c) hunt game of a species, age or sex protected by this Ordinance or the regulations, or
- (d) hunt game by any method or means prohibited by this Ordinance or the regulations.

5. (1) Nothing in this Ordinance shall be construed to prohibit any person who holds a licence or permit under the *Migratory Birds Convention Act* or regulations thereunder from hunting game birds or taking nests or eggs in accordance with that licence or permit. Exemptions.

(2) Notwithstanding any other provisions of this Ordinance, game may be hunted and eggs of upland game birds may be taken by a person who needs the game or eggs to prevent starvation of himself and his immediate family. Game may be taken to prevent starvation.

(3) A person who hunts game or takes eggs under subsection (2) shall report as soon as practicable thereafter to a game guardian the number and kind of game or eggs taken or killed, and shall furnish such other information as may be required by a game guardian. To report number taken.

6. No person shall set out, use or employ a snare for the destruction of game other than lynx or squirrels. Use of snares.

7. (1) No person shall use poison for the purpose of taking or killing game, or have in his possession when engaged in hunting operations poison that may be used for that purpose. Poison prohibited.

- (2) Notwithstanding subsection (1) Exemptions.
 - (a) a game guardian may possess and use poison to kill predatory animals if he has been authorized by the Director so to do, and Game guardian.
 - (b) the holder of a scientific licence may possess and use poison for the preservation of scientific specimens if he has been authorized by the Director so to do. Scientist.

8. (1) No person shall, for the purpose of hunting big game, use or employ Firearms for big game.

- (a) a rifle
 - (i) of less than .25 calibre,
 - (ii) loaded with a full metal cased or jacketed non-expanding bullet or ball commonly known as service ammunition, or
 - (iii) loaded with a bullet of the type commonly known as "tracer"; or
- (b) any firearm other than a shotgun of the type generally known as "automatic".

(2) No person shall In motor vehicles.

- (a) discharge a firearm from a motor vehicle, or

(b) have in or on a motor vehicle any firearm in which there is a live shell or cartridge either in the magazine or firing chamber, except that a game guardian who is engaged in the control of predatory animals may carry in a motor vehicle a rifle with live ammunition in the magazine but not in the firing chamber.

Discharge on highway.

(3) No person shall discharge a firearm of any description either on or across any public road or highway within the Territory.

Certain contrivances forbidden.

9. No person shall use or employ for the purpose of hunting game and predatory animals any of the following methods, means and contrivances: set gun, spear, pit, deadfall, fire, jacklight, searchlight or other artificial light, artificial salt licks or spring traps having a jaw spread exceeding seven inches.

Aircraft.

10. (1) No person shall hunt game from or by means of an aircraft, but nothing in this Ordinance shall be deemed to prohibit a hunter, trapper, guide or outfitter from making use of an aircraft as a means of transportation between the settlement in the Territory where he outfits and his principal base camp.

Inspection of flight records.

(2) Whenever so required by a game guardian every operator of an aircraft who has transported a hunter, trapper, guide or outfitter under subsection (1) shall make available for inspection by such game guardian any log books or other records pertaining to any such flight.

Designation of base camp.

(3) Whenever so required by a game guardian, every hunter, trapper, guide or outfitter shall designate the settlement at which he outfits, the location of his principal base camp, and the area in which he intends to hunt or trap.

Abandonment of game.

11. No person who has killed game other than bear shall
(a) abandon any portion of the flesh thereof that is suitable for human food,
(b) allow any portion of the flesh thereof that is suitable for human food to be destroyed or spoiled,
(c) allow any portion of the flesh thereof that is suitable for human food to be used as bait in trapping operations or to be fed to captive fur-bearing animals or domestic animals, including dogs, or
(d) allow the pelt of a fur-bearing animal in his possession to become deteriorated, spoiled or destroyed.

Possession of game.

12. No person shall have in his possession game killed or taken in violation of this Ordinance or the regulations.

Sale of game prohibited.

13. (1) No person shall buy or sell, or offer to buy or sell, or kill for gain or reward, any big game or game birds or parts thereof, except that the Director may, subject to such terms and conditions as he deems fit, grant permission to any person to sell the antlers, horns or cape of any big game.

(2) Except as otherwise permitted by this Ordinance, no game or parts thereof shall be served for food at any hotel, restaurant, public dining room, school, mission, hostel, hospital, camp, dining room of a mining, logging, construction or other commercial or industrial establishment, with a meal for which a charge is made whether directly or indirectly. Consumption of game, when prohibited.

(3) Subsection (2) does not apply to missions in the settlement of Old Crow. Exception.

14. (1) No person shall employ, or enter into a contract or agreement with, any other person to hunt game or to take any egg or nest or part thereof contrary to this Ordinance or the regulations. No contracts for unlawful hunting.

(2) No person shall counsel, procure or incite another person to commit an offence under this Ordinance or regulations. Counselling offence.

PART III.

SPECIAL PROHIBITIONS AND RESTRICTIONS.

BIG GAME.

15. (1) The Director may issue a licence to export big game and game birds. Game export licence.

(2) Except under a licence issued under subsection (1) no person shall ship or remove any big game or game birds from the Territory. Prohibition.

(3) Where a person is not a resident, no export licence shall be issued under subsection (1) unless Restrictions.

- (a) a hunting licence, duly completed and signed by the outfitter or guide in charge of the party, is produced, and
- (b) the trophy fees set out in Schedule A are paid.

16. Subject to this Ordinance or the regulations, no person shall, at any time, hunt or have in his possession the whole or any part of Big game protected.

- (a) a moose of the female sex; Female moose.
- (b) a moose of the male sex having
 - (i) unforked antlers, Male moose.
 - (ii) first incisors deciduous, and
 - (iii) second molars non-functional;
- (c) a mountain sheep of the female sex; Female mountain sheep.
- (d) a mountain sheep of the male sex having
 - (i) a horn which describes an arc of less than one hundred and eighty degrees when measured along the outer curvature, Male mountain sheep.
 - (ii) the first or second incisors deciduous, and
 - (iii) second molars non-functional;

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Game.

Caribou.

- (e) a caribou of either sex having
 - (i) unforked antlers,
 - (ii) first, second or third incisors deciduous, and
 - (iii) second molars non-functional; or

Mountain goat.

- (f) a mountain goat of either sex having
 - (i) a horn less than five inches in length measured along the outer curve, and
 - (ii) second molars non-functional.

Guide required for non-residents.

17. (1) Subject to subsection (2), no person who is not a resident shall engage in hunting big game unless he is outfitted by an outfitter and accompanied by a guide.

Permit.

(2) A person who is not a resident may hunt big game without a guide if

- (a) he is accompanied by a resident, and
- (b) a permit is obtained from the Director so to do.

Accidental killing.

18. Every person who, accidentally or otherwise, kills any big game in excess of the number permitted to be taken by this Ordinance or the regulations, or any animal which, by virtue of its age or sex is protected under section 16,

- (a) shall immediately and properly dress the carcass, take away the meat and hide, keep them in a good state of preservation and deliver them to the nearest game guardian who shall dispose of the meat and hide in accordance with instructions from the Director; and
- (b) shall at the time of delivery of the meat and hide to a game guardian, furnish an affidavit setting forth the circumstances of the killing.

GAME BIRDS.

Hours of hunting.

19. No person shall hunt game birds between the hours of one hour after sunset, and one hour before sunrise on the next succeeding day.

Nests and eggs protected.

20. Except as otherwise provided in this Ordinance, no person shall molest, injure, destroy or take the nests or eggs of any game bird.

FUR-BEARING ANIMALS.

No removal, etc., of traps.

21. Except as authorized by this Ordinance, no person shall remove, molest, spring or in any way interfere with traps set by another person for the taking of fur-bearing animals.

Setting and resetting of traps.

22. (1) Except during the open season, no person shall set or reset a trap or contrivance used in connection with trapping operations.

Traps to be removed or sprung on or before last day of open season.

(2) A person who uses traps or other contrivances for hunting game shall remove or spring such traps or other contrivances on or before the last day of the open season.

23. Except as authorized by the Director, no person shall set traps or other contrivances for predatory animals between the 1st day of April and the 31st day of October in any year, but predatory animals may be shot at any time.

Predatory animals.

24. No person shall, at any time,

Muskrat.

- (a) hunt any muskrat with a shotgun; or
- (b) break or destroy any muskrat house except that a muskrat house may be opened for the purpose of setting traps therein if reasonable care is taken to prevent the subsequent freezing of any such muskrat house.

25. (1) Subject to subsection (2), no person shall cut, break, destroy or interfere with a beaver house or beaver dam.

Not to interfere with beaver house or dam.

(2) The Director may issue a licence for the injury or destruction of beaver dams or houses when such injury or destruction becomes necessary to the carrying on of a bona fide mining operation, or to the driving of timber on any stream, or to prevent damage to roads or other property.

Licence to destroy.

PART IV.

LICENCES AND CERTIFICATES.

GENERAL.

26. The licences and certificates of registration that may be issued under this Ordinance are as follows:

Types of licences.

- (a) licence to export big game under section 15;
- (b) licence to hunt big game and game birds under section 36;
- (c) licence to hunt game birds under section 36;
- (d) licence to hunt bear under section 36;
- (e) general hunting licence under section 37;
- (f) licence for scientific purposes under section 38;
- (g) outfitter's licence under section 39;
- (h) chief guide licence under section 42;
- (i) assistant guide licence under section 42;
- (j) certificate of registration of guiding area under section 48;
- (k) certificate of registration of trapping area under section 54;
- (l) fur farm licence under section 65;
- (m) licence to take live game animals for propagation or for export under section 68;
- (n) licence to import fur-bearing animals under section 72;
- (o) trading post licence under section 75;
- (p) outpost licence under section 75; and
- (q) licence to trade and traffic in fur-bearing animals under section 76.

- Issue of licences.** **27.** (1) An application for any licence or certificate of registration may be made to the Director or a game guardian, and shall be in a prescribed form and accompanied by the prescribed fee.
- False information.** (2) No person shall furnish any false information or make a false statement in any application for a licence or certificate of registration required to be made pursuant to this Ordinance or the regulations.
- Licence void.** (3) A licence or certificate of registration issued to any person who furnishes any false information or makes any false statement in an application for a licence or certificate of registration is null and void and shall be deemed to have always been null and void.
- Signature of licensee required.** (4) No hunting licence or general hunting licence is valid unless the signature of the person to whom the licence is issued is endorsed thereon and in the case of a person signing by mark the mark shall be witnessed.
- Age of licensee.** (5) No person under the age of fourteen years is eligible for any licence.
- Effect of licence or certificate of registration.** **28.** A licence or certificate of registration entitles the person to whom it is issued to carry on such operations as are authorized by the licence or certificate of registration and in accordance with this Ordinance and the regulations.
- Certificate of game killed.** **29.** Every licence holder, upon request, shall be entitled to receive from the Director a certificate showing the game killed by him.
- Submit for inspection of game guardian.** **30.** Upon the request of a game guardian, every person shall submit for inspection by such game guardian any licence or certificate of registration issued to him.
- Transfer, etc., prohibited.** **31.** (1) No licence or certificate of registration shall be sold, transferred or assigned without the consent of the Commissioner.
- Not to allow another to use licence.** (2) No person shall knowingly allow his licence or certificate of registration to be used by another person.
- Not to use another's licence.** (3) No person shall knowingly use the licence or certificate of registration of another person.
- Date of expiry of licence.** **32.** Subject to section 42, unless sooner cancelled, each licence expires on the expiry date mentioned in the licence or, if no expiry date is mentioned, on the 30th day of June next following its date of issue.
- Return of licence.** **33.** (1) Subject to subsection (2), every person to whom a licence has been issued shall, before leaving the Territory or as soon as practicable after the expiration of the licence, whichever first occurs, return the licence to a game guardian with the affidavit or declaration on the back of said licence duly completed setting forth the number and kind of game killed, trapped, taken, traded or trafficked in under its authority.

(2) Where a licensee is unable to return his licence to a ^{Idem.} game guardian as required by subsection (1), he shall, before leaving the Territory or as soon as practicable after the expiration of the licence, whichever first occurs, forward to the nearest game guardian his affidavit setting forth the number and kind of game killed, trapped, taken, traded or trafficked in during the period covered by the licence.

34. (1) A licence or certificate of registration held by a ^{Cancellation upon conviction.} person convicted of an offence against this Ordinance may, in addition to any other penalty imposed upon such conviction, be suspended or cancelled by the justice before whom the case was tried.

(2) Upon the suspension or cancellation of any licence or ^{Surrender of licence to game guardian.} certificate of registration pursuant to subsection (1), the holder thereof shall surrender the licence or certificate forthwith to the justice or to a game guardian.

35. Any person who makes a false report as to the amount of ^{Penalty for false reports.} game killed, trapped, taken or traded in, or who fails or neglects to return his licence within the time specified in the Ordinance or regulations is guilty of an offence, and, in addition to any other penalty provided in the Ordinance or regulations, may be refused a licence in any subsequent year.

HUNTING LICENCES.

36. Subject to this Ordinance and the regulations, the Director or a game guardian may upon application therefor issue a ^{Issue of hunting licence.} licence to any person entitling him

- (a) to hunt big game and game birds,
- (b) to hunt game birds only, or
- (c) to hunt bear only.

GENERAL HUNTING LICENCE.

37. (1) Subject to this Ordinance and the regulations, the Director may upon application therefor issue a ^{Issue of licence.} general hunting licence to any person who is a Canadian citizen over the age of sixteen years and is largely dependent upon hunting and trapping for a livelihood, and

- (a) has resided continuously in the Territory for three years immediately prior to his application,
- (b) does not reside in the Territory but for three years immediately preceding the date of his application was licenced to hunt and did hunt fur-bearing animals in the Territory, or
- (c) is the child or widow of a person referred to in paragraph (a) or (b).

(2) A general hunting licence issued under subsection (1) ^{Entitlement.} entitles the holder thereof to hunt big game, game birds and fur-bearing animals in accordance with this Ordinance and the regulations.

Person under sixteen. (3) A person under the age of sixteen years who assists his parents or guardian in lawful hunting operations does not require a licence so to assist.

SCIENTIFIC LICENCE.

Commissioner may issue licence. 38. (1) The Commissioner may issue a licence to a person to take and export big game, fur-bearing animals or non-migratory game birds or the eggs or nests of such birds for scientific purposes.

Application. (2) The licence specified in subsection (1) may be issued only (a) upon application from a person whose application is accompanied by written testimonials from two scientists of recognized standing; or (b) upon application from and for the purpose of (i) a recognized museum, university or scientific society, or (ii) a department of the Government of Canada or of a province of Canada or of the government of any country or state other than Canada.

Exemption. (3) The holder of a licence for scientific purposes shall be exempted from the provisions of sections 17 and 74.

PART V.

GUIDES AND OUTFITTERS.

OUTFITTERS.

Outfitters. 39. (1) The Director may, upon application therefor, issue an outfitter's licence to any person who is a resident and a bona fide owner of equipment in good condition and repair that in the opinion of the Director is sufficient to take care of at least four hunters in the field.

Expiry date. (2) Unless sooner cancelled, every outfitter's licence expires on the 31st day of December of the year in which it was issued.

Keep equipment in good order. (3) Every outfitter shall keep his equipment in good condition and repair at all times, and shall make it available for inspection by the Director or a game guardian at all reasonable hours.

Sanitary control. (4) Every outfitter shall ensure that the guide in charge of every party of hunters that he outfits complies with any Ordinance or regulations under any Ordinance respecting (a) the sanitation of camps and camp sites, (b) the preparation and handling of food, and (c) the health of employees preparing food for the hunting party.

(5) Whenever the Director, or a game guardian, finds upon inspection that an outfitter has not complied with subsection (3) or (4), he shall forthwith report his findings in writing to the Commissioner, who may, in his discretion, order the suspension or cancellation of the outfitter's licence. Report where no compliance.

40. (1) No person for gain or reward or hope thereof shall use, rent or let any saddle horse, pack horse, vehicle, boat or other equipment to any non-resident for the purpose of being used in the hunting of big game without first obtaining an outfitter's licence. Licence required to outfit hunter.

(2) Notwithstanding subsection (1), any person may rent or let any saddle horse, pack horse, vehicle, boat or other equipment to an outfitter. Equipment rental.

41. (1) For each party of non-resident hunters, an outfitter shall provide one chief guide who shall be in charge of the party in the field. Provide chief guide.

(2) The chief guide in charge of a party in the field may act as guide for one hunter and an additional guide shall be provided for each additional hunter in the party. Chief guide may act as guide.

(3) No outfitter shall hire, engage or employ to act as a guide a person who is not the holder of a guide's licence. Prohibition.

GUIDES.

42. (1) Guides' licences shall be of two kinds, namely, assistant guide licences and chief guide licences. Guides' licences.

(2) The Director may, upon application therefor, issue an assistant guide licence to a resident who Qualifications of assistant guide.

(a) held an assistant guide licence in the preceding year, or

(b) can satisfy the Director that

(i) he is physically sound,

(ii) he is of good character,

(iii) he has sufficient knowledge of the area to be hunted,

(iv) he has sufficient knowledge of hunting methods,

(v) he has sufficient knowledge of care of trophies in the field, and

(vi) he has sufficient knowledge of this Ordinance and the regulations.

(3) The Director may issue a chief guide licence to a resident who Qualifications of chief guide.

(a) held a chief guide licence in the preceding year, or

(b) has acted as an assistant guide for at least three years and, in the opinion of the Director, is capable of assuming the responsibility for a party of hunters in the field.

(4) Unless sooner cancelled, every guide's licence expires on the 31st day of December of the year in which it was issued. Expiry date.

May not act as guide without licence.

43. (1) No person for gain or reward, or hope thereof, shall act as a guide to any non-resident while afield for the purpose of hunting big game without first obtaining a guide's licence.

Duty of guide.

(2) No guide shall act as a guide for any person without first satisfying himself that such person has the proper licence for the kind of game to be hunted.

Guide to prevent violations.

44. If he can do so without using force, every guide shall prevent any person for whom he is acting as a guide from violating this Ordinance or the regulations.

Carrying firearms.

45. Every guide may carry, but not use, firearms belonging to any person for whom he is acting as a guide.

Guide not to kill big game.

46. Except to prevent personal injury or loss of life, no guide shall, while he is acting as a guide, kill, take or catch any big game.

Return completed by guide.

47. Every chief guide shall, on his return from a big game hunting trip with a party for which he has been engaged as a guide,

(a) make a return in writing on a prescribed form; and

(b) endorse on the back of each non-resident hunting licence the number and kinds of game taken by the holder thereof.

REGISTERED GUIDING AREAS.

Certificate of registration.

48. The Director may upon application therefor issue a certificate of registration of a guiding area to an outfitter.

Right conferred on issue of certificate.

49. (1) Except as provided in subsection (2) of section 17, a certificate of registration of a guiding area reserves to the holder thereof the sole and exclusive right and privilege of outfitting and guiding any person for the purpose of hunting big game within the area described in the certificate of registration.

Permission to guide outside guiding area.

(2) The Director may, upon request, permit an outfitter or guide in his service or employ the right and privilege of outfitting and guiding any person for the purpose of hunting big game within an area for which no certificate of registration has been issued.

One certificate only.

50. No person shall hold more than one certificate of registration of a guiding area.

When certificate may be cancelled.

51. The Director may cancel a certificate of registration of a guiding area where, in his opinion, the holder thereof, without reasonable excuse, does not actively engage in business as an outfitter during the open season in any year that the certificate is in force.

Expiry date of certificate.

52. Unless sooner cancelled, every certificate of registration of a guiding area expires five years following the date of issue.

53. (1) The holder of a certificate of registration of a guiding area may, within a period of sixty days preceding the date on which it expires or sixty days after that date, apply for a renewal, and if the Director is satisfied that the holder has complied with this Ordinance and the regulations, he is entitled to a renewal thereof for a further period of five years in priority over all other applicants.

Time for renewal.

(2) Where the holder of an expired certificate of registration of a guiding area fails to apply for renewal within the limits set in subsection (1), he shall have no priority over other applicants.

Loss of priority.

PART VI.

REGISTERED TRAPPING AREAS.

54. (1) The Director may, upon application therefor, issue a certificate of registration of a trapping area to the holder of a general hunting licence.

Issue of a certificate of registration of trapping area.

(2) A certificate of registration of a trapping area in that portion of the Territory lying north of sixty-five degrees thirty minutes north latitude may be granted only to a person who resided and hunted under licence in that part of the Territory in each of the three years immediately preceding the date of his application.

(3) Except with the permission of the Commissioner, no certificate of registration of a trapping area shall be issued to a person who holds a licence to trap in any other part of Canada.

No certificate to persons licensed to trap elsewhere in Canada.

(4) No person shall be granted more than one certificate of registration of a trapping area.

55. (1) A certificate of registration of a trapping area may be issued to a group of two or more persons if each of them is qualified to obtain a certificate of registration.

Issue to group.

(2) The certificate of registration of the trapping area shall be issued in the name of the leader of the group.

In name of leader.

(3) The leader of the group holding a certificate of registration shall furnish such returns and information respecting wild-life and hunting and trapping operations as the Director may require.

Returns.

56. (1) Except as provided in this Ordinance, a certificate of registration of a trapping area reserves to the holder thereof or, in the case of a certificate of registration issued to the leader of a group, to the persons of the group, the sole and exclusive right and privilege of hunting fur-bearing animals within the area described in the certificate of registration.

Exclusive right to hunt fur-bearing animals.

(2) A game guardian may, upon request, permit the holder of a certificate of registration of a trapping area or, in the case of a certificate of registration issued to the leader of a group,

Not to hunt outside area without permission.

to the persons of the group, the right and privilege of hunting fur-bearing animals within an area for which no certificate of registration has been issued.

Only certain persons may hunt in trapping areas.

57. Except as provided in section 38, no person shall, within a registered trapping area, hunt fur-bearing animals or set traps, snares or other trapping equipment or skin or prepare or assist in the skinning or preparation of pelts for sale, unless

- (a) he is the holder of, or a dependant of a person who is the holder of, a certificate of registration for that area;
- (b) he is a member of a group of persons holding a certificate of registration for that trapping area or a dependant of such member; or
- (c) he is employed with the consent of the Director by the holder of a certificate of registration of a trapping area to assist in hunting in that area, and is the holder of a general hunting licence; but such consent may be issued only upon evidence satisfactory to the Director that the employer cannot obtain an adequate livelihood without assistance.

Holder may remove other traps.

58. Where a holder of a certificate of registration of a trapping area discovers traps, snares or other trapping equipment set within the limits of the trapping area by any person not authorized to do so, he may remove them from the area and if he does so shall deliver them to a game guardian.

Cancellation where holder fails to trap.

59. The Director may cancel a certificate of registration where, in his opinion, the holder thereof, without reasonable excuse, does not actively engage in hunting fur-bearing animals on his trapping area during the open season in any year that the certificate is in force.

Expiration of certificate.

60. Unless sooner cancelled every certificate of registration of a trapping area expires five years following the date of issue.

Time for renewal.

61. (1) The holder of a certificate of registration of a trapping area may, within a period of sixty days preceding the date on which it expires or sixty days after that date, apply for a renewal, and if the Director is satisfied that the holder has complied with this Ordinance and the regulations, he is entitled to a renewal thereof for a further period of five years in priority over all other applicants.

Loss of priority.

(2) Where the holder of an expired certificate of registration of a trapping area fails to apply for renewal within the limits set in subsection (1), he shall have no priority over other applicants.

Annual reports.

62. On or before the 30th day of June in any year that a certificate of registration of a trapping area is in force, the holder thereof shall submit to a game guardian a true and complete report on a prescribed form showing the number and kind of game taken in the trapping area during that licence year.

63. Whenever required by a game guardian, every holder of a certificate of registration of a trapping area shall submit a report to the game guardian giving the number and location of beaver colonies in the area. Reports on beaver colonies.

64. The holder of a certificate of registration of a trapping area may remove, sell, transfer or assign any movable improvements made or lawfully acquired by him on the trapping area. May dispose of improvements.

PART VII.

FUR FARMS AND LIVE GAME.

65. The Director may, upon application therefor, issue a licence to operate a fur farm to any resident. Licence to operate fur farm.

66. Without the consent of the owner of the fur farm, no person other than a game guardian shall enter upon any fur farm or go within twenty-five yards of the pens or dens of fur-bearing animals thereon if notices forbidding trespassing on the said premises that are plainly discernible at a distance of not less than twenty-five yards are posted upon such pens or dens. Unauthorized entry forbidden.

67. Where notices have been posted in accordance with section 66, the owner or caretaker of a fur farm may kill a dog found terrifying captive fur-bearing animals within twenty-five yards of their pens or dens. May kill dog terrifying fur-bearing animals.

68. The Director may issue a licence to take wild live game animals for propagation or for export. Licence to take live animals.

69. Wild live game animals, whether taken for propagation or for export, shall be taken in the period and in numbers specified in the licence and by the use of box traps or other devices approved by the Director. Taking of live animals.

70. (1) Where live animals are shipped or transported every precaution shall be taken to prevent injury to the animals. Animals not to be injured in shipment.

(2) The animals referred to in subsection (1) shall be properly fed and cared for and shall be shipped or transported in well ventilated crates maintained in a sanitary condition. Feeding, etc., of animals in shipment.

71. Every licence issued under section 68 shall, upon expiry, be returned to the Director together with an affidavit setting forth the numbers and kinds of game taken under its authority. Return of licence.

72. (1) No person shall import into the Territory a fur-bearing animal without first having obtained a licence from the Director authorizing such import. Licence to import fur-bearing animals.

Certificate of health.

(2) The Director shall not issue a licence under subsection (1) unless the applicant produces a certificate of health signed by a veterinarian in respect of the fur-bearing animals to be imported.

PART VIII.

GAME SANCTUARIES AND PRESERVES.

Game preserves.

73. (1) Each area described in Schedule B is a game preserve and shall be known by the name immediately preceding its description in that Schedule.

Prohibition.

(2) Except as provided in subsection (3), no person other than an Indian or Eskimo shall hunt or trade and traffic in game within the boundaries of a game preserve.

Exception.

(3) Where a person enters a game preserve for the purpose of prospecting for minerals he may, if he is licensed to hunt game birds, take game birds during the open season for such birds.

Game sanctuaries.

74. (1) Each area described in Schedule C is a game sanctuary and shall be known by the name immediately preceding its description in that Schedule.

Prohibition.

(2) Except as provided in section 38, no person shall hunt game within a game sanctuary.

Sealing of firearms and traps.

(3) No person except a game guardian or the holder of a scientific licence shall have in his possession in a game sanctuary any firearm or trap of any description unless it has been sealed by a game guardian in such a way as to render it inoperative.

Removal of seal.

(4) The seal may be removed from a firearm where such action is necessary to preserve life.

Report to game guardian.

(5) Every person who removes the seal from a firearm pursuant to subsection (4) shall report to a game guardian as soon as possible and swear an affidavit setting forth the reasons for his actions.

PART IX.

TRADING AND TRAFFICKING IN GAME.

Trading post or outpost licences.

75. (1) No person shall establish, operate or maintain in the Territory an establishment in which the business of trading or trafficking in game is carried on unless he holds a trading post licence issued by the Director with respect to that establishment.

Separate licences for each establishment.

(2) A separate licence shall be obtained in respect of each trading establishment.

Outpost licence.

(3) Where the trading establishment is to be operated less than eight months in a year, an outpost licence issued by the Director shall be obtained.

(4) Where the trading establishment is to be operated eight or more months in a year, a trading post licence issued by the Director shall be obtained. Trading post licence.

(5) No outpost licence shall be issued to a person unless he holds a trading post licence. Outpost licence only to holder of trading post licence.

(6) A trading post in respect of which a licence is issued shall be operated for at least eight months of each licence year. Trading post to be operated at least eight months.

(7) An outpost in respect of which a licence is issued shall be operated for at least three months of each licence year. Outpost to be operated at least three months.

(8) A licence for a trading post or an outpost is not transferable. Not transferable.

(9) A licence issued under this section remains in effect until cancelled by the Director or surrendered. Duration of licence.

76. (1) Except as provided in section 78, no person shall, either by himself, his clerk, servant or agent, buy, sell, deal, exchange, barter, solicit or traffic in the skin, pelt or part thereof of any fur-bearing animal or conduct a sale or purchase of the skin, pelt or part thereof without first having obtained a licence from the Director authorizing him to do so. Licence to sell fur-bearing animals.

(2) A licence to trade or traffic in game may be transferred (a) upon application in writing to the Director by the holder thereof, and

(b) upon payment of any increase in licence fee. Transfer of licence.

(3) A licence to trade or traffic in game authorizes the person to whom it is issued to trade or traffic only at the trading post or outpost described in the licence. Right to trade limited to posts described in licence.

(4) A person employed to assist the holder of a licence to trade or traffic in game does not require a licence unless he engages in trading or trafficking in game on his own account. Holder's assistant does not require licence.

77. Every holder of a fur trading licence shall (a) keep a true record of all furs purchased or sold by him, such record to show

- (i) date of purchase or sale,
- (ii) name and address of vendor or purchaser,
- (iii) licence number of the trapper, and
- (iv) a sufficient description of the furs purchased or sold;

(b) forward an annual return in a prescribed form to the Director within fifteen days after the end of each licence year; and

(c) whenever so required by the Director in writing produce his records and books of account for examination by a game guardian. Duties of trader.

78. (1) A resident may purchase without a licence skins or pelts for use by himself and his family. Unlicensed resident may purchase for personal use.

Unlicensed
visitor may
purchase
limited value
for personal
use.

(2) A person who is not a resident of the Territory may purchase without a licence skins or pelts for his own use, but not for barter or sale, the total value of which does not exceed two hundred dollars in any licence year.

PART X.

POWERS OF THE COMMISSIONER.

Powers.

79. The Commissioner may

- (a) prescribe forms of licences, applications and certificates of registration and such other forms as may be required for the purposes of this Ordinance or the regulations;
- (b) cancel, suspend or refuse to issue or renew any licence or certificate of registration for any cause that to him seems sufficient;
- (c) reinstate a cancelled or suspended licence or certificate of registration upon such terms as he may deem proper;
- (d) as a condition precedent to the issue or reinstatement of any licence or certificate of registration in any case or class of cases, require the applicant therefor to furnish a bond or other form of security as he may deem necessary to secure the due observance of this Ordinance;
- (e) appoint honorary game guardians;
- (f) fix or vary at any time the boundaries of any trapping or guiding area in respect of which a certificate of registration has been issued;
- (g) permit the meat of game to be had in possession and served
 - (i) in schools, hospitals or hostels in case of need, and
 - (ii) in hotels, restaurants or dining rooms of clubs or other organizations on special occasions;
- (h) grant, without fee, a special licence to enable a guest of the Territory to hunt therein;
- (i) notwithstanding anything herein, authorize a game guardian or any person under the supervision of a game guardian, to hunt game at any time in any part of the Territory and by any method deemed necessary by the Commissioner to carry out an experiment or investigation in connection with the conservation, development or utilization of the wildlife resources including the control of predatory animals; and
- (j) on behalf of the Territory, enter into agreements with Canada in connection with the development of fur rehabilitation blocks or registered trapping areas where such development will be beneficial to Indians or Eskimos.

Regulations
of
Commissioner.

80. (1) The Commissioner may make regulations

- (a) fixing the boundaries of the areas within which any specified species of game may be hunted and killed;

- (b) prescribing the number of any specified species of game and the sex thereof that may be hunted and killed;
- (c) fixing the periods of open seasons;
- (d) respecting the continuation in force of any certificate of registration that has been issued to a person who enlists in the armed forces or who becomes hospitalized or otherwise incapacitated, and respecting the enjoyment by the dependants of any such person of any of the rights of that person thereunder during the period of his absence in the armed forces or during the period of his hospitalization or incapacity, notwithstanding anything else herein;
- (e) respecting the sealing and marking of pelts of any specified species of game, the manner and method of such sealing or marking and, generally, the use of seals and marks for any such purpose; and
- (f) respecting any other matter the regulation of which the Commissioner deems necessary or advisable in order to carry out effectively the purposes and provisions of this Ordinance.

(2) No regulation shall have force and effect until it has been published in the *Yukon Gazette*. Publication in Yukon Gazette.

(3) The Commissioner shall cause regulations made pursuant to this Ordinance to be tabled at the session of Council next following the making of such regulations. Tabling of regulations.

PART XI.

ADMINISTRATION AND ENFORCEMENT.

OFFICERS.

81. The Commissioner may appoint

- (a) an officer to be called the Director, who shall supervise, under the direction of the Commissioner, the administration of this Ordinance; and Appointment of Director.
- (b) one or more persons to be called game guardians who shall, under the direction of the Director, perform such duties as may be assigned by the Director. Game guardians.

82. The following persons shall be *ex officio* game guardians: *Ex officio* game guardians.

- (a) the Director;
- (b) members of the Royal Canadian Mounted Police;
- (c) all outfitters and chief guides; and
- (d) the Forest Supervisor and all forest officers appointed under the *Forest Protection Ordinance*.

83. A game guardian and an honorary game guardian appointed pursuant to this Ordinance shall, before acting as such, take and subscribe to the following oath:

“I, _____, of _____, a game guardian appointed under the provisions of the *Game Ordinance*,”

nance, do swear that to the best of my judgment I will faithfully, honestly and impartially execute and perform the office and duty of such game guardian according to the true intent and meaning of the *Game Ordinance*. So help me God."

Game guardian to be commissioner of oaths.

84. (1) All game guardians, while acting as such under the provisions of this Ordinance, have and possess the powers of a Commissioner for taking affidavits in and for the Territory in relation to all matters coming within the provisions of this Ordinance.

Enforcement of Ordinance.

(2) Every game guardian has the power to enforce and carry out the provisions of this Ordinance and the regulations.

Authority of honorary game guardian.

(3) Every honorary game guardian has the power and authority of a game guardian to the extent prescribed by the Commissioner.

DISPUTES.

Power to settle disputes.

85. (1) The Director has power to settle any dispute in connection with hunting or trapping operations.

Appeal.

(2) An appeal lies from the decision of the Director to a police magistrate.

Notice of appeal.

(3) Notice of appeal shall be given within thirty days from the day upon which the decision appealed from is pronounced or given, or within such further time as the Director may allow, and, after service upon the opposite party, shall be filed with the Director.

Deposit of security for costs.

(4) At the time of filing notice of appeal, the appellant shall deposit with the Director such sum of money or security therefor as security for costs of the appeal as the Director may consider necessary.

Transfer of evidence, etc., to police magistrate.

(5) Upon receipt of notice of appeal and deposit of security for costs, if any, the Director shall forthwith transfer the complaint, evidence and other proceedings to a police magistrate.

Hearing.

(6) The police magistrate shall fix the time of hearing at as early a date as may, in his opinion, be convenient to all parties.

Appeal lies to judge.

(7) An appeal from the decision of a police magistrate lies to a judge.

ARREST AND SEARCH.

Arrest without warrant.

86. Any game guardian who finds a person committing an offence against this Ordinance or the regulations may arrest that person without warrant.

SEIZURE AND FORFEITURE.

Seizure of game.

87. (1) All game taken, caught, killed or had in possession in violation of this Ordinance or all nests or eggs or part thereof taken or had in possession in violation of this Ordinance, together with all game of any kind whatsoever, whether legally taken, caught, killed or had in possession or otherwise, that are inter-

mixed therewith, shall, upon being found by a game guardian, be forthwith seized by him and, when so seized, shall be taken before a justice.

(2) All guns, ammunition, traps, boats, skiffs, canoes, punts and vessels of every description, horses, dogs, wagons, sleighs, aircraft, vehicles and other outfits, decoys and appliances and materials of every kind used in violation of or for the purpose of violating this Ordinance may, upon being found by a game guardian, be forthwith seized by him and, when seized, shall be taken before a justice. Seizure of equipment.

88. Where a person refuses to submit for inspection to a game guardian any paper, records, documents or books of account as required under this Ordinance, the game guardian, upon obtaining a warrant therefor, may seize the same. Seizure of records and documents.

89. (1) Upon the conviction of a person for an offence under this Ordinance or the regulations, the justice before whom the case was heard may declare the forfeiture to the Territory of anything seized under section 87 in connection with the conviction. Forfeiture upon conviction.

(2) The Commissioner may dispose of anything declared forfeited under this section in any way he deems fit and the proceeds thereof shall be deposited to the credit of the Yukon Consolidated Revenue Fund. Proceeds to Y.C.R.F.

OFFENCES AND PENALTIES.

90. Every person who violates a provision of this Ordinance or the regulations is guilty of an offence and in addition to any other penalty liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment. General penalty.

ONUS OF PROOF.

91. (1) Whenever by this Ordinance it is made an offence to do an act without holding a licence or certificate of registration therefor, the onus in any prosecution shall be upon the person charged to prove that he held a licence or certificate of registration as required by this Ordinance. Onus on accused to show he held licence.

(2) In any prosecution under this Ordinance, the onus of proof as to his being a resident shall be upon the defendant. Onus as to residence.

(3) In any prosecution under this Ordinance, the onus of proving that the game taken or killed was necessary to prevent starvation of himself or his family shall be upon the person charged with having killed or taken such game in violation of this Ordinance. Onus as to taking to prevent starvation.

(4) The possession of game or the nests or eggs of birds by any person within a game sanctuary shall be prima facie evidence of the guilt of such person and the onus of proof to the contrary shall rest upon him. Onus as to possession.

MISCELLANEOUS.

Prosecution
within one
year.

92. Prosecution for any offence committed against this Ordinance may be entered at any time within one year from the time when such offence was committed.

Moneys
deposited
in Y.C.R.F.

93. All moneys received from fees and charges made under the authority of this Ordinance and all fines resulting from convictions under this Ordinance shall be deposited to the credit of the Yukon Consolidated Revenue Fund.

SCHEDULE A.

SCHEDULE OF FEES FOR LICENCES AND CERTIFICATES.

1. Hunting Licences	
(a) General hunting licence if issued to	
(i) an Indian or Eskimo	Free
(ii) a person over 65 years of age	Free
(iii) any other person	5.00
(b) Licence to hunt big game and game birds if issued to	
(i) an Indian	Free
(ii) an Eskimo	Free
(iii) a resident over 65 years of age	Free
(iv) any other resident	2.00
(v) a non-resident Canadian	
(A) to take two big game trophies	50.00, and
(B) to take additional trophies, each	25.00
(vi) a non-resident alien	
(A) to take two big game trophies	100.00, and
(B) to take additional trophies, each	25.00
(c) Licence to hunt game birds only if issued to	
(i) a non-resident	10.00
(d) Licence to hunt bear if issued to	
(i) a resident	Free
(ii) a non-resident Canadian	25.00
(iii) a non-resident alien	50.00
2. Certificate of Registration of Trapping area or renewal thereof	10.00
3. Certificate of Registration of Guiding area or renewal thereof	10.00
4. Outfitter's licence	25.00
5. Chief Guide licence	20.00
6. Assistant Guide licence	10.00
7. Trading Post licence	1.00

8. Outpost licence	1.00
9. Fur trader's licence if issued to	
(i) a resident	25.00
(ii) a non-resident	150.00
10. Fur farm licence or renewal thereof	2.00
11. Licence to take live animals	1.00
12. Licence to export live animals, for each animal	2.00
13. Licence to export big game and game birds	Free
14. Licence to import fur-bearing animals	Free
15. Scientific licence	Free

SCHEDULE B.

DESCRIPTION OF GAME PRESERVE.

PEEL RIVER PRESERVE.

Comprising all that tract of land which may be described as follows:

Commencing at the most easterly intersection of the 66th Parallel of north latitude with the boundary between the Northwest Territories and the Yukon Territory; thence westerly and northerly, following the said boundary to its intersection with the Peel River; thence southerly following the right bank of Peel River to its confluence with the Snake River; thence upstream following the right bank of the Snake River to its intersection with latitude 65 degrees 30 minutes North, a distance of approximately sixty miles; thence due east to the boundary between the Northwest Territories and the Yukon Territory; thence northerly along the said boundary to the point of commencement.

SCHEDULE C.

DESCRIPTION OF GAME SANCTUARIES.

MCARTHUR GAME SANCTUARY.

Comprising all that portion of the Yukon Territory lying within the boundaries described as follows:

Commencing at one of the heads of Avalanche Creek at approximately 63 degrees, 16 minutes 30 seconds north latitude, 135 degrees 22 minutes west longitude; thence downstream along the left bank of Avalanche Creek to its junction with Nogold Creek; thence downstream along the left bank of Nogold Creek to its junction with an unnamed tributary at approximately 63 degrees 19 minutes 30 seconds north latitude and 135 degrees 42 minutes west longitude; thence southwesterly along the right

bank of the said tributary to its head; thence southwesterly in a straight line to the eastern extremity of an unnamed lake on North Crooked Creek at approximately 63 degrees 16 minutes 30 seconds north latitude and 135 degrees 49 minutes west longitude; thence along the left bank of North Crooked Creek to its junction with Crooked Creek; thence upstream along the right bank of Crooked Creek to its junction with South Crooked Creek; thence upstream along the right bank of South Crooked Creek to its junction with Woodburn Creek; thence upstream along the right bank of Woodburn Creek to Woodburn Lake; thence along the north shore of Woodburn Lake to its southeastern extremity; thence easterly in a straight line across a height of land to the head of an unnamed tributary of Little Kalzas River at approximately 63 degrees 03 minutes north latitude and 135 degrees 54 minutes west longitude; thence downstream along the left bank of said tributary to its junction with Little Kalzas River; thence downstream along the left bank of Little Kalzas River via the southwest shore of Little Kalzas Lake to its junction with Kalzas River; thence upstream along the right bank of Kalzas River to its intersection with 135 degrees 05 minutes west longitude; thence due north along the said 135 degrees 05 minutes west longitude a distance of four miles, more or less, to its intersection with the right bank of Kalzas River; thence upstream along the right bank of Kalzas River to a fork at approximately 63 degrees 11 minutes 30 seconds north latitude, 135 degrees 10 minutes west longitude; thence upstream along the right bank of the northwesterly fork to its head at approximately 63 degrees 15 minutes 30 seconds north latitude, 135 degrees 18 minutes west longitude; thence northwesterly in a straight line a distance of two and one-half miles, more or less, to the point of commencement.

KLUANE GAME SANCTUARY.

Comprising all that portion of the Yukon Territory lying within the boundaries described as follows:

Commencing at the point of intersection of the International Boundary between Yukon Territory and the State of Alaska with the middle of the main channel of White River in approximate north latitude 61 degrees 45 minutes; thence south and easterly following the said International Boundary to its intersection with the northern boundary of the Province of British Columbia; thence easterly following the said northern boundary of British Columbia to its intersection with the western boundary of the right of way of the Haines Highway; thence north and westerly following the said westerly and southerly boundary of the highway right of way to its intersection with the south boundary of the Alaska Highway; thence northerly and westerly following the southerly and westerly boundary of the right of way of the Alaska Highway to the middle of the main channel of the White River; thence southwesterly along the middle of

said channel to the point of commencement, the said described land containing an area of approximately ten thousand one hundred and thirty (10,130) square miles, more or less.

PINE CREEK GAME SANCTUARY.

All that parcel of land in the Yukon Territory in the vicinity of the Federal Government Experimental Farm lying northerly of and adjoining the northerly limit of the right of way of the Alaska Highway, as said right of way is shown on sheets 53 and 54 of the plan thereof, said sheets being of record numbers 40905 and 40906 in the Legal Surveys and Aeronautical Charts Division of the Department of Mines and Technical Surveys at Ottawa, said parcel being more particularly described as follows:

Commencing at an iron post numbered H1834 marking the northerly limit of the Alaska Highway; thence westerly along said northerly limit to a standard post, pits and mound numbered H1873; thence easterly in a straight line to the point of commencement; said parcel containing by admeasurement nine square miles approximately.

CHAPTER 51.

AN ORDINANCE RESPECTING GARAGE KEEPERS.

SHORT TITLE.

Short Title. 1. This Ordinance may be cited as the *Garage Keepers Ordinance*.

INTERPRETATION.

Definitions. 2. In this Ordinance,

"Garage." (a) "garage" means any building or part of a building in or in connection with which services are rendered upon motor vehicles in the ordinary course of business;

"Garage keeper." (b) "garage keeper" means any person who, in the ordinary course of business and as his principal employment or one of his principal employments, renders services upon motor vehicles in a garage for a charge, price or consideration;

"Motor vehicle." (c) "motor vehicle" means a vehicle propelled by any power other than muscular power, but does not include an aeroplane or a vehicle that runs only on tracks or rails; and

"Services." (d) "services" means repairs to a motor vehicle by labour or by supplying parts thereof or accessories thereto.

CREATION, EFFECT AND REGISTRATION OF LIEN.

Garage keeper's lien. 3. (1) In addition to any other remedy that a garage keeper has for recovering money for services rendered by him, he has a lien on every motor vehicle and on any part, accessory or equipment pertaining thereto for services for the amount of the charge, price or consideration therefor.

Requirement as to actual and continued possession. (2) Subject to section 4, actual and continued possession of the motor vehicle or part, accessory or equipment is essential to the existence of a lien under this Ordinance. .

Non-application of the *Mechanics Lien Ordinance*, section 31. (3) Section 31 of the *Mechanics Lien Ordinance* does not apply to a lienholder under this Ordinance.

Garage keeper may file lien. 4. (1) In lieu of remaining in actual and continued possession as provided by subsection (2) of section 3, a garage keeper may, by himself or his agent, within fifteen days of the day on which the service for which a lien exists was completed, file in the office of the registration clerk of the registration district established under the *Bills of Sale Ordinance* in which the service was performed a claim of lien, in Form A, and an affidavit verifying the claim, in Form B.

(2) A garage keeper or his agent may file a copy of the claim and affidavit filed under subsection (1) in the office of the registration clerk of any other registration district established under the *Bills of Sale Ordinance*. Registration of claim for lien and effect thereof.

(3) If a claim is filed pursuant to subsection (1) within fifteen days after the date upon which the services were completed, the garage keeper has a lien for services on the motor vehicle for a period of one hundred and eighty days from the date of filing; on the expiration of that period the lien ceases to exist unless within that period proceedings have been commenced under this Ordinance to enforce it. Period during which lien continues.

5. (1) Where the charge, price or consideration for services to a motor vehicle by a garage keeper exceeds one hundred dollars in value and the vendor of the motor vehicle or his assignee has a lien upon the motor vehicle for all or part of the purchase price, the lien has priority over a lien filed under section 4, unless such vendor or assignee gives the garage keeper written authority to supply the services. Priority of lien of vendor.

(2) Where a garage keeper has lost his lien under section 3 because the motor vehicle in respect of which he has the lien has gone out of his possession and before he files a claim of lien under section 4 another person in good faith and without notice acquires an interest in, or a charge, lien or other encumbrance on the motor vehicle, such interest, charge, lien or other encumbrance has priority over a lien under section 4. Priority of encumbrance required before filing.

(3) Where more than one person has a lien under this Ordinance upon the same motor vehicle, the lien of the person whose claim of lien is filed earlier in time has priority over that of a person whose claim of lien is filed later in time. Priority among liens filed.

6. (1) At any time during the continuance of a lien on a motor vehicle created by section 4, the garage keeper may authorize the sheriff in writing to seize the motor vehicle and return it to the garage keeper. Garage keeper may issue authorization to seize.

(2) After receiving the authorization mentioned in subsection (1), the sheriff shall seize or cause to be seized the motor vehicle, if he finds it within one hundred and eighty days, and deliver it to the garage keeper or his agent upon receiving the amount of the fees payable in respect of the authorization and seizure. Sheriff to seize.

(3) A judge may prescribe fees that may be charged in respect of an authorization under this section and any seizure thereunder or any matter or thing incidental thereto. Judge may prescribe fees.

(4) Where one of several lienholders under this Ordinance causes a seizure to be made of a motor vehicle, he shall be deemed to have made the seizure on behalf of all persons who have a subsisting lien on the motor vehicle. Seizure deemed to be on behalf of all lienholders.

Rights of garage keeper on delivery after seizure.

7. Upon a motor vehicle being delivered to him after seizure pursuant to section 6, a garage keeper has the same rights and remedies for enforcing his lien against the motor vehicle as if he then had a possessory lien for the same amount, and may enforce the lien in the manner provided in this Ordinance.

ENFORCEMENT.

When garage keeper may sell.

8. Where the amount payable to the garage keeper for services on a motor vehicle has not been paid

- (a) upon the expiration of one hundred and eighty days from the date upon which the services were completed where the garage keeper retains possession of the motor vehicle, or
- (b) upon the expiration of the period of one hundred and eighty days mentioned in subsection (3) of section 4, or on the expiration of sixty days from the date of delivery of the motor vehicle to the garage keeper under section 6, whichever is later,

the garage keeper may sell the motor vehicle or any part thereof at public auction.

Notice of sale.

9. Before a sale is held under section 8, a garage keeper shall publish in the *Yukon Gazette* and post and keep posted during a period of at least two weeks, on the outside of a front door of his garage a notice of such intended sale that sets out

- (a) the name so far as known of the owner of the motor vehicle to be sold;
- (b) a general description of the motor vehicle, including its engine number and serial number;
- (c) the time and place of sale; and
- (d) the name of the auctioneer.

Application of proceeds.

10. (1) The proceeds of a sale under section 8 shall be applied in payment of the following charges in the order set out:

- (a) the costs of the seizure of the vehicle;
- (b) the costs of advertising the sale, the auctioneer's fees and other reasonable costs of the sale;
- (c) any claim, lien, interest or encumbrance that, under this Ordinance, has priority over the lien in respect of which the sale was made in accordance with their priority;
- (d) the amount payable to the garage keeper for services; and
- (e) the claim of any other lienholder;

and the surplus, if any, shall be paid on application to the person entitled thereto.

If surplus not claimed within one year it becomes part of Y.C.R.F.

(2) If a person entitled to the surplus of a sale under section 8 does not apply for it within one month of the day of the sale, such surplus shall be paid to the Territorial Treasurer who shall keep it in a special trust account for one year, after which, if such person does not claim it, it shall be paid into and form part of the Yukon Consolidated Revenue Fund.

GENERAL.

11. (1) Subject to subsection (2), no garage keeper shall operate, or permit to be operated, outside his premises, any motor vehicle, or use, or permit to be used, any part of a motor vehicle left with him for service or held by him. ^{Penalty.}

(2) Notwithstanding subsection (1), a motor vehicle left with a garage keeper for the performance of services thereon or held by him pursuant to this Ordinance may be operated for the purpose of testing it after repairs have been made or parts supplied, or for the purpose of transferring it to the place where it is to be sold pursuant to this Ordinance. ^{Saving.}

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

12. Every garage keeper shall keep a copy of this Ordinance conspicuously posted in his office and in at least two other conspicuous places in his garage, and unless he complies with this section he is not entitled to the benefits of this Ordinance. ^{Garage keeper to post copy of Ordinance.}

SCHEDULE.

FORM A.

CLAIM OF LIEN.

(Section 4)

(Name of claimant) of *(address of claimant)* carrying on the business of a garage keeper at *(give address of garage)* pursuant to the *Garage Keepers Ordinance* claims a lien upon a certain vehicle *(set out licence number, if any, of the vehicle and the make, style, year and model thereof and the serial number of the vehicle and its engine)* in respect of *(insert particulars of the services rendered)* for *(state name and address)* and which were completed on *(state date of completion of services)*.

The amount for which the lien is claimed is the sum of dollars.

The address for service of the claimant is in the Yukon Territory.

Dated at, this day of, 19.....

.....
Signature of claimant or agent.

FORM B.

AFFIDAVIT VERIFYING CLAIM.

(Section 4)

Canada
Yukon Territory

To Wit:

I, (*name, address and occupation of person by whom the claim of lien is signed*) make oath and say that the statements set out in the above (*or annexed*) claim are true and that I have a full knowledge of such facts.

Sworn before me at

.....
 in the Yukon Territory, this }
 day }
 of , }
 19.....

.....
*A Commissioner for taking affidavits
 for the Yukon Territory.*

CHAPTER 52.

AN ORDINANCE RESPECTING THE ATTACHMENT
OF DEBTS.

SHORT TITLE.

1. This Ordinance may be cited as the *Garnishee Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance, Definitions.
- (a) "court" means "Court."
- (i) in the case of a judgment, order or action in the Territorial Court, the Territorial Court, and
- (ii) in the case of a judgment, order or action in a Police Magistrate's Court, a Police Magistrate's Court; and
- (b) "garnishee" means a person against whom a garnishee "Garnishee." summons is directed under this Ordinance.

GARNISHEE SUMMONS AND SERVICE.

3. (1) Upon receiving an affidavit described in subsection Issue of (2) from a person who has obtained a judgment or order for summons. the recovery or payment of money or who is a plaintiff in an action for debt or liquidated demand or the solicitor or agent of such a person, the clerk of the court may issue a garnishee summons, in Form A, with such variations as circumstances may require, directed to one or more persons alleged to be indebted, either jointly or severally, to the defendant or judgment debtor.
- (2) The affidavit mentioned in subsection (1) shall Nature of
- (a) show the nature and amount of the claim against the defendant or the amount remaining due and unsatisfied affidavit. under the judgment;
- (b) state positively that the defendant or judgment debtor is indebted to the plaintiff or judgment creditor; and
- (c) state that, to the best of the deponent's information and belief, the proposed garnishee, naming him, is indebted to the defendant or judgment debtor.
4. (1) Service of a garnishee summons on a garnishee binds Service any debt due or accruing due from the garnishee to the defendant binds debts. or judgment debtor.
- (2) A garnishee summons may be served in any way that Manner of a writ of summons may be served. service.
- (3) A copy of the garnishee summons shall be served on the defendant or judgment debtor or his solicitor within twenty Service on days after service on the garnishee, or within such further time defendant or as the court or a judge may, judgment *ex parte*, order. debtor.

Money payable out of Territorial funds.

5. Any money due or accruing due to a defendant or judgment creditor that is payable out of public funds of the Territory may be garnisheed under this Ordinance by serving a garnishee summons upon the Territorial Secretary.

SETTING ASIDE THE GARNISHEE SUMMONS.

Application to set aside garnishee.

6. The defendant or judgment debtor or the garnishee or any person claiming to be interested in any money attached under a garnishee summons issued under this Ordinance, may apply to a judge in chambers to set aside the garnishee summons.

DISPUTE BY GARNISHEE.

Dispute by garnishee.

7. (1) Where a garnishee disputes his liability or claims that the debt sought to be attached is or may not be attachable, he shall, within the time specified in the garnishee summons or such further time as the court may allow, file with the clerk of the court a statement showing the grounds on which he disputes liability or claims that the debt is or may not be attachable.

Trial of issue.

(2) When the statement mentioned in subsection (1) has been filed, the court may, on application of the plaintiff or any other person interested, on two days' notice given to the garnishee,

(a) fix a time and place for summarily determining the question of liability or whether the debt is attachable, or

(b) 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 an issue or question in any action may be tried or determined,

and may direct who shall be the parties to such issue or question.

Determination enforceable as judgment.

(3) Any determination under this section becomes a judgment of the court and may be enforced as such.

Delay by plaintiff.

8. Where the plaintiff or judgment creditor does not proceed to have the question of liability determined as provided in section 7 within two months after the garnishee has entered the statement referred to in that section, the garnishee may apply for an order to set aside the garnishee summons.

PAYMENT INTO AND OUT OF COURT.

Garnishee's costs.

9. A garnishee who pays money into court pursuant to a garnishee summons is entitled to deduct from the amount owing by him any disbursement necessarily made by him.

Order for payment to plaintiff.

10. (1) No order shall be made against a garnishee or for payment out of any money paid into court by a garnishee until at least ten days after service of the garnishee 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 the defendant.

(2) No money paid into court pursuant to a garnishee summons shall be paid out except on the written consent of the parties interested or by order of the court, which order may be made *ex parte* or on such notice as the court directs. Payment out of court.

DETERMINING THE INTEREST OF THIRD PERSONS.

11. When it is suggested by the garnishee or any person claiming to be interested that the debt attached belongs to a third person or that a third person has a lien or charge upon it, the court may order the third person or any other person to appear and state the nature and particulars of his claim. Suggestion of claim of third party.

12. After hearing the allegations of a third person appearing pursuant to an order made under section 11 and of any other person whom by the same or any subsequent order the court may require to appear, or in case of a third person not appearing when ordered, the court may order execution to issue to levy the amount due from the garnishee or any issue or question to be tried or determined in accordance with the provisions of this Ordinance, and may bar the claim of the third person or make such other order, upon such terms as the court thinks fit, with respect to the lien or charge, if any, of the third person and to costs as the court thinks fit. Procedure in determining claim.

JUDGMENT AND EXECUTION.

13. Where a garnishee does not pay into court the amount due from him to the defendant or judgment debtor or an amount equal to the claim or judgment and costs and does not dispute the debt due or claimed to be due from him to the debtor, the court may, after judgment has been entered against the defendant or at once when the garnishee summons is founded on a judgment already recovered, order that judgment be entered against the garnishee and that execution issue to levy the amount due from the garnishee or so much thereof as is sufficient to satisfy the judgment or order, together with the costs of the garnishee proceedings. Default by garnishee.

14. Payment made by or execution levied upon the garnishee shall be a valid discharge to him against the defendant or judgment debtor to the amount paid or levied even though such proceedings may be set aside or the judgment or order reversed. Garnishee discharged by payment or levy.

15. (1) Subject to this section, the costs of any application for garnishee summons and any proceedings arising from or incidental to such application shall be in the discretion of the court. Costs in garnishee proceedings.

(2) A garnishee is not liable for the costs of proceedings under this Ordinance except in so far as occasioned by setting up a defence that, in the opinion of the court, he knew or should have known was untenable. Garnishee's costs.

Plaintiff's
or judgment
creditor's
costs.

(3) The plaintiff or judgment creditor is entitled, unless the court otherwise orders, to have the costs of proceedings taken by him under this Ordinance taxed against the defendant or judgment debtor and to add the amount of such costs to the debt or judgment.

Execution
stayed till
money due.

16. No execution shall issue to levy any money owing from a garnishee until and so far only as such money has become fully due.

ATTACHMENT OF WAGES OR SALARY.

Exemption
from
attachment.

17. (1) No debt due or accruing due to an employee for or in respect of wages or salary is liable to attachment under this Ordinance unless such debt exceeds the sum of three dollars per day for the period in respect of which the wages or salary are owing on the day the garnishee summons is served on the garnishee, and then only to the extent of the excess.

Exception.

(2) Where the plaintiff or judgment creditor claims that an employee, in addition to a fixed money wage or salary is given board or lodging or the use of a house, or any other thing of value, in part payment or compensation for his service, the plaintiff or judgment creditor may apply, on not less than five days' notice, to the judge for an order appraising the money value of such board or lodging, use of house or other thing, and the value thus ascertained shall be deducted from the amount of the exemption to which the defendant or judgment debtor would otherwise be entitled.

ATTACHMENT OF SMALL DEBTS.

Application
to Small
Debts
Proceedings.

18. The provisions of this Ordinance apply to proceedings before Small Debts Officials with such changes in the title of the court, the style of the officers, the forms of process and other matters as are necessary to make the same applicable to such proceedings.

SCHEDULE.

FORM A.
(Section 3)

Garnishee Summons

In the Court,
 Between of , plaintiff,
 and
 of , defendant,
 and
 of , garnishee.

To the above named garnishee.

You are hereby notified that the plaintiff has recovered a judgment in this Court against the defendant for

(or 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, a copy of which is hereto annexed) and it is alleged on affidavit filed that you are indebted to the said defendant. You are required within twenty days from the service hereof to notify the Clerk of this Court by statement 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
, 19

(L.S.) Clerk.

NOTE:—Take notice that in default of your so notifying the Clerk you are liable to have judgment entered against you.
(To be endorsed in the same manner as a Writ of Summons)

CHAPTER 53.

AN ORDINANCE RESPECTING
PUBLIC AID TO HOSPITALS.

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as the *Hospital Aid Ordinance*.

INTERPRETATION.

Definitions. **2.** In this Ordinance,

"Ambulant free patient." (a) "ambulant free patient" means a person who is not bedridden but is admitted to a hospital on the direction of the Territorial Treasurer for actual treatment and stay, the cost of which is to be paid out of the Yukon Consolidated Revenue Fund;

"Free bed patient." (b) "free bed patient" means a person who is bedridden and is admitted to a hospital on the direction of the Territorial Treasurer for actual treatment and stay, the cost of which is to be paid out of the Yukon Consolidated Revenue Fund;

"Hospital." (c) "hospital" means a hospital set out in the Schedule; and

"Partially free patient." (d) "partially free patient" means a person who is admitted to a hospital for actual treatment and stay, only part of the cost of which is paid in money or money's worth by or on behalf of such person.

GRANTS IN AID OF HOSPITALS.

Rules to determine amount of aid. **3.** Where money is appropriated for the purposes of this Ordinance by the Commissioner in Council, there may be paid to every hospital that satisfies the requirements of this Ordinance and all orders of the Commissioner under this Ordinance in each year aid from the money in accordance with the following rules:

- (a) every such hospital shall receive not more than three dollars for each day's actual treatment and stay of every patient;
- (b) in addition to the amount provided under paragraph (a), every such hospital shall receive not more than five dollars for each day's actual treatment of every free bed patient and not more than three dollars for each day's actual treatment and stay for every ambulant free patient;
- (c) in addition to the amount provided under paragraph (a), every such hospital shall receive not more than five dollars for each day's actual treatment and stay during

the calendar year, for which the aid is granted in respect of every partially free patient, less the number of days represented by any money's worth given for the treatment by the patient; but no aid shall be granted in respect of any partially free patient until there has been filed with the Territorial Treasurer in respect of each patient a certificate of the attending medical practitioner that each day of the stay and treatment was necessary, and an application on behalf of the hospital for the aid with evidence to the satisfaction of the Territorial Treasurer that the hospital has made every reasonable effort to collect from the patient the full cost in money's worth of his treatment and stay and the reasons why the full cost could not be collected and the amount that was collected; and

- (d) every such hospital shall receive one-half the regular fee charged by the hospital for medicine, X-rays, operating room and similar fees, other than ward fees, for every free patient who stays at the hospital.

4. Where the aggregate aid payable under this Ordinance in any year exceeds the amount of money appropriated for the purpose, every hospital entitled to aid 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. When appropriation insufficient.

REPORTS.

5. All hospitals receiving aid under this Ordinance shall deliver quarterly reports to the Commissioner on the 1st day of January, April, July and October in each year, which reports 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. Reports by hospitals.

6. The Commissioner may require such reports to be made as he deems necessary and he may fix and direct the particulars to be contained in, and the form, manner and time of making reports, and he may also fix and direct the form and manner of the oath, affirmation or declaration required for the verification of any report and the person or persons by whom such oath shall be made. Commissioner may require reports, fix form, etc.

7. Every person who is required to make a report under this Ordinance or by an order of the Commissioner and fails to do so or knowingly makes or assists in making a false report is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars. False reports.

INSPECTION OF HOSPITALS.

Appointment of inspectors. **8.** (1) The Commissioner may appoint one or more inspectors to visit and inspect every hospital set out in the Schedule.

Inspection. (2) An inspector appointed under subsection (1) shall inquire into the maintenance, management and affairs of a hospital and may, in effecting this purpose, examine the register, and use such other means as he deems necessary, and shall satisfy himself of the correctness of any return made to the Commissioner under this Ordinance.

POWERS OF COMMISSIONER.

Commissioner may vary Schedule. **9.** The Commissioner may add to or vary the list of hospitals set out in the Schedule.

SCHEDULE.

St. Mary's Hospital, Dawson.
Whitehorse General Hospital, Whitehorse.
Mayo General Hospital, Mayo.

CHAPTER 54.

AN ORDINANCE RESPECTING HOTEL, BOARDING HOUSE AND LODGING HOUSE KEEPERS.

SHORT TITLE.

1. This Ordinance may be cited as the *Hotel Keepers Ordinance*. Short Title.

DETENTION OF GOODS.

2. A hotel, boarding house or lodging house keeper may seize and detain in his hotel or house or on his premises, before the same have been removed therefrom, but not afterwards, the trunks, valises and personal effects, including clothing, of any person who is indebted to him for board or lodging. Right to detain goods.

3. Every hotel, boarding house and lodging house keeper is responsible for the safe keeping of any trunks, valises and personal effects, including clothing, seized by him, while under detention. Responsibility for goods detained.

SALE OF DETAINED GOODS.

4. Where the amount for which trunks, valises or personal effects were detained remains unpaid for one month after the day of their seizure, the hotel, boarding house or lodging house keeper may,

- (a) in the presence of a peace officer, force or break the locks or fastenings on any trunk, valise or other article detained by him for the purpose of ascertaining and inspecting the contents thereof, and Power to break open trunks.
- (b) upon complying with the provisions of this Ordinance, sell the trunks, valises or personal effects or any of them by public auction. Right to sell goods detained.

5. (1) At least one month before the day fixed for the sale, the hotel, boarding house or lodging house keeper shall forward a notice of the intended sale by registered letter addressed to the person indebted to him, at such person's last known address, which notice shall contain Notice of sale to be given.

- (a) a general description of the trunks, valises and personal effects to be sold, and the time and place of the intended sale; Contents of notice.
- (b) an itemized statement of the amount of the indebtedness, showing the sum due at the time of the notice;
- (c) a demand that the said amount be paid at or before the time of sale; and

(d) a statement that if the said amount is not paid at or before the time of sale, the property will be sold by public auction at the time and place specified.

(2) The hotel, boarding house or lodging house keeper shall post and keep posted for one week prior to the time of sale in a conspicuous place on his premises a copy of the notice referred to in subsection (1).

Application of proceeds of sale.

6. (1) The hotel, boarding house or lodging house keeper may apply the proceeds of a sale pursuant to this Ordinance in payment of the amount due to him and the reasonable costs of advertising, if any, and of the sale and he shall, on application, pay over the surplus, if any, to the person entitled thereto.

Balance of proceeds of sale.

(2) Where an application therefor is not made within ten days after the day of sale, he shall pay the surplus to the Territorial Treasurer who shall hold the same for the owner for one year, after which time, if the owner has not previously claimed the amount, it shall form part of the Yukon Consolidated Revenue Fund.

LIABILITY OF KEEPERS OF HOTELS, BOARDING HOUSES AND LODGING HOUSES.

Liability of hotel keeper for the property of his guests.

7. (1) No hotel keeper is liable to compensate a guest of his hotel for loss of or injury to goods or property brought to the hotel except

- (a) where such goods or property have been stolen, lost or injured through the fault or neglect of the hotel keeper or any servant in his employ, or
- (b) where such goods or property have been deposited with the hotel keeper for safe custody.

(2) The hotel keeper may require as a condition of his liability that goods or property tendered by a guest for safe custody shall be placed in a box or other receptacle fastened and sealed by the guest.

(3) Where a hotel keeper refuses to receive for safe custody any goods or property of a guest, or where the guest, through any default of the hotel keeper, is unable to deposit such goods or property for safe custody, the hotel keeper is not entitled to the benefit of this Ordinance in respect thereof unless he establishes that his hotel was not equipped with a proper safe or vault and that he so informed the guest at the time of refusing to receive the goods or property.

(4) When a guest deposits money, jewelry, documents or valuables of a similar nature with a hotel keeper for safe custody the hotel keeper shall, at the time of the deposit, give the guest a receipt therefor; and the guest shall surrender such receipt when the property deposited is returned to him.

(5) Notwithstanding anything in this section, unless deposited with the hotel keeper for safe keeping or checked in a parcel or checking room on the hotel premises, the hotel keeper is not

responsible for goods or property lost, injured or stolen in a part of his hotel other than the guest room of the owner of the goods or property.

8. Notwithstanding anything in this Ordinance, no hotel, boarding house or lodging house keeper is responsible for any trunks or valises or their contents, or any parcels or personal effects of any kind, left by a guest in his room, if there is a proper lock and key for the door of the room, unless the room is locked during the absence of a guest therefrom and the key is left at the office. Responsibility in respect of property in guest room.

9. Every hotel keeper shall cause to be left conspicuously posted in the hall or entrance of his hotel a copy of sections 7 and 8 and this section, printed or plainly written, and he shall be entitled to the benefit of this Ordinance in respect only of goods or property brought to his hotel while such copy is so posted. Copy of sections 7, 8 and 9 of this Ordinance.

10. A hotel keeper or his representative may require any person whether registered as a guest or not, whom he deems undesirable, to leave the hotel and, in the event of such person failing to leave, may eject him from the hotel premises. Undesirable persons may be ejected.

EXEMPTIONS FROM SEIZURE.

11. Property exempt from seizure under writs of execution shall not be exempt from seizure under a writ of execution issued on a judgment obtained by a hotel, boarding house or lodging house keeper in respect of an indebtedness incurred for board or lodging supplied by him. Exemptions under writs of execution not to apply.

REGISTER OF GUESTS.

12. (1) In this section "auto camp" includes Definition of "auto camp".
(a) a tourist camp; and
(b) any land or premises equipped with tents, tent-houses, huts, cabins, bungalows or cottages used or maintained for the accommodation of the public;
for which a fee or charge is made for the use or rental thereof.

(2) Every hotel, boarding or lodging house or auto camp keeper shall keep in such hotel, house or camp a register or record in which shall be entered the name, usual place of residence and the dates of arrival and departure of every person admitted as a guest at the hotel, house or camp or provided with sleeping, housekeeping or other accommodation there. Register to be kept.

(3) No hotel or auto camp keeper shall provide a person who fails to supply him with the information to be entered in the register or record by subsection (2) or (3) with accommodation. Person refusing to supply information not to be given accommodation.

Hotel keeper to get benefit of Ordinance only if he acts in accordance with this section.

(4) A hotel keeper is entitled to the benefit of this Ordinance only in respect of goods or property brought to his hotel by a person in respect of whom there is entered in the register or record mentioned in this section all the information required by this section.

Register to be open to public.

(5) The register or record mentioned in this section shall at all times be open for inspection by any member of the Royal Canadian Mounted Police.

CLOSING HOURS.

Closing hour.

13. (1) Every hotel keeper shall establish an hour as the close of his business day.

Lodger staying after hour may be required to pay extra day.

(2) Every person who retains his lodging in an hotel after the hour that is established as the close of the business day under subsection (1) shall be deemed to have retained and may be required to pay for the lodging for an additional day.

Notice of rates, etc., to be posted.

14. Every hotel keeper shall post in a conspicuous place in each room that he lets for lodging accommodation a notice stating

- (a) the rate that he charges for such lodging;
- (b) the hour that he has established as the close of his business day; and
- (c) that every person who occupies the room after the hour stated in the notice to be the close of the business day shall be deemed to have retained and may be required to pay for the room for an additional day.

OFFENCES.

Offence and penalty.

15. Every hotel keeper who violates any provision of this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars.

CHAPTER 55.

AN ORDINANCE TO PROVIDE FOR THE MAINTENANCE OF CHILDREN OF UNMARRIED PARENTS.

SHORT TITLE.

1. This Ordinance may be cited as the Illegitimate Children Maintenance Ordinance.

INTERPRETATION.

- 2. (1) In this Ordinance, (a) "mother of an illegitimate child" means (i) a single woman or widow who has been delivered of an illegitimate child, or who is pregnant and likely to be delivered of an illegitimate child, or (ii) a married woman who is living apart from her husband and who has been delivered of an illegitimate child, or who is pregnant and likely to be delivered of an illegitimate child, and who was living apart from her husband at the time of the conception of the child; and (b) "Superintendent" means the Superintendent of Child Welfare appointed under the Protection of Children Ordinance. (2) A reference in this Ordinance to an information, order, summons or warrant means an information, order, summons or warrant under this Ordinance.

GENERAL.

- 3. Every district registrar of vital statistics shall notify the Superintendent of the birth of every child born to a mother of an illegitimate child registered in his office under the Vital Statistics Ordinance and of every birth so registered in such a manner as to suggest that the parents are unmarried or unknown, and with such notification he shall give such particulars as the Superintendent may require. 4. The Superintendent shall make enquiries to obtain all possible information with respect to every child born to a mother of an illegitimate child and may take any proceedings or do any other act permitted or required under this Ordinance as he deems advisable in the interest of the child.

Mother may apply to Superintendent for advice.

5. A mother of an illegitimate child may apply to the Superintendent for advice in any matter connected with the child or its birth, and the Superintendent shall take such action as may seem to him advisable in the interests of the mother and child.

Agreement between mother and putative father no bar to proceedings under this Ordinance.

6. No agreement entered into between the mother of an illegitimate child and the putative father of the child relating to any matter within the scope of this Ordinance shall be deemed a bar to any proceedings under this Ordinance.

Agreement between putative father and Superintendent.

7. Where a putative father admits the paternity of a child, he may enter into an agreement with the Superintendent to provide for the adequate maintenance and education of the child, and upon failure on the part of the putative father to comply with the terms of the agreement the Superintendent may lay an information before a justice under section 9, and for the purposes of this Ordinance the agreement constitutes sufficient proof of paternity.

Remedies now existing not affected.

8. Nothing in this Ordinance shall be deemed to take away or abridge any right of action or remedy that might have been maintained against the putative father if this Ordinance had not been passed.

INFORMATION, EXAMINATION AND ORDER.

Summons to or warrant for apprehension of putative father.

9. (1) Upon information on oath laid before a justice by any person mentioned in subsection (2) stating
(a) that any woman is the mother of an illegitimate child,
(b) whether or not the child has been born, and
(c) the name of the putative father of the child,
the justice may issue a summons requiring the putative father to appear at a time and place mentioned in the summons, or, if he sees fit, he may issue a warrant for the apprehension of the putative father to answer to the information.

Who may lay information.

(2) An information under subsection (1) may be laid by
(a) the mother of an illegitimate child, her next friend or guardian,
(b) the guardian of the illegitimate child, or
(c) the Superintendent.

Person who lays information to notify Superintendent.

(3) Where an information is laid under this section by any person other than the Superintendent, the person instituting the proceedings shall notify the Superintendent thereof, who may appear and intervene in person or by counsel in the proceedings arising out of the information.

Warrant may issue though summons has been issued.

(4) The fact that a summons has been issued does not prevent any justice from issuing a warrant at any time before or after the time mentioned in the summons for the appearance of the putative father.

(5) A warrant issued under this section need not be returnable at any specified time and such warrant remains in force until it is executed. Warrant need not be returnable at specified time.

- 10.** (1) Where a putative father Procedure at hearing.
- (a) appears at the time and place mentioned in a summons;
 - (b) does not appear at the time and place mentioned in a summons and proof is furnished to the satisfaction of the justice present at the hearing of the service of the summons a reasonable time before the time appointed for the appearance; or
 - (c) is brought before the justice present at the hearing by virtue of a warrant;

the justice may inquire into the matter of the information, and may make an order declaring the putative father to be the father of the child and requiring him to pay either to the Superintendent or to the mother, as the justice considers advisable, Powers of justice.

- (d) the reasonable expenses for the maintenance and care, medical and otherwise, of the mother during the three months last preceding the birth of the child, at the birth and during such period after the birth as may in the opinion of the justice have been or be necessary in connection with or as a consequence of the birth of the child, taking into consideration all the circumstances of the case and the evidence, if available, of any medical practitioner who has personal knowledge of the matter;
- (e) the expenses of the burial of the mother if she dies in consequence of giving birth to the child;
- (f) a sum of money weekly towards the maintenance and education of the child until the child attains the age of sixteen years according to the probable standard of living the child would have enjoyed if he had been born to his parents in lawful wedlock; and
- (g) the expenses in connection with the burial of the child, if the child dies before the order is made.

(2) The justice may, by the order or by a subsequent order varying it, require the mother to contribute a sum of money weekly towards the maintenance of the child until the child attains the age of sixteen years. Justice may order contribution by mother.

(3) Where a putative father fails to appear at the time and place mentioned in a summons and proof is furnished to the satisfaction of the justice of the due service of the summons a reasonable time before the time appointed for the appearance, the justice may, if he considers it advisable, instead of proceeding *ex parte* to hear and determine the information in the absence of the putative father, issue his warrant as the justice before whom the information was laid might have done in the first instance for the apprehension of the putative father and adjourn the hearing of the complaint until the putative father is apprehended. Warrant may be issued if putative father fails to appear.

hended, but nothing done under this subsection shall be deemed to prevent the justice from proceeding *ex parte* at any time he thinks fit if the putative father is not apprehended.

Proof of paternity.

11. (1) Subject to subsection (3), paternity may, for the purposes of this Ordinance, be established upon such evidence as the justice considers sufficient.

Married woman competent and compellable to prove paternity.

(2) Notwithstanding any Ordinance or other law, in all proceedings under this Ordinance a married woman who is the mother of the child in respect of whom the proceedings are taken is a competent and compellable witness to testify as to the paternity of the child.

Corroboration for evidence of mother.

(3) Where a mother gives evidence as to the paternity of a child, no order shall be made unless such evidence is corroborated by some other material evidence.

When information must be laid.

12. No order shall be made upon an information unless the information is laid in the lifetime of the putative father and within one year after

- (a) the birth of the child,
- (b) the doing of any act on the part of the putative father that constitutes evidence of acknowledgment of paternity, or
- (c) the return to the Territory of the putative father if he was absent from the Territory at the expiration of the period of one year from the birth of the child.

Variation of order.

13. Where an order has been made, then upon application by the child or any person who is entitled to lay an information under section 9 and upon proof that the means of either parent or the needs of the child have altered since the order or the latest subsequent order varying it was made, any justice may vary the original or subsequent order so made.

Security for performance of order.

14. Where an order is made or varied the justice may require the putative father against whom the order is made to furnish such security for the performance of the order in such manner as the justice directs, and if the putative father fails to furnish the security required, the justice may order that he be imprisoned for a term not exceeding twelve months, or until he furnishes the security and pays the costs and charges of his commitment and conveyance to jail.

PROCEDURE AND ENFORCEMENT.

Proceedings on summary convictions.

15. (1) Except as provided in this Ordinance, proceedings under this Ordinance shall be on summary conviction.

Proceedings may be commenced at any time.

(2) Subject to section 12, an information or any other proceedings under this Ordinance, other than an appeal, may be commenced at any time.

16. The room or place in which a justice sits to hear a matter arising out of an information is not an open or public court, and all persons other than the officers of the court, the parties interested and their witnesses and counsel shall be excluded therefrom. Exclusion of persons from hearing.

17. The Superintendent shall not be debarred from instituting or continuing proceedings under this Ordinance by the death of the mother of the illegitimate child for whom relief is sought. Superintendent not debarred from proceeding.

18. The Superintendent shall Duties of Superintendent after order.

- (a) see that all payments directed to be made by a putative father under an order are duly made;
- (b) where a putative father defaults in any payment directed to be made under an order, take all necessary proceedings for the enforcement of the order, including the enforcement of any security given by the putative father; and
- (c) see that all monies collected under any order are paid and applied forthwith, without any deduction, to or for the persons entitled to relief in accordance with the terms of the order and the provisions of this Ordinance.

19. A copy of every order shall be filed by the Superintendent with the Clerk of the Territorial Court, and thereupon the order becomes a judgment of the Territorial Court and may, subject to this Ordinance, be enforced in the same manner as any other judgment of that Court in a civil matter. On filing with Clerk order becomes judgment of Territorial Court.

20. Every order binds the estate of the putative father and every sum payable thereunder is a debt due from and chargeable upon the estate of the putative father; but every such order is, as to any payment falling due either before or after the putative father's death, subject to review under section 13, and no action or other proceedings shall be taken thereon after the death of the father without the leave of a justice, and the justice before granting leave shall direct that notice be given to the widow and legitimate children of the putative father. Order binding on estate of putative father.

APPEAL.

21. (1) Subject to this section, an appeal may be taken from an order in the same manner and times as an appeal from a judgment of a police magistrate in a civil action may be taken. Appeal from justice.

(2) Where a putative father appeals from an order, proceedings on the order shall not be stayed pending the appeal, and the putative father shall pay all costs of the appeal. Order not stayed pending appeal.

(3) Where a mother of an illegitimate child appeals from an order or other decision of a justice, she need not give any bond or security for the costs of the appeal. Mother need not give security on appeal.

CHAPTER 56.

AN ORDINANCE RESPECTING INSANE PERSONS.

Short Title.	1. This Ordinance may be cited as the <i>Insane Persons Ordinance</i> .
Definitions.	2. In this Ordinance,
"Court."	(a) "Court" means a justice of the peace or a judge of the Territorial Court, as the case may be;
"Insane person."	(b) "insane person" means a person, <ul style="list-style-type: none"> (i) in whom there is such a condition of arrested or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, or (ii) who is suffering from such a disorder of the mind, that he requires care, supervision and control for his protection and the protection of his property and has been so found by the Court;
"Person charged."	(c) "person charged" means a person respecting whom an application has been made alleging that he is or is suspected and believed to be insane; and
"Public Administrator."	(d) "Public Administrator" means the person appointed to that office in the manner authorized by law.
Jurisdiction.	3. (1) An application under this Ordinance may be made to a justice of the peace having jurisdiction in the area in which a person charged resides or may be, or a judge of the Territorial Court, either of whom have jurisdiction to entertain the application and make such orders under this Ordinance as may be necessary.
Justice of the peace may deal with application or refer it to higher court.	(2) Where an application is made to a justice of the peace, he shall, having regard to the urgency with which such application should be dealt with for the safety of life and property, exercise jurisdiction under this Ordinance or direct that it should be made to a judge of the Territorial Court.
Application.	4. (1) Any person may make an application to the Court, supported by his affidavit giving reasons therefor, alleging that a person is or is suspected and believed to be an insane person and requesting an order declaring that such person is an insane person, respecting his custody or commitment and respecting the management of his property.
Warrant for hearing.	(2) Subject to a direction pursuant to section 3, the Court may, if satisfied that the application and supporting affidavit warrant a hearing, issue a warrant in Form A in the Schedule, to apprehend the person charged and bring him before the Court for a hearing.

(3) Any person apparently mentally ill or mentally defective and conducting himself in a manner which may be dangerous to himself or others, may be apprehended without a warrant by a constable or peace officer, and detained until the question of his mental condition is determined by the Court. ^{Detention without warrant.}

5. (1) The Court shall, at the hearing of the person charged, hear evidence concerning, ^{Evidence at hearing.}

- (a) the alleged insanity, including medical evidence;
- (b) the residence, name, age and other particulars of the person charged;
- (c) the means of support of the person charged and the property, both real and personal, of the person charged;
- (d) his marital status and dependants, if any; and
- (e) such other matters as the Court deems relevant to the case.

(2) The Court has full power to compel the attendance of witnesses, the production of documentary or other evidence and take such other steps as it deems necessary for a full and proper hearing. ^{Powers at hearing.}

6. (1) Where the Court is not satisfied that the person charged is insane, it shall order dismissal of the application and make such order as to costs or otherwise as it deems just in the circumstances. ^{Dismissal of application.}

(2) Where the Court is satisfied that the person charged is insane, it shall make an order to that effect, and shall commit such person, by warrant in Form B of the Schedule, to the custody of the Royal Canadian Mounted Police to remain in such custody until the pleasure of the Commissioner is known or such person is discharged by law. ^{Where found insane.}

(3) Where an order and warrant are made under subsection (2), the Court shall cause copies thereof and of the evidence produced before it to be sent, as soon as possible, to the Commissioner. ^{To notify Commissioner.}

(4) The Commissioner may make such order as he deems advisable as to the future custody of the insane person or may, in his discretion, direct that the hearing be re-opened or that a new hearing be held or that such other inquiry or steps be taken as he deems advisable. ^{Powers of Commissioner.}

7. (1) Where the Court has declared that a person is an insane person, it may appoint one or more trustees to manage his property, and if no such trustees are appointed, the Public Administrator shall manage his property as an estate. ^{Management of estate.}

(2) Subject to any further order by the Court or by the Commissioner, the Public Administrator or the trustees appointed under subsection (1), as the case may be, have full power to manage, administer and care for the estate of an insane person and may sell, purchase, mortgage, lease, repair or do any matter or thing and take any proceeding they deem necessary for this purpose. ^{Powers of Public Administrator.}

To carry out Court orders. (3) The Public Administrator or the trustees appointed under subsection (1), as the case may be, shall carry out any order of the Court or of the Commissioner respecting an estate of an insane person and may apply to the Court or the Commissioner for directions as to the performance of their duties.

Inventory. (4) Within six months after the Public Administrator commences management of an estate, he shall file with a judge of the Territorial Court and with the Commissioner an inventory of the property comprised in the estate, and the income and profits thereof and all debits and credits pertaining to such estate.

Additional property, etc. (5) Where any property of the insane person is discovered after the filing of an inventory under subsection (4) or where a judge of the Territorial Court or the Commissioner requires further information, the Public Administrator shall file further affidavits respecting such additional property or as otherwise requested.

Liability. (6) The Public Administrator is liable to render an account of his management of the estate of an insane person to a judge of the Territorial Court and to the Commissioner.

Discharge of insane person. **8.** The Commissioner may order or any person may apply to a judge of the Territorial Court for an order that an insane person shall be declared to be no longer insane and to be discharged by law and respecting such other matters respecting his return from custody and the return of his estate to him as may be deemed just and proper.

Expenses for care and maintenance of insane person. **9.** (1) Where any person is found to be insane and is committed to the custody of the Royal Canadian Mounted Police pursuant to subsection (2) of section 6 or to a place designated by the Commissioner under subsection (4) of section 6 and the Territory has incurred expenses in connection with the medical examination, transportation, confinement, care and maintenance of the insane person, the Territory shall have the right to recover such expenses from the insane person or from the property of the insane person.

(2) Where the Commissioner is not able to recover the expenses referred to in subsection (1) from the insane person or from the property of the insane person he shall have the right to recover such expenses from any person who has a legal obligation to provide for the care and maintenance of the insane person.

(3) The Commissioner may

(a) make any arrangement he may think proper for the recovery of the expenses referred to in this section, or

(b) abandon all or part of the claim against the insane person or against those persons legally liable for the care and maintenance of the insane person.

SCHEDULE.

FORM A.

WARRANT OF APPREHENSION.

Canada
Yukon Territory } To all peace officers in the
To Wit: } Yukon Territory

Whereas an application has been made to this Court for
an order declaring that
of _____ is an insane person;

I hereby command you, in the name of Her Majesty the
Queen, to apprehend the said
and bring him (or her) before this Court, in order that an
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 this _____ day of
19____, at _____ in the Yukon Territory.

.....
Justice of the Peace
(or Judge of the Territorial
Court)

FORM B.

WARRANT OF COMMITTAL.

Canada	}	To all peace officers of the
Yukon Territory		
To Wit:			Yukon Territory

Whereas an inquiry was duly held by me respecting the sanity of _____ of _____ and I have found and declared the said _____ to be an insane person.

I hereby command you, in the name of Her Majesty the Queen, to take the said _____ and convey him (or her) to the Royal Canadian Mounted Police at _____ and to deliver him (or her) to them together with this warrant.

And I hereby command, in the name of Her Majesty the Queen, the said Royal Canadian Mounted Police to receive the said _____ into custody and safely keep him (or her) until the pleasure of the Commissioner be known or until the said _____ is discharged by law.

And this shall be your and their full and sufficient authority for so doing.

Given under my hand this _____ day of _____ 19____, at _____ in the Yukon Territory.

.....
Justice of the Peace
(or Judge of the Territorial Court)

CHAPTER 57.

AN ORDINANCE TO REGULATE THE SALE OF
INSURANCE WITHIN THE TERRITORY.

SHORT TITLE.

1. This Ordinance may be cited as the *Insurance Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance,
- (a) "accident insurance" means insurance by which the insurer undertakes, otherwise than by and incidentally to some other class of insurance defined by or under this Ordinance, to pay insurance money in the event of accident to the person or persons insured, but does not include insurance by which the insurer undertakes to pay insurance money both in the event of death by accident and in the event of death from any other cause;
- (b) "adjuster" means a person who, for compensation, not being a barrister or solicitor acting in the usual course of his profession or a trustee of the property insured or an agent of the owner or person having an insurable interest in the property insured, directly or indirectly solicits the right to negotiate the settlement of a loss under a contract of insurance on behalf of the insured or the insurer, or holds himself out as an adjuster of losses under such contract;
- (c) "agent" means a person who, for compensation, solicits insurance on behalf of an insurer or transmits, for a person other than himself, an application for or a policy of insurance to or from such insurer or offers or assumes to act in the negotiation of such insurance or its continuance or renewal;
- (d) "automobile" includes all self-propelled vehicles, their trailers, accessories and equipment, but does not include railway rolling stock, watercraft or aircraft of any kind;
- (e) "automobile insurance" means insurance against liability for loss or damage to persons or property caused by an automobile or the use or operation thereof, and against loss of or damage to an automobile;
- (f) "beneficiary" means a person designated or appointed as one to whom or for whose benefit insurance money is to be payable;
- (g) "contract" means a contract of insurance and includes a policy, certificate, interim receipt, renewal receipt or writing evidencing the contract, whether sealed or not, and a binding oral agreement;

Definitions.

"Accident insurance."

"Adjuster."

"Agent."

"Automobile."

"Automobile insurance."

"Beneficiary."

"Contract."

- "Disability insurance." (h) "disability insurance" means insurance undertaken by an insurer as part of a life insurance contract whereby the terms of the policy provide for the duration of such insurance for more than one year and for the payment of insurance money or the granting of benefits in the event that the insured becomes disabled as a result of bodily injury or disease;
- "Double indemnity insurance." (i) "double indemnity insurance" means insurance undertaken by an insurer as part of a life insurance contract whereby the terms of the policy provide for the duration of such insurance for more than one year and for payment only in the event of the death of the insured by accident of an additional amount of insurance money not exceeding the amount payable in the event of death from other causes;
- "Fire insurance." (j) "fire insurance" means insurance, not being insurance incidental to some other class of insurance defined by or under this Ordinance, against loss of or damage to property through fire, lightning or explosion due to ignition;
- "Fraternal society." (k) "fraternal society" means any corporation, society, order or voluntary association registered under the laws of Canada and incorporated or formed and carried on for the benefit of its members and their beneficiaries and not for profit, that makes provision by its constitution, by-laws and rules for payment to beneficiaries of benefits on the death or disability of its members;
- "Head office." (l) "head office" means the place where the chief executive officer of an insurer ordinarily transacts his business;
- "Industrial contract." (m) "industrial contract" means a contract of life insurance for an amount not exceeding two thousand dollars, exclusive of any benefit, surplus, profit, dividend or bonus also payable under the contract, and that provides for payment of premiums at fortnightly or shorter intervals or, if the premiums are usually collected at the home of the insured, at monthly intervals;
- "Insurance." (n) "insurance" means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance may be exposed, or to pay a sum of money or other thing of value upon the happening of a certain event;
- "Insurance money." (o) "insurance money" means the amount payable by an insurer under a contract, and includes all benefits, surplus, profits, dividends, bonuses and annuities payable under the contract;
- "Insurer." (p) "insurer" means a company registered under the *Canadian and British Insurance Companies Act* of Canada or the *Foreign Insurance Companies Act* of Canada, and includes any underwriter or syndicate of underwriters that is a member of the association known as Lloyd's of London, England;

- (q) "licence" means a valid and subsisting licence issued under section 5; ^{"Licence."}
- (r) "life insurance" means insurance whereby the insurer undertakes to pay insurance money on death, or on the happening of any contingency dependent on human life, or whereby the insurer undertakes to pay insurance money subject to the payment of premiums for a term depending on human life, but, except to the extent of double indemnity insurance, does not include insurance payable in the event of death by accident only; ^{"Life insurance."}
- (s) "policy" means the instrument evidencing a contract; ^{"Policy."}
- (t) "premium" means the single or periodical payment under a contract for the insurance, and includes dues, assessments and other consideration; ^{"Premium."}
- (u) "premium note" means an instrument given as consideration for insurance whereby the maker undertakes to pay such sum or sums as may be legally demanded by the insurer, where the aggregate of which sums does not exceed an amount specified in the instrument; ^{"Premium note."}
- (v) "property" includes profits, earnings and other pecuniary interests, and expenditures for rents, interest, taxes and other outgoings and charges, and in respect of inability to occupy the insured premises, but only to the extent of express provision in the contract; ^{"Property."}
- (w) "property damage insurance" means insurance against loss of or damage to property that is not included in or incidental to some other class of insurance defined by or under this Ordinance; ^{"Property damage insurance."}
- (x) "public liability insurance" means insurance against loss or damage to the person or property of others that is not included in or incidental to some other class of insurance defined by or under this Ordinance; and ^{"Public liability insurance."}
- (y) "sickness insurance" means insurance by which the insurer undertakes to pay insurance money in the event of sickness of the person or persons insured, but does not include disability insurance. ^{"Sickness insurance."}

PART I.

LICENCES FOR AGENTS.

3. (1) Subject to subsection (2), no individual shall either on his own account or as a member or representative of a partnership or corporation, act or offer to undertake to act, as an insurance agent unless he is the holder of a licence. ^{Licence for insurance agent.}

(2) A member of a fraternal society, other than a member who receives a salary or commission for the purpose, may without a licence solicit members of the society to insure with the society. ^{Exception.}

Licence for firm, etc.

(3) A firm, partnership or corporation may apply for a licence in the name of the firm, partnership or corporation and shall designate one individual who shall act as its representative, and the licence, if granted shall, when issued, be in the name of the firm, partnership or corporation, and shall designate thereon the name of the individual who is authorized to act as an insurance agent on its behalf.

Licence for salaried officials, etc.

(4) An officer or salaried employee of any firm, partnership or corporation that holds a licence, who does not receive a commission and who acts only in the name of and on behalf of the firm, partnership or corporation, may, upon application therefor approved by the firm, partnership or corporation, and upon payment of a fee of seven dollars, receive a licence authorizing him to act for the firm, partnership or corporation in the negotiating of any contracts of insurance, or in the negotiation continuance or renewal of any contracts which the firm, partnership or corporation may lawfully undertake.

Contents of application.

4. (1) An application for a licence shall be made to the Commissioner and shall set forth

- (a) the full name of the applicant;
- (b) the address of his place of business;
- (c) the classes of insurance that he will sell as agent;
- (d) the name and head office address of the insurer by whom, pursuant to subsection (2), the application has been approved; and
- (e) such other information as the Commissioner may require.

Application approved by insurers.

(2) The application referred to in subsection (1) shall be approved in writing

- (a) in the case of all classes of insurance other than life insurance, by at least one of the insurers to be represented by the applicant;
- (b) in the case of life insurance, by the insurer to be represented by the applicant; or
- (c) by the agent of an insurer mentioned in paragraphs (a) or (b) authorized for such purpose whose name is filed with the Commissioner.

Application to be accompanied by references and fee.

- (3) The application shall be accompanied by
 - (a) the approval in writing mentioned in subsection (2);
 - (b) a character reference for the applicant and such other material as the Commissioner may require; and
 - (c) a fee
 - (i) where the applicant resides in the Territory of ten dollars where one class of licence is applied for, or fifteen dollars where both classes of licence are applied for; or
 - (ii) where the applicant does not reside in the Territory of twenty-five dollars where one class of licence is applied for, or thirty-five dollars where both classes of licence are applied for.

5. (1) The Commissioner may in his discretion issue to any person who has complied with the requirements of this Ordinance a licence in duplicate authorizing such person to carry on business as an insurance agent subject to this Ordinance and to the terms of the licence. Issue of licence.

(2) Licences issued pursuant to this section shall be of two classes, namely, Classes of licence.

- (a) licences for life insurance, life and accident insurance, or life, accident and sickness insurance, and
- (b) licences for any classes of insurance other than life insurance.

6. A licence expires on the 31st day of March following the day upon which it came into effect. Expiration of licence.

7. Where on the date of application for a licence the applicant is the holder of an unexpired licence, he may in lieu of complying with paragraphs (c) and (d) of subsection (1) of section 4, subsection (2) of section 4 and paragraph (a) of subsection (3) of section 4, attach to his application a statement that he continues to represent the same insurer and to act as agent in respect of the same classes of insurance stated in his previous application. Material to accompany application where licence held.

8. Where a licensee ceases to act as agent for the insurer mentioned in his licence application he shall immediately notify the Commissioner of such fact. Notification on ceasing to act.

9. The Commissioner may refuse to issue a licence and may suspend or cancel a licence at any time. Commissioner may cancel licence, etc.

10. An agent shall

- (a) display one copy of his licence at his place of business;
- (b) carry the other copy upon his person at all times when acting as an agent; and
- (c) produce his licence upon request of any peace officer or person purchasing insurance.

11. The Commissioner shall keep a record of all licences issued pursuant to this Ordinance. Record to be kept.

12. A certificate given by the Commissioner that on a day mentioned in the certificate Certificate of proof.

- (a) a person mentioned therein was or was not licensed under this Ordinance;
 - (b) a person mentioned therein was originally issued a licence; or
 - (c) the licence of an agent mentioned therein was renewed, suspended, revived, revoked or cancelled;
- is proof of the fact stated in the certificate.

Access to books of licensee.

13. (1) The Commissioner or any person authorized under his hand shall at all reasonable times have access to the books, records and documents of any agent that relate to contracts of insurance.

Penalty.

(2) Where the person in charge, possession, custody or control of the books, records or documents referred to in subsection (1) refuses or neglects to afford access thereto as provided in this section, he is guilty of an offence.

Material to accompany application where licence held.

14. Any person who
 (a) acts as or holds himself out as an agent and is not the holder of a licence, or
 (b) acts as or holds himself out to be an agent in respect of a class of insurance that is not named in his licence, is guilty of an offence.

Burden of proof.

15. In any prosecution under this Ordinance, the burden of proof of his authority to carry on the business of an agent or to act as an agent is upon the person charged.

No commission except to licensee.

16. (1) No insurer, no officer, agent or employee of an insurer and no licensed agent shall, directly or indirectly, pay or allow, or offer or agree to pay or allow, any commission or other compensation or anything of value to any person in respect of the effecting or undertaking of insurance unless that person holds a licence at the time.

Exception.

(2) Subsection (1) does not affect the payment or allowance by an agent of part of his commission to brokers outside the Territory.

No agreements to be made except as stated in policy.

(3) No insurer, and no officer, agent or employee thereof shall, directly or indirectly,
 (a) make or attempt to make any agreement respecting the premium to be paid for a policy other than as set forth in the policy with, or
 (b) pay, allow or give, or offer or agree to pay, allow or give
 (i) any rebate of the whole or part of the premium stipulated by the policy to, or
 (ii) any other consideration or thing of value intended to be in the nature of a rebate of premium to,
 any person insured or applying for insurance in respect of life, person or property.

Exception.

(4) Nothing in this section
 (a) affects any payment by way of dividend, bonus, profit or savings that is provided for by a policy,
 (b) prevents an insurer from compensating a bona fide salaried employee of its head or branch office in respect of insurance issued by the insurer upon the life of the employee, or
 (c) requires that such an employee shall be licensed as an agent for life insurance under this Ordinance to effect such insurance.

- 17.** Any person licensed as an agent for life insurance who
- (a) induces, directly or indirectly, an insured to lapse, forfeit or surrender for cash, paid up or extended insurance or other valuable consideration, his contract of life insurance with one insurer in order to effect a contract of life insurance with another insurer,
 - (b) makes any false or misleading statement or representation in the solicitation or negotiation of life insurance, or
 - (c) coerces or proposes, directly or indirectly, to coerce a prospective buyer of life insurance through the influence of a business or a professional relationship or otherwise, to give a preference in respect of the placing of life insurance that would not otherwise be given in effecting such insurance,
- is guilty of an offence.
- 18.** (1) An agent shall for the purpose of receiving any premium for a contract of insurance be deemed to be the agent of the insurer notwithstanding any conditions or stipulations to the contrary.
- (2) This section does not apply in respect of life insurance.
- 19.** (1) An agent who knowingly procures, by fraudulent representations, payment or the obligation for payment of any premium on an insurance policy, is guilty of an offence.
- (2) Any agent of any insurer or other person whatsoever who, by means of misleading or false statements, procures or induces, or attempts to procure or induce any person to surrender or otherwise avoid any policy of insurance, is guilty of an offence.

Inducement by agent to insured to lapse policy or to change insurers, etc., an offence.

Agent receiving premium.

Exception. Fraudulent representations.

Inducement to surrender policy an offence.

PART II.

INSURANCE CONTRACTS IN THE TERRITORY.

- 20.** Subject to this Ordinance, this Part applies in respect of every contract other than
- (a) contracts of life insurance to which Part IV applies, and
 - (b) contracts of accident and sickness insurance to which Part VI applies.
- 21.** (1) Every contract that insures a person domiciled or resident in the Territory at the date thereof or the subject matter of which is property within the Territory shall be deemed to be made in the Territory and construed accordingly.
- (2) This section applies notwithstanding any agreement, condition or stipulation to the contrary.
- 22.** (1) Subject to this section, every term and condition of a contract shall be set out in full in the policy or by writing securely attached to it when issued, and unless so set out no term of the contract or condition, stipulation, warranty or

Contract deemed to be made in the Territory.

Terms, etc., of contract invalid unless set out in full.

proviso, modifying or impairing its effect is valid or admissible in evidence to the prejudice of the insured or any beneficiary.

Subsequent alteration.

(2) Subsection (1) does not apply to an alteration or modification of a contract agreed upon in writing by the insurer and the insured after the issue of the policy.

Where contract being renewed.

(3) Where a contract, whether or not it contains provision for its renewal, is renewed by a renewal receipt, it is a sufficient compliance with subsection (1) if the terms and conditions of the contract were set out in the contract being renewed as required by that subsection and the renewal receipt refers to that contract by its number or date.

Insured's application not part of contract except, etc.

(4) The proposal or application of an insured shall not, as against him, be deemed a part of or be considered with the contract except in so far as the Court may determine that such proposal or application contains a material misrepresentation by which the insurer was induced to enter into the contract.

Contract not avoided by any statement not material.

(5) No contract shall contain, have endorsed thereon or be made subject to any terms, conditions, stipulation, warranty or proviso

(a) providing that the contract shall be avoided by reason of any statement in the application therefor, or

(b) inducing the entering into the contract by the insurer, unless the term, condition, stipulation, warranty or proviso is limited to cases in which the statement is material to the contract, and no contract shall be avoided by reason of the inaccuracy of any such statement unless it is material to the contract.

Materiality a question of fact.

(6) The question of materiality in any contract is a question of fact, and no admission, term, condition, stipulation, warranty or proviso to the contrary contained in the application or proposal for insurance, in the contract or in any agreement or document relating thereto has any force or validity.

Saving.

(7) Nothing in this section impairs the effect of any statutory condition required by this Ordinance to be inserted in any contract of insurance, or of any express provision of this Ordinance.

Effect of delivery of policy or receipt for premium.

23. (1) Where a contract of insurance other than life insurance has been delivered, it is as binding on the insurer as if the premium had been paid, although it has not in fact been paid and although delivered by an officer or agent of the insurer who had not authority to deliver it.

(2) This section applies notwithstanding any agreement, condition or stipulation to the contrary.

Where premium dishonoured.

(3) Where a premium is paid by a cheque or a promissory note and the cheque is not paid on presentation or the promissory note at maturity, the contract shall at the option of the insurer be void.

(4) An insurer may deduct from money payable under any contract any indebtedness of the insured on the contract for premium due whether evidenced by note or otherwise given either to the insurer or its agent and held either by the insurer or any other party. Deductions.

(5) In making the deduction mentioned in subsection (4), the insurer shall allow to the insured the same discount upon any unpaid premium as he would be entitled to if the unpaid premium were paid in cash at the date of the loss. Discount.

(6) Subsection (3) applies in respect of a contract of life insurance unless otherwise provided in the contract. Application.

(7) Subsection (4) applies in respect of contracts of life insurance. Idem.

24. (1) Every insurer shall, immediately upon receipt of notice of any claim under a contract, forward to the insured or person to whom the insurance money is payable forms upon which to make the proof of loss required under the contract. Insurer to furnish forms.

(2) Every insurer who neglects or refuses to comply with subsection (1) is guilty of an offence. Offence.

(3) Where an insurer has, within thirty days after notification of loss, adjusted the claim acceptably to the claimant and the adjustment has been duly signed by the claimant or his agent, or where the amount of loss has been determined by arbitration or appraisal pursuant to this Ordinance, the insurer shall be deemed to have complied with this section. Compliance deemed.

25. No action shall be brought for the recovery of money payable under a contract until the expiration of When action may be brought under contract.

- (a) sixty days after proof, in accordance with the provisions of the contract, of the loss or the happening of the event upon which the insurance money is to become payable, or
- (b) such shorter period as may be prescribed by any enactment regulating the contracts of the insurer, or as may be fixed by the contract of insurance or otherwise provided in this Ordinance.

26. After the time referred to in section 25 that is applicable in the circumstances, any person who is entitled as beneficiary or by assignment or other derivative title to the insurance money and has the right to receive the same and to give an effectual discharge therefor, may sue for the same in his own name, any rule, stipulation or condition to the contrary notwithstanding. Beneficiary may sue in own name.

27. Where the person entitled to receive money due and payable under any contract is domiciled or resides in a foreign jurisdiction and payment, valid according to the law of that jurisdiction, is made to the person, such payment is valid and effectual for all purposes. Payment to payee domiciled or resident abroad.

Notice to insured.

28. (1) Subject to any statutory condition, where the mode of giving any notice by an insurer to an insured for any purpose herein is not expressly provided, the notice may be given by mailing it to the address of the insured given in his application for insurance or by delivering it otherwise in writing to the insured.

Notice to insurer.

(2) Subject to any statutory condition, where the mode of giving any written notice to an insurer for any purpose herein is not expressly provided, the notice may be given by letter delivered to an authorized agent of the insurer.

Copy of proposal furnished to insured.

29. Every insurer shall furnish to the insured upon request a true copy of his application or proposal for insurance.

No contract to be inconsistent with Ordinance.

30. No insurer shall make a contract that is inconsistent with the provisions of this Ordinance.

Imperfect compliance.

31. Any act or omission of the insurer that results in imperfect compliance with any provisions of this Ordinance does not render a contract invalid as against the insured.

Insurance against loss through negligence, etc.

32. An insurer may contract to indemnify an insured against financial loss occasioned by reason of liability to a third person whether or not the loss has been caused by the insured through negligence or while violating any Ordinance or municipal by-law.

Action against insurer where execution against insured unsatisfied.

33. Where a person insured against liability for injury or damage to persons or property of others has failed to satisfy a judgment obtained by a claimant for such injury or damage and an execution against the insured in respect thereof is returned unsatisfied, the execution creditor has a right of action against the insurer to recover an amount not exceeding the amount of the judgment and not exceeding, in any event, the face amount of the policy in the same manner and subject to the same equities as the insured would have if the judgment had been satisfied.

Requirements as to fire and automobile insurance on risks within Territory.

34. (1) No insurer shall undertake any contract of fire or automobile insurance upon real or personal property situate in the Territory or described in any contract as situate in the Territory, except after the contract has been signed or countersigned by a licensed agent who is a resident of the Territory and who is to receive the commission or some part thereof when the premium stipulated in the contract is paid.

Issue of contracts at principal office, etc.

(2) Where subsection (1) is complied with, nothing herein shall be construed to prevent any insurer from issuing policies of fire and automobile insurance at its principal or branch office or general agency covering any matter or thing, real or personal, situate in the Territory.

(3) Where an insurer issues any policy of fire or automobile insurance upon any matter or thing, real or personal, situate in the Territory, he shall forthwith file a certified copy of the policy with the countersigning agent or with the insured within the Territory.

Certified copy to be filed.

(4) This section does not apply in respect of direct insurance covering property in transit that is in the possession and custody of common carriers, or movable property of such common carriers used or employed by them in their business as common carriers.

Application.

(5) Any insurer that issues a contract of fire or automobile insurance save as in the manner provided in this section is guilty of an offence.

Offence.

(6) In any prosecution under this Ordinance for any contravention of this section, the burden of proving that this section has been complied with is upon the person charged.

Burden of proof.

35. No agent shall sign any contract in blank.

Agent's actions restricted.

INSURANCE AS COLLATERAL SECURITY.

36. (1) A mortgagee shall not accept or be entitled to receive either directly or through his agent or employee, and no officer or employee of a mortgagee shall accept or receive any commission or other remuneration or benefit in consideration of effecting a contract or renewal thereof under which loss, if any, is payable to him as mortgagee.

Insurance as collateral security.

(2) No insurer or agent shall pay, allow or give any commission, other remuneration or benefit to a mortgagee or any person in his employ or on his behalf, in consideration of effecting a contract or renewal thereof under which loss, if any, is payable to him as mortgagee.

Payment of commission prohibited.

(3) No person who engages in the business of lending money and has an insurance agency or any interest in or connection with an insurance agency, shall require as a condition of the making of any loan that the borrower shall cancel any subsisting policy of insurance and take out other insurance through the lender or through any agency with which he has any interest or connection.

Prohibition against requirements by lender of cancellation of certain policies.

(4) No trust company shall cancel any subsisting policy of insurance issued by an insurer in respect of any property for which the trust company is a trustee unless there is no necessity for the continuation of the insurance and no other insurance of a similar description is taken out in respect of the property during the original term of the cancelled policy.

Prohibition against cancellation by trust companies of certain policies.

- (5) Every
 - (a) person who contravenes subsection (3),
 - (b) trust company that contravenes subsection (4),
 - (c) agent who knowingly accepts any proposal for any insurance taken out in contravention of subsection (3) or subsection (4), and

Offences.

(d) insurer that issues any contract with actual or constructive notice that it has been negotiated in contravention of subsection (3) or subsection (4), is guilty of an offence, and if any such person is the holder of a licence he is liable in addition to any other penalty to the suspension or cancellation of his licence.

Payment into Court by insurer.

37. (1) Where an insurer cannot obtain sufficient discharge for insurance money for which it admits liability, the insurer may apply to the Court *ex parte* for an order for the payment thereof into Court, and the Court may order such payment to be made upon such terms as to costs and otherwise as the Court directs, and may provide to what fund or name the money shall be credited.

Receipt on payment in a discharge.

(2) The receipt of the Clerk of the Court is a sufficient discharge to the insurer for the insurance money paid into Court, and the insurance money shall be dealt with according to the orders of the Court.

Filing of copy of policy, etc., with Commissioner.

38. (1) The Commissioner may require an insurer to file with him a copy of any form of policy, any form of application for a policy, or any endorsement, rider or advertising material issued or used by the insurer.

Cases where insurer prohibited from using policy, etc.

(2) Where an insurer issues any policy or uses an application, or endorsement or rider or advertising material that in the opinion of the Commissioner is unfair, fraudulent, unduly restrictive or not in the public interest, he may prohibit the insurer from issuing or using that form of policy, application, endorsement, rider or advertising material.

Offence.

(3) Any insurer that, after being prohibited pursuant to subsection (2), uses any prohibited policy, application, endorsement, rider or advertising material, is guilty of an offence.

PART III.

FIRE INSURANCE.

INTERPRETATION.

Definitions.
"Contract."

39. In this Part,

(a) "contract" means a contract of insurance against loss of or damage to property in the Territory or in transit therefrom or thereto, caused by fire, lightning or explosion, and includes a policy, certificate, interim receipt, renewal receipt or writing evidencing the contract, whether under seal or not, and a binding oral agreement, and

"Property."

(b) "property" includes use and occupancy, rents, profits and charges where these are the subject matter of the insurance.

GENERAL PROVISIONS.

40. This Part applies in respect of fire insurance and to any Application. insurer carrying on the business of fire insurance.

41. Every insurer may insure or reinsure any property in Powers of which the insured has an insurable interest against damage insurers. or loss by fire, lightning or explosion, whether the same happens by accident or by any other means except that of design on the part of the insured.

42. (1) No contract shall be made for a term exceeding three Term of years, but any contract may be renewed from time to time for contract. a further period not exceeding three years by the delivery of a renewal receipt identifying the policy by number, date or otherwise, or by a new premium note.

(2) No insurer shall make a contract covering property Application for fire insurance. situate outside the limits of a municipal district for a term exceeding twelve months without a written application therefor, signed by the applicant, or, in case of the absence of the applicant or his inability to make the application, by his agent or by a person having an insurable interest in the property.

(3) Every application referred to in subsection (2) shall set Contents of forth application.

- (a) the name, address and occupation of the applicant,
- (b) the description, location and occupancy of the property to be insured,
- (c) the value of the property,
- (d) particulars of any mortgage, lien or other incumbrance thereon,
- (e) the purpose for which and the location in which any movable property is deposited or used,
- (f) particulars of all previous fire claims made by the applicant and the name of every company against which the claims were made,
- (g) whether any insurer has cancelled any fire insurance or refused fire insurance to the applicant, and
- (h) such other information as the insurer may require.

43. Every policy shall contain

- (a) the names of the insurer, the insured and every person to whom the insurance money is payable,
- (b) the premium or other consideration for the insurance,
- (c) the subject matter of the insurance,
- (d) the indemnity for which the insurer may become liable,
- (e) the event on the happening of which the liability is to accrue, and
- (f) the term of the insurance.

Statutory conditions to be part of contract.

44. (1) Subject to this section and sections 45, 46 and 51, the statutory conditions set forth in Part I of the Schedule shall be deemed to be part of every contract and shall be printed on every policy with the heading "Statutory Conditions", and no variation or omission of any statutory condition is binding on the insured, nor is anything contained in the description of the subject matter of the insurance effective in so far as it is inconsistent with, varies, modifies or avoids any such condition.

Exception.

(2) Where the subject matter of the insurance is exclusively rents, charges or loss of profits, the conditions referred to in this section are not required to be part of any such contract or to be printed therein.

Co-insurance clause.

45. (1) A policy may contain a co-insurance clause in which case it shall have printed or stamped upon its face in conspicuous type and in red ink the words: "This policy contains a co-insurance clause", and unless such words so appear the clause is not binding upon the insured.

(2) A co-insurance clause shall not be deemed to be a variation of or addition to any statutory condition referred to in section 44.

Limitation of liability clause.

46. (1) A policy may contain one or more limitation of liability clauses to the following effect:

- (a) that the insurer shall be liable only for a specified proportion of any loss sustained to any of the property covered by the policy;
- (b) that the insurer shall not be liable for more than a specified percentage of the value of any of the said property at the time of the loss;
- (c) where there is any other insurance covering any of the property,
 - (i) that the insurer shall be liable for a rateable proportion of a specified percentage or proportion of any loss to any of the property, or
 - (ii) that the insurer shall not be liable for more than a rateable proportion of a specified percentage of the value of any of the property at the time of the loss; or
- (d) that the insurer shall be liable only for a specified percentage of any loss, or, where there is other insurance covering any of the property, for a specified percentage of its rateable proportion of any loss, but upon the fulfilment by the assured of certain specified stipulation or agreements, shall be liable for a further specified percentage of the loss, or where there is other insurance covering any of the property, for a further specified percentage of its rateable percentage of the loss, but no such stipulation or agreement is binding upon the insured unless it is clearly set forth in a written application for the insurance signed by the applicant;

and every policy that contains any such clause shall have printed or stamped on the face of it, in conspicuous type and in red ink, the words: "This policy contains a limitation of liability clause (or clauses)."

(2) No clause mentioned in subsection (1) shall be deemed to be a variation of any statutory condition.

47. (1) Where at the time of the happening of any loss or damage by fire to property insured there is in force more than one policy taken by and in the name of the insured insuring the property against loss or damage caused by the peril of fire, no term of any such policy that excludes the insurer from contributing a rateable proportion of the loss with an insurer under any such other policy is valid unless the insurer under such other policy has expressly assented in writing to such term.

Term excluding insurer from contributing to loss not valid in certain cases.

(2) For the purposes of subsection (1), a policy shall be deemed to be in force notwithstanding any term thereof that the policy will not cover, come into force, attach or become insurance with respect to the property until after full or partial payment of any loss under any other policy.

Policy in force for purposes of subsection (1).

(3) Nothing in subsection (1) affects

Validity of division of sum not affected.

- (a) the validity of any division of the sum insured into separate items,
- (b) any limits of insurance on specified property,
- (c) a co-insurance clause,
- (d) a limitation of liability clause mentioned in section 46, or
- (e) the provisions of condition 8 of the statutory conditions referred to in section 44, respecting undisclosed insurance.

(4) Notwithstanding subsection (1), insurance on identified articles is a first loss insurance as against all other insurance.

First loss insurance.

(5) This section, in respect of the peril of fire, applies to all policies of all classes of insurance except aircraft, automobile, boiler and machinery insurance.

Application.

48. No red ink shall be used on the face of a policy except for the name, address and emblem of the insurer, the policy number and the purposes mentioned in this Ordinance.

Use of red ink.

49. Where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the insured and a consequent forfeiture or avoidance of the insurance, in whole or in part, and the Court deems it inequitable that the insurance should be forfeited or avoided on that ground, the Court may relieve against the forfeiture or avoidance on such terms as may seem just.

Relief from forfeiture.

50. A proof of loss form, furnished by an insurer pursuant to section 24 shall, for the purposes of this Part, be in Form A in Part I of the Schedule and in furnishing the form the insurer shall attach thereto a copy of the wording of the policy giving the description and location of the property insured.

Proof of loss.

Special stipulations.

51. (1) Where the rate of premium is affected or modified by the user, condition, location or maintenance of the insured property, the policy may contain a clause not inconsistent with any statutory condition setting forth any stipulation in respect of such user, condition, location or maintenance, and such clause

- (a) shall not be deemed a variation of any statutory condition, and
- (b) is binding on the insured only in so far as it is held by the Court before which a question relating thereto is tried to be just and reasonable.

Joint survey of loss.

(2) The insurer and insured, instead of proceeding by arbitration under condition 17 of the statutory conditions referred to in section 44, may at any time after the loss or damage make a joint survey, examination, estimate or appraisal of the loss or damage, in which case the insurer shall be deemed to have waived all right to make a separate survey, examination, estimate or appraisal thereof.

Policy issued on application of agent to principal office.

52. (1) On every contract issued by a fire insurance company at its principal or branch office on application procured and submitted to it by a licensed agent shall be printed, stamped or written the words: "Issued on application submitted by.....authorized resident agent at"

Exception.

(2) Subsection (1) does not apply where a contract is countersigned, or is to be countersigned before delivery, by a licensed agent.

PART IV.

LIFE INSURANCE.

INTERPRETATION.

Definitions.

53. In this Part,

"Adopted child,"

(a) "adopted child" means a person who is adopted by another person as his child and, by reason of such adoption, is entitled under the law of the place of adoption to inherit real and personal property from such other person if he dies intestate;

"Adopting parent,"

(b) "adopting parent" means a person who has adopted another person as his child and, by reason of such adoption, is entitled under the law of the place of adoption to inherit real and personal property from such other person if he dies intestate;

"Child,"

(c) "child" includes an adopted child;

"Contract,"

(d) "contract" means a contract of life insurance and includes any other contract that an insurer may issue under his authority to write life insurance;

- (e) "creditor's group life insurance" means life insurance effected by a creditor on the lives of his debtors whereby the lives of the debtors are insured severally under a single contract; "Creditor's group life insurance."
- (f) "declaration" means an instrument in writing signed by the insured "Declaration."
- (i) that is attached to or endorsed on a contract, or
- (ii) that in any way identifies the contract or in any way describes the subject of the declaration as the insurance or insurance fund or a part thereof, or as the contract or contracts of the insured, by which the insured designates or appoints one or more beneficiaries, alters or revokes the designations or appointment of any beneficiary, or apportsions or re-apportsions insurance money between or among beneficiaries;
- (g) "foreign jurisdiction" means any jurisdiction beyond the Territory; "Foreign jurisdiction."
- (h) "grandchild" includes a child of an adopted child; "Grandchild."
- (i) "group life insurance" means life insurance other than creditor's group life insurance, whereby the lives of a number of persons are insured severally under a single contract between an insurer and an employer or other person; "Group life insurance."
- (j) "instrument in writing" includes a will; "Instrument in writing."
- (k) "insurance" means life insurance; "Insurance."
- (l) subject to subsection (2) of section 59, "insured" means the person who makes a contract with an insurer; "Insured."
- (m) "insurer" includes any corporation, or any society or association, incorporated or unincorporated, any fraternal society or any person or partnership, or any underwriter or group of underwriters, that undertakes or effects or agrees or offers to undertake or effect, a contract of life insurance; "Insurer."
- (n) "issue" includes an adopted child; "Issue."
- (o) "parent" includes an adopting parent; and "Parent."
- (p) "person" includes a firm, partnership, corporation and an unincorporated society or association. "Person."

APPLICATION OF PART.

54. (1) Subject to section 55 and notwithstanding any agreement, condition or stipulation to the contrary, this Part applies in respect of every contract made in the Territory after the 1st day of May, 1956, and any term in any such contract that is inconsistent with the provisions of this Part is null and void. Application.

(2) Subject to section 55, this Part applies to every contract made in the Territory before the 1st day of May, 1956, where the maturity of the contract had not occurred before that date.

Application notwithstanding domicile of beneficiaries.

(3) Subject to section 55, where this Part applies to any contract, the rights and status of beneficiaries and the powers of the insured with regard to the designation or appointment of beneficiaries and the apportionment of the insurance money are governed by the provisions of this Part, whether or not the insured or any of the beneficiaries is domiciled in the Territory at the time when the contract is made, or at any time subsequent thereto.

Law applicable to contract of group life insurance.

55. In the case of a contract of group life insurance, whether made before or after the 1st day of May, 1956,

- (a) the law of the place where the contract was made applies between the insurer and the insured, and
- (b) the law of the place where the person whose life is insured was resident at the time his life became insured applies in determining the rights and status of beneficiaries and the rights and obligations of the person whose life is insured.

THE CONTRACT OF INSURANCE.

Evidence of contract.

56. Every contract shall be evidenced by an instrument in writing called, in this Part, a policy.

When contract deemed made in Territory.

57. (1) A contract shall be deemed to be made in the Territory,

- (a) where the place of residence of the insured is stated in the application or the policy to be in the Territory, or
- (b) where neither the application nor the policy contains a statement as to the place of residence of the insured, but the actual place of residence of the insured is within the Territory at the time of the making of the contract.

Non-application of section.

(2) This section does not apply in respect of a contract of group life insurance.

Contents of policy other than group life policy.

58. (1) Every policy other than a group life insurance policy shall state

- (a) the name or sufficient designation of the insured;
- (b) the name or sufficient designation of the person whose life is insured and the beneficiary;
- (c) the insurance money payable;
- (d) the manner of payment;
- (e) the amount of the premium; and
- (f) the facts that determine the maturity of the contract.

Contents of group life policy.

(2) Every group life insurance policy shall state

- (a) the name or sufficient designation of the insured;
- (b) the method of determining the amount of insurance on each life;
- (c) the persons or classes of persons whose lives are insured; and

- (d) the facts that determine
 - (i) the manner and time of payment of the insurance money, and
 - (ii) the amount of the premium.

(3) Where the amount of insurance money, exclusive of dividends and bonus, does not exceed two thousand dollars, the policy, notwithstanding that it is expressed to be payable to a named or designated beneficiary, may provide that the insurance money may be paid to any relative by blood or connection by marriage of the person whose life is insured or any other person appearing to the insurer to be equitably entitled to the same by reason of having incurred expense for the maintenance, medical attendance or burial of the person whose life is insured or to have a claim against the estate of the person whose life is insured in relation thereto.

Payment of insurance where amount does not exceed two thousand dollars.

- (4) Every policy shall
 - (a) identifies the policy; be paid and the terms and conditions upon which the policy may, if it lapses, be reinstated, and
 - (b) indicate the amount, if any, of cash surrender or loan value and any options of the insured as to paid up or extended insurance, respectively, provided by the policy.

Period of grace and terms of reinstatement.

(5) Every policy shall indicate whether or not it participates in any surplus or profits declared.

Participation in profits.

(6) Where a contract of group life insurance is made, the insurer shall issue, for delivery by the insured to each person whose life is insured under the policy, a certificate that

Issue of certificate identifying policy and person whose life is insured.

- (a) identifies the policy;
- (b) states the name or sufficient designation of the person whose life is insured, his beneficiary, the insurer and the insured;
- (c) states the amount or the method of determining the amount of insurance; and
- (d) indicates any right of the person whose life is insured upon termination of insurance on his life under the policy.

(7) Every policy that includes disability insurance shall state what notice of disability shall be given to the insurer.

Notice of disability.

(8) This section does not apply in respect of a contract made by a fraternal society.

Application.

59. (1) Subject to subsection (2), in the case of group life insurance, the employer or other person making the contract with the insurer is the insured for the purposes of this Part.

Employer the insured.

(2) In the case of group life insurance and for the purposes of the provisions of this Part relating to the designation or

Exception.

appointment of beneficiaries and the rights and status of beneficiaries, the term "insured" means the person whose life is insured.

Conditions invalid unless set out in policy.

60. (1) Except in the case of a contract made with a fraternal society, no term or condition of a contract that is not set out in full in the policy or in any one or more documents attached to it when issued is valid or admissible in evidence to the prejudice of the insured or a beneficiary.

Exception.

(2) Subsection (1) does not apply to an alteration or modification of the contract agreed upon in writing by the insurer and the insured after the issue of the policy.

Contract of fraternal society.

(3) In the case of a contract made by a fraternal society, the policy, the Ordinance or other instrument of incorporation of the society, its constitution, by-laws and rules, and the amendments validly made thereto, and the application for the contract and medical examination of the applicant as signed by him, constitute the contract between the society and its member.

Disclosure and misrepresentation by insured.

61. (1) The applicant for a contract and the person whose life is to be insured shall each disclose to the insurer in the application for the contract, on the medical examination, if any, or in any statements or answers furnished in lieu of a medical examination every fact within his knowledge that is material to the contract, and failure to disclose or the misrepresentation of any such fact by either person renders the contract voidable at the option of the insurer.

When statements deemed true.

(2) Subject to subsection (3), the statements made by the insured or the person whose life is insured in the application, on the medical examination, if any, or in any statements or answers furnished in lieu of a medical examination, other than fraudulent statements or statements erroneous as to age, shall be deemed to be true and incontestable after the insurance on the person whose life is insured has been in force for two years during his lifetime.

Exception.

(3) Subsection (2) does not apply with respect to disability insurance or double indemnity insurance.

Non-disclosure and misrepresentation by insurer.

62. A failure to disclose or the misrepresentation of a fact material to the contract by the insurer renders the contract voidable at the option of the insured, but in the absence of fraud the contract is not by reason of such failure or misrepresentation voidable after the contract has been in force for two years during the lifetime of the person whose life is insured.

Materiality.

63. The question of materiality is one of fact.

Adjustment where age understated.

64. (1) Where the age of the person whose life is insured is understated in the application, the insurance money shall be reduced to the amount that would have been payable in respect

of the premium stated in the policy at the correct age, according to the tables of rates of premium of the insurer in force at the time of the issue of the policy.

(2) Where the tables of rates of premium of the insurer do not extend to or include the rates for the correct age of the person whose life is insured, the insurance money shall be reduced in the proportion that the premium at the age stated in the application bears to the premium at the correct age, both premiums for this purpose being

(a) the net premium shown in or deduced from the British Officers' Life Table, 1893, OM(5), the rate of interest being three and one-half per cent per annum, or, at the option of the insurer,

(b) calculated on the same principles as govern the calculation of premiums for ages mentioned in the table of rates of premiums of the insurer in force at the time of the issue of the policy.

(3) Where the age of the person whose life is insured is overstated in the application, and the policy does not provide that in that event the insurance money shall be increased, the insurer shall repay the amount by which the premium paid exceeds the premium that would have been payable in respect of the correct age, but if the policy so provides, the insurance money shall be increased to the amount that would have been payable in respect of the premium stated in the policy at the correct age according to the tables of rates of premium of the insurer in force at the time of the issue of the policy.

Adjustment where age overstated.

(4) Where, by the terms or for the purposes of the contract, an addition is made to the age stated in the application, and the age is understated in the application, then for the purpose of the calculation, the correct age and the stated age shall respectively be deemed to be the correct age and the stated age increased by such addition.

Correction of stated age.

(5) Where the application or contract expressly limits the insurable age and the correct age at the date of the application exceeds the age so limited, the contract shall during the lifetime of the person whose life is insured, but not later than five years from the date of the policy, be voidable at the option of the insurer within thirty days after the error comes to his knowledge.

When contract voidable.

(6) This section does not apply in respect of a contract of group life insurance.

Application.

65. Where a contract of group life insurance provides that the age of a person whose life is insured affects the commencement or the termination of the insurance, the amount thereof or any other right or benefit under the contract, the true age governs.

When true age governs.

When contract takes effect.

66. (1) Unless a contract or an application otherwise expressly provides, the contract does not take effect or bind either party until

- (a) the policy is delivered to the insured, his assign or agent, or the beneficiary named therein, and
- (b) payment of the first premium is made to the insurer or its duly authorized agent,

no change having taken place in the insurability of the life about to be insured subsequent to the completion of the application.

When contract void for default in paying cheque, etc., given for premium.

(2) Subject to section 67, where a cheque, bill of exchange or promissory note payable to the insurer, or other written promise to pay the insurer, is given, whether originally or by way of renewal, for the whole or part of any premium and such cheque, bill of exchange, promissory note or other written promise to pay is not paid according to its tenor, the contract is, unless otherwise provided in the policy, void.

Payment of premiums.

67. (1) Where any premium other than the initial premium under any contract is unpaid, the insured, his assign or agent, or any beneficiary may, within a period of grace of thirty days or, in the case of an industrial contract, four weeks from and excluding the day on which the premium is due, pay, deliver or tender the sum in default to the insurer at its head office or at its chief agency in the Territory or to its collector or authorized agent.

How payment may be made.

(2) The payment, delivery or tender referred to in subsection (1) may be made by sending a post office order, postal note or a cheque payable at par and certified by a bank chartered under the laws of Canada or a draft of such bank, in a registered letter addressed to the insurer, and the payment, delivery or tender shall be deemed to have been made at the time of the delivery and registration of the letter at any post office.

Effect of payment.

(3) Payment, delivery or tender pursuant to subsection (2) has the same effect as if made at the due date of the premium.

Running of period of grace.

(4) The periods of grace mentioned in subsection (1) run concurrently with the period of grace, if any, allowed by the contract for the payment of a premium, or of an instalment of a premium.

Maturity of contract before period expires.

(5) Upon the maturity of a contract during the period of grace and before the overdue premium is paid, the contract shall be deemed to be in as full force and effect as if the premium had been paid at its due date, but the amount of the premium with interest not exceeding six per cent per annum and any balance of the current year's premium may be deducted by the insurer from the insurance money.

Saving.

(6) Nothing in this section deprives the insured of the benefit of any period of grace allowed by the contract in excess of the period of grace allowed by this section.

68. (1) Where a contract has lapsed and

Reinstatement
of contract.

- (a) its cash value has not been paid,
- (b) any options respecting paid up or extended insurance have not been exercised,
- (c) payment of all overdue premiums and other indebtedness to the insurer under the contract, with interest at such rate not exceeding six per cent per annum compounded annually as the contract provides, is made, and
- (d) no change has occurred in the good health and insurability of the person whose life is insured subsequent to the date of application and before the contract is reinstated,

the insured is entitled to have the contract reinstated within two years or, in the case of an industrial contract, within one year from the date of lapse upon production of evidence satisfactory to the insurer of the good health and insurability of the person whose life was insured, at the time of application for reinstatement.

(2) Where an application is made to reinstate a contract and the contract is reinstated, section 61 applies *mutatis mutandis*, and the period of two years referred to in subsection (2) of that section runs from the date of reinstatement. Application
of section 61.

(3) Where a contract that has lapsed provided that in the event of the suicide of the person whose life was insured within a period of time stated in the contract it should be void or that the amount payable thereunder should be reduced and, after the contract is reinstated, such person commits suicide within a period of time commencing on the date of reinstatement and of the same duration as the period of time fixed by the contract, the reinstated contract shall likewise be void, or the amount payable thereunder shall likewise be reduced. Suicide.

(4) This section does not apply in respect of a contract made by a fraternal society or a contract of group life insurance. Application.

69. The insurer shall, upon request, furnish to the insured a true copy of the application for the insurance. Copy of
application
furnished to
insured.

70. Where by a contract or declaration the insured appoints as beneficiaries, or appoints or apportions insurance money to, his "heirs", "legal heirs", "lawful heirs" or "next-of-kin" the appointment or apportionment shall be deemed to be for the benefit of the estate of the insured. Where
insurance
payable to
estate.

71. No officer, agent, employee or servant of the insurer or any person soliciting insurance, whether or not an agent of the insurer shall be deemed to be to the prejudice of the insured, for any purpose whatsoever the agent of the insured in respect of any question arising out of a contract. Agent of
insured.

INSURABLE INTEREST.

In one's
own life.

72. Every person has an insurable interest in his own life.

In the lives
of others.

73. Without limiting the meaning that "insurable interest" has in law,

- (a) a parent has an insurable interest in the life of his child under twenty-five years of age,
- (b) a husband has an insurable interest in the life of his wife,
- (c) a wife has an insurable interest in the life of her husband,
- (d) a person has an insurable interest in the life of another person upon whom he is wholly or in part dependent for support or education, or from whom he is receiving support or education,
- (e) a person has an insurable interest in the life of his officer or employee, and
- (f) a person who has pecuniary interest in the duration of the life of another person has an insurable interest in the life of that person.

Contract
void if no
insurable
interest.

74. A contract is void where at the time that it would otherwise take effect and be binding, the insured has no insurable interest.

Beneficiaries
need not have
insurable
interest.

75. Where the insured has, at the time that the contract takes effect, an insurable interest in the life insured, it is not necessary for the validity of the contract or any assignment that any beneficiary or person claiming under an assignment, by will or by succession have an insurable interest.

Capacity
of minors.

76. A minor, after attaining the age of fifteen years, has the capacity of a person of full age,

- (a) to effect a contract on his own life and to deal with that contract,
- (b) to deal with a contract on his own life effected by him before attaining the age of fifteen years,
- (c) to deal with his interest in a contract effected on his life by another, whether effected before or after the minor attained the age of fifteen years, and
- (d) where married, to effect a contract on the life of his spouse or his children and to deal with that contract.

Maximum
amounts
payable by
insurer on
death of
child under
five.

77. (1) Subject to subsection (2), no insurer shall pay on the death of a child who has not attained the age of five years an amount that alone or together with any amount payable on the death of the child by another insurer, exceeds the following amounts:

- (a) where the child dies before attaining the age of one year, two hundred dollars,
- (b) where the child dies after attaining the age of one year but before attaining the age of two years, four hundred dollars,

- (c) where the child dies after the age of two years but before attaining the age of three years, six hundred dollars,
 - (d) where the child dies after attaining the age of three years but before attaining the age of four years, eight hundred dollars, and
 - (e) where the child dies after attaining the age of four years but before attaining the age of five years, one thousand dollars.
- (2) Where the amount payable under a contract on the death of the child, whether alone or together with an amount payable under any other contract previously made, exceeds the maximum amount that may be paid under subsection (1) and the child dies before attaining the age of five years, the amount payable on death in excess of the applicable amount specified in subsection (1) is limited to
- (a) the amount of any excess premiums paid under the contract, and
 - (b) where the insurer has knowingly or without sufficient inquiry entered into the contract, interest at six per cent per annum on the excess premiums.
- (3) Every insurer that undertakes insurance on the life of a child who has not attained the age of five years shall print the scale of benefits set out in subsection (1) in conspicuous type upon every circular or advertisement soliciting such insurance and every policy evidencing the insurance.
- (4) This section does not
- (a) apply in respect of a contract under which the insured has a pecuniary interest in the life insured or that limits the payment on the death of a child who has not attained the age of five years to the premiums that have been paid, with interest at the rate provided in the contract, or
 - (b) preclude the payment of dividends or the repayment of premiums in addition to the amounts specified in subsection (1).

Excess premium to be refunded.

Scale of benefits on death of child to be printed.

Application.

THIRD PARTY POLICIES ON LIVES OF MINORS.

78. (1) Where a contract effected on the life of a minor by someone other than the minor, or an agreement in writing between the insurer and the insured respecting such a contract provides that a person named in the contract or the agreement upon the death of the insured has all the rights and interests of the insured in the contract
- (a) the contract does not, upon the death of the insured, form part of his estate, and
 - (b) the person named in the contract or agreement, upon the death of the insured, has all rights and interests of the insured in the contract and shall be deemed to be the insured.

Third party policies on lives of minors.

Alteration or revocation of nomination. (2) Notwithstanding the naming of any person as mentioned in subsection (1), the insured may, prior to his death, deal with the contract as if such naming had not been effected, and may alter or revoke such naming by agreement in writing with the insurer.

BENEFICIARIES.

Beneficiaries for value. 79. (1) Beneficiaries for value are beneficiaries who have given valuable consideration other than marriage and who are expressly stated to be, or described as, beneficiaries for value in the policy or in an endorsement thereon or in a subsequent declaration signed by the insured.

Preferred beneficiaries. (2) Subject to section 88, preferred beneficiaries are the husband, wife, children, grandchildren, father and mother of the person whose life is insured.

Ordinary beneficiaries. (3) Ordinary beneficiaries are beneficiaries who are not preferred beneficiaries, beneficiaries for value or assignees for value.

Interest of beneficiary for value and assignee for value. 80. (1) A beneficiary for value and an assignee for value of a policy have a vested interest in the policy.

Priority. (2) Except as regards beneficiaries for value who are expressly stated to be or described as beneficiaries for value in the policy, a beneficiary for value or assignee for value who gives notice in writing of his interest in the policy to the insurer at the head or principal office of the insurer in Canada prior to any other beneficiary for value or assignee for value has priority of interest as against such last mentioned beneficiary or assignee.

Person deemed to be the insured. 81. Where a contract is assigned, otherwise than as security for a loan or debt, to the person whose life is insured that person is thereupon deemed to be the insured.

Power of insured to designate beneficiary. 82. (1) Subject to the rights of beneficiaries for value and assignees for value and to the provisions of this Ordinance relating to preferred beneficiaries, an insured

(a) may designate any beneficiary by the contract or by a declaration,

(b) may from time to time by any declaration

(i) appoint or apportion the insurance money,

(ii) alter or revoke any prior designation, appointment or apportionment,

(iii) substitute new beneficiaries, or

(iv) divert the insurance money wholly or in part to himself or his estate,

(c) may surrender the contract to the insurer,

(d) may borrow from the insurer upon the security of the contract,

- (e) may receive the surplus or profits for his own benefit, and
 (f) may otherwise deal with the contract as may be agreed upon between him and the insurer.

(2) Subject to subsection (1), a beneficiary or a trustee appointed pursuant to section 107 may, at the maturity of the contract, enforce for his own benefit or as such trustee the payment of insurance money appointed or apportioned to him by the contract or a declaration in accordance with the terms thereof, but the insurer is entitled to set up any defence that it could have set up against the insured or his personal representatives.

Enforcing of payment of insurance money by beneficiary or trustee.

(3) Payment made to the beneficiary or trustee referred to in subsection (2) discharges the insurer.

Payment discharges insurer.

(4) A person whose life is insured under a contract of group life insurance may in his own name enforce any right stated in the policy to be given to him, subject to any defence available to the insurer against him or the insured.

Enforcement of right under group insurance policy.

(5) Subject to subsection (1), a declaration has effect from the time of its execution, but a declaration does not affect the interest or rights of a beneficiary for value or assignee for value unless the declaration has been filed with the insurer at its head or principal office in Canada prior to the time when such beneficiary or assignee acquired his interest or rights, and if the declaration is not so filed the interest or rights of such beneficiary or assignee are as if the declaration had not been made.

Effect of declaration.

(6) Where a declaration is contained in a will, it is sufficient for the purposes of subsection (5) to file a copy thereof or of the material part thereof, verified by statutory declaration with the insurer at its head or principal office in Canada.

Filing of declaration contained in will.

(7) A declaration contained in an instrument purporting to be a will that has not been revoked otherwise than by operation of law is effective as a declaration, notwithstanding that the instrument is invalid as a testamentary instrument.

Other declarations.

83. Where two or more beneficiaries are designated otherwise than alternatively, but no apportionment is made, they shall share equally.

Beneficiaries share equally where no apportionment.

84. Where there are several beneficiaries of whom one or more are ordinary beneficiaries and one or more of the ordinary beneficiaries die before the maturity of the contract, and no apportionment or other disposition of his or their shares is provided for in the contract or by a declaration, the share of any such deceased ordinary beneficiary is payable to the surviving designated beneficiary or beneficiaries, whether preferred or ordinary, and where more than one, in equal shares but where there is no surviving beneficiary, is payable to the insured or his estate.

Death of ordinary beneficiary before maturity of contract.

Designation of class of preferred beneficiaries creates a trust.

85. (1) Where the insured, pursuant to section 82, designates as beneficiary any one or more members of the class of preferred beneficiaries, a trust is created in favor of such designated beneficiary or beneficiaries, and the insurance money or such part thereof as is or has been apportioned to a preferred beneficiary shall not, except as otherwise provided in this Ordinance, be subject to the control of the insured or his creditors, or form part of the estate of the insured.

Right to income only.

(2) The contract may provide or the insured may at any time direct by declaration that a preferred beneficiary is entitled only to the income from insurance money for life or a period of time, or subject to any limitation or contingency stated in the declaration.

Rights of beneficiaries for value, etc.

(3) The provisions of this section are subject to any vested rights of beneficiaries for value and assignees for value, to the provisions hereinafter contained relating to preferred beneficiaries, and to any contingency or limitation stated in the instrument by which the insured designates a preferred beneficiary, but no provision in any instrument reserving to the insured the right to revoke or abridge the interest of a preferred beneficiary is effective to enable the insured to revoke or abridge that interest in favour of a person not in the class of preferred beneficiaries.

Power of insured to transfer benefits.

86. Notwithstanding the designation of any preferred beneficiary, the insured may subsequently exercise the powers conferred by section 82 to restrict, limit, extend or transfer the benefits of the contract to any one or more of the class of preferred beneficiaries to the exclusion of any or all other of the class, or wholly or partly to one or more for life or any other period of time or subject to any limitation or contingency, with remainder to any other or others of the class.

Meaning of "wife" and "children".

87. (1) Subject to section 88, where by the policy or by a subsequent declaration the insurance money or any part of it is made payable to or for the benefit of the wife of the person whose life is insured, his future wife, his wife and children, his future wife and children generally, or his children generally, the word "wife" means the wife living at the maturity of the contract, and the word "children" includes all the children of the person whose life is insured living at the maturity of the contract as well as the issue living at the maturity of the contract of any child of his who predeceases him, such issue taking by representation.

Application.

(2) Subsection (1) applies, *mutatis mutandis*, to insurance effected on a woman's life where the insurance money or any part of it is made payable to or for the benefit of her husband, her future husband, her husband and children, her future husband and children generally or her children generally.

(3) Subsections (1) and (2) do not apply where any beneficiary is designated by name or otherwise definitely indicated.

88. For the purposes of this Part, an adopted child and its adopting parent shall from the date of the adoption be deemed to bear towards one another the relationship of preferred beneficiaries, and an adopted child and its natural parents shall from the date of the adoption be deemed to bear toward one another the relationship of ordinary beneficiaries, and in either case this section applies in respect of insurance effected both before and after the date of adoption.

Relationships arising from adoption.

89. (1) Subject to subsection (2), the contract may provide or the insured may at any time direct by declaration that where a preferred beneficiary dies before the maturity of the contract, the insurance money or any part thereof appointed to the preferred beneficiary shall be payable to the insured, his estate or any other person whether or not that person is within the class of preferred beneficiaries.

Declaration providing for death of preferred beneficiary.

(2) Where the contract provides or the insured by a declaration directs that insurance money goes to a preferred beneficiary and in the event of the death of the preferred beneficiary to some other person in the class of preferred beneficiaries, and the first named beneficiary dies, the insured may before the maturity of the contract exercise only the powers referred to in section 86.

Powers of insured where alternative preferred beneficiary becomes the beneficiary.

(3) In case of the death of a preferred beneficiary before the maturity of the contract and in the absence of any provision in the contract or a declaration by which some other person in the class of preferred beneficiaries is to become entitled to the insurance money or any part thereof appointed to the deceased beneficiary in the event of his death or upon the happening of any other event, the insured may deal under section 82 with the insurance money or part thereof in the same manner and to the same extent as if the deceased beneficiary had not been a preferred beneficiary.

Powers of insured on death of preferred beneficiary.

(4) Subject to this section, the share of a preferred beneficiary who dies before the maturity of the contract is payable as follows:

How share payable.

- (a) where the deceased beneficiary is a child of the person whose life is insured and leaves issue surviving at the maturity of the contract, his share and any share to which he would have been entitled if he had survived is payable to his issue in equal shares, such issue taking by representation;
- (b) where there is no person entitled under paragraph (a), the share of the deceased beneficiary is payable to the surviving designated preferred beneficiaries in equal shares;
- (c) where there is no person entitled under paragraph (a) or (b), the share of the deceased beneficiary is payable in equal shares to the spouse and the children of the person whose life is insured living at the maturity of the contract, and the issue then living of any deceased child

of the person whose life is insured, such issue taking in equal shares the share to which their parent would have been entitled if living; and

- (d) where there is no person entitled under paragraph (a), (b) or (c), the share of the deceased beneficiary is payable to the insured or his estate.

Effect of divorce.

90. (1) Where the spouse of the person whose life is insured is designated as a beneficiary and is subsequently divorced, all interest of such beneficiary under the policy passes to the insured or his estate, unless the beneficiary is a beneficiary for value or an assignee for value.

Estoppel.

(2) For the purposes of this section, where a divorce has been granted on the application of a beneficiary, the beneficiary is estopped from denying the validity of the divorce.

Right of insurer.

(3) Until the insurer receives at its head or principal office in Canada notice in writing of the Act of Parliament, judgment, decree or order granting a divorce, it may deal with the insurance money in the same manner and with the same effect as if no divorce had been granted, and before paying the insurance money, the insurer is entitled to receive the original judgment, decree or order or a duly verified copy thereof, or a duly verified copy of the Act of Parliament, or a copy thereof printed by the Queen's Printer, as the case may be.

Saving.

(4) Nothing in subsection (3) affects the right of any person entitled to payment of insurance money by reason of a divorce to recover from any person to whom payment is made by the insurer.

Where spouse living apart.

91. Where the spouse of the person whose life is insured is designated as beneficiary and it appears

- (a) in the case of the wife, that she is living apart from her husband in circumstances disentitling her to alimony,
- (b) in the case of the husband, that he is living apart from his wife in circumstances disentitling him to an order for restitution of conjugal rights, and
- (c) that there is no other member of the class of preferred beneficiaries whom the insured may designate as beneficiary in place of the designated beneficiary,

the Court may, on the application of the insured and on such terms as may seem fit, declare the designated beneficiary disentitled to claim the benefit of the provisions of this Part relating to preferred beneficiaries and the insured may then deal with the policy as provided by section 82.

Power of insured to surrender contract where preferred beneficiary designated.

92. Where a preferred beneficiary is designated, the insured may

- (a) surrender the contract to the insurer and accept in lieu thereof any paid-up or extended insurance provided by the contract in favour of the preferred beneficiary, and

- (b) from time to time, borrow from the insurer on the security of the contract such sums as may be necessary and are applied to keep it in force, and the sums so borrowed, with such interest as may be agreed upon, are a first charge on the contract and the insurance company.

93. (1) Notwithstanding the designation of a preferred beneficiary, any person who effects a participating contract other than a contract of group life insurance may

Disposal of surplus or profits.

- (a) receive for his own benefit during his lifetime the surplus or profits declared on the contract, or
- (b) direct the insurer
- (i) to apply them in payment or reduction of premiums or in the purchase of paid-up additions to the sum insured,
 - (ii) to hold them to his credit for accumulation, or
 - (iii) to deal otherwise with such surplus or profits as the contract may provide.

(2) Upon the maturity of a contract, all surplus or profits held to the credit of the insured or being due and unpaid, shall, subject to the contract and to any direction by the insured to the contrary, be added to the insurance money and the share of any beneficiary shall be increased accordingly.

(3) In the case of group life insurance, surplus profits, dividends or bonuses shall be applied in accordance with the terms of the contract.

Group life insurance.

(4) The insurer may apply for the purpose of keeping the contract in force any surplus or profits declared on the contract and held by the insurer to the credit of the contract or of the insured, or held for accumulation, and not otherwise applied or dealt with pursuant to subsection (1).

Application of surplus to keep contract in force.

(5) The insurer is not obliged to pay or apply any surplus or profits in a manner contrary to the terms of the contract or of any subsequent agreement.

Obligation of insurer.

94. (1) Where all the designated preferred beneficiaries are of full age, they and the insured may surrender the contract or may assign or dispose of it either absolutely or by way of security, to the insurer, the insured or any other person.

Power to surrender contract where preferred beneficiaries of full age.

(2) Where the beneficiaries, whether designated by name or not, include the wife or children or grandchildren of the insured, it is sufficient, so far as their interests are concerned, if all then living are of full age and join in the surrender, assignment or disposal.

(3) Where insurance money is made payable to a minor or other person under disability or to a trustee on behalf of a minor or person under disability and the insurance money or a part thereof is required for the maintenance or education of the minor or person under disability, the Court may, upon the appli-

Order of Court where money payable to minor, etc.

cation of the insured and upon at least ten days' notice to the insurer, make an order on such terms as it may deem just permitting the insured to surrender the contract to the insurer or to borrow from the insurer on the security thereof, and payment by the insurer in accordance with the order discharges it from liability in respect of the payment.

Assignment of policy and right of beneficiaries.

(4) Where a contract has been assigned as security for any loan or debt, the rights of any beneficiary, whether ordinary or preferred, are affected only to the extent necessary to give effect to the rights of the assignee, and when the loan or debt is discharged the assignee shall furnish a certificate in writing to that effect and to the effect that the assignee has no further right, title or interest in that contract.

Persons joining in surrender.

95. Where by a contract or any instrument in writing a person is entitled to insurance money only in the event of the death of another person named as a beneficiary, it is not necessary for the first mentioned person to join in any surrender, assignment or disposal of the contract.

Commutation of instalments of insurance money.

96. (1) Subject to this section, where insurance money is payable in instalments and the contract, or an instrument in writing signed by the insured and delivered to the insurer, expressly provides that the beneficiary has not the right to commute the instalments or to alienate or assign his interest therein, the insurer shall not commute the instalments or pay them to any person other than the beneficiary, and the instalments are not, in the hands of the insurer, subject to any legal process except an action to recover the value of necessaries supplied to the beneficiary or his infant children.

(2) The insured may, by an instrument in writing signed by him and delivered to the insurer, declare that the beneficiary has the right to commute instalments of insurance money or alienate or assign his interest therein.

(3) The Court may, upon the application of the insurer or the beneficiary and upon at least ten days' notice, declare that in view of special circumstances the beneficiary has the right to commute instalments of insurance money or to alienate or assign his interest therein.

(4) After the death of the beneficiary, his personal representatives may commute any instalments of insurance money payable to them.

"Instalments."

(5) In this section, "instalments" includes insurance money or any part thereof held by the insurer under section 97.

Insurer holding insurance money after maturity of contract.

97. (1) Subject to the provisions of this Part relating to preferred beneficiaries, where it is expressly provided in the contract or by an agreement in writing with the insurer or by a declaration, the insurer may hold the insurance money or any part thereof after maturity of the contract subject to the order of the beneficiary, or upon such trusts or other agreements for the benefit of the beneficiary as are provided in the contract.

agreement or declaration, allowing and paying for the term during which the insurer retains the insurance money or any part thereof, interest thereon at a rate not less than that specified in the contract, agreement or declaration, or, where no rate is agreed upon, at the rate declared from time to time by the insurer in respect to insurance money so held by it.

(2) An insurer is not bound to carry out the terms of any declaration to which it has not agreed in writing.

98. (1) Until the insurer receives at its head or principal office in Canada notice in writing of the making of an order declaring a beneficiary disentitled to insurance money, or of any instrument in writing affecting the insurance money or any part thereof or of the appointment or revocation of the appointment of a trustee, it may make any payment that is lawful and valid except for the order, instrument in writing, appointment or revocation of appointment, and before making any payment pursuant to or under the authority of the order, instrument in writing, appointment or revocation of appointment, it is entitled to receive the original or a true copy thereof.

Persons to whom insurer may make payment.

(2) Nothing in this section affects the right of any person entitled to payment by virtue of an order, instrument in writing, appointment or revocation of appointment referred to in subsection (1) to recover from any person to whom payment has been made by the insurer.

Saving.

99. An insurer does not incur any liability for any default, error or omission in giving or withholding information as to any notice or instrument in writing affecting the insurance money that the insurer has received.

Non-liability of insurer for information as to notices.

PROOF OF CLAIM AND PAYMENT.

100. (1) An insurer is entitled to reasonably sufficient proof in writing verified by affidavit or statutory declaration of the maturity of the contract, the age of the person whose life is insured and the right of the claimant to receive payment of the insurance money.

Proof of claim.

(2) Where the insurance money or part thereof is payable or for the benefit of a beneficiary, the insurer is entitled to reasonably sufficient proof of the name and age of the beneficiary.

Proof of name and age of beneficiary.

101. (1) Insurance money that is expressed to be payable at the maturity of the contract is payable thirty days after reasonably sufficient proof has been furnished to the insurer of the maturity of the contract, the age of the person whose life is insured and the right of the claimant to receive payment.

Payment of insurance money.

(2) Except in the case of a contract of group life insurance, insurance money

Where insurance money payable.

(a) is payable in the place in Canada where the insured was domiciled when the money became payable, or

(b) is payable at the head or principal office of the insurer in Canada, where the insured was not domiciled in Canada when the money became payable and the contract does not otherwise provide.

Idem.

(3) In the case of a contract of group life insurance, insurance money

(a) is payable in the place in Canada where the person whose life is insured was domiciled when the money became payable, or

(b) is payable at the head or principal office of the insurer in Canada, where the person whose life is insured was not domiciled in Canada when the money became payable and the contract does not otherwise provide.

How payable.

(4) Every amount to be paid to or by an insurer under a contract is payable in lawful money of Canada, unless the contract expressly provides for payment in another currency.

Meaning of "dollars".

(5) In every contract, whether the contract by its terms provides for payment in Canada or elsewhere, amounts expressed in dollars mean lawful dollars of Canadian currency, unless some other currency is specifically provided for in the contract.

Payments outside Canada.

102. Where insurance money is payable in respect of a policy on the life of a person who is at the date of his death domiciled elsewhere than in Canada to another person domiciled elsewhere than in Canada, and there is no person in Canada entitled to receive it, the insurer may pay it to the person to whom it is payable or to any other person entitled to receive it on his behalf by the law of the domicile of the payee.

Declaration by Court as to sufficiency of proof.

103. (1) Where the insurer admits the validity of the contract but does not admit the sufficiency of the proof furnished by the claimant of the maturity of the contract, the age of the person whose life is insured or the right of the claimant to receive payment of the insurance money and there is no other question in issue except a question under subsection (2), the insurer or the claimant may, before or after the action brought and upon at least thirty days' notice, apply to the Court for a declaration as to the sufficiency of the proof furnished, and the Court may direct what further proof shall be furnished or, in special circumstances, may dispense with further proof.

Declaration as to presumption of death.

(2) Where the claimant alleges that the person whose life is insured is presumed to be dead by reason of his not having been heard of for seven years, and there is not other question in issue except a question under subsection (1), the insurer or the claimant may, before or after action brought and upon at least thirty days' notice, apply to the Court for a declaration as to the presumption of death.

- (3) Where the Court Effect of order of Court.
 (a) finds that the proof of the maturity of the contract, the age of the person whose life is insured or the right of the claimant to receive payment is sufficient,
 (b) finds that a presumption of death has been established, or
 (c) makes an order directing what further proof shall be furnished or, in special circumstances, dispensing with further proof,

the finding or order of the Court is, subject to appeal, conclusive and binding upon the applicant and all parties notified of the application and the Court may make such order respecting the payment of the insurance money and respecting costs as it may deem just.

(4) Payment by an insurer in accordance with an order made pursuant to this section discharges the insurer from liability in respect of the payment. Payment a discharge.

- (5) Where the Court does not Other Court order.
 (a) find that the proof of the maturity of the contract, the age of the person whose life is insured or the right of the claimant to receive payment is sufficient, or

(b) find that the presumption of death is established, the Court may order that the matters in issue be decided in an action brought or to be brought, or may make such other order as it deems just respecting further proof to be furnished by the claimant, publication of advertisements, further inquiry and costs or otherwise.

(6) Unless otherwise ordered by the Court, an application made pursuant to subsection (1) operates as a stay of any pending action with respect to the insurance money. Stay of action.

104. Where the person whose life is insured and one or more of the beneficiaries perish in the same disaster, it is prima facie presumed that the beneficiary or beneficiaries died first. Presumption in case of a common disaster.

105. An agreement, express or implied, contained in a contract of life insurance for the payment of insurance money in the event that the person whose life is insured commits suicide is lawful and enforceable. Policy not provided by suicide in certain cases.

LIMITATION OF ACTIONS.

106. (1) Subject to this section, no action or proceeding against the insurer for the recovery of insurance money shall be commenced more than one year after the furnishing of reasonably sufficient proof of the maturity of the contract and of the right of the claimant to receive payment, or more than six years after the maturity of the contract, whichever period first expires. Limitation of actions.

Limitation where death presumed.

(2) Where an order has been made declaring that death is presumed from the fact that the person whose life is insured has not been heard of for seven years, no action or proceeding referred to in subsection (1) shall be commenced more than one year and six months after the date of the order.

Limitation where death unknown.

(3) Where the death of the person whose life is insured is unknown to the person entitled to claim under the contract, no action or proceeding shall be commenced more than six years next after the death of the person whose life is insured or more than one year and six months after the death becomes known to the person entitled, whichever period first expires.

Premature action.

(4) Where an action or proceeding is prematurely brought, the plaintiff may commence a new action or proceeding at any time within six months after the final determination of the first action or proceeding.

TRUSTEES, GUARDIANS, ETC.

Appointment by insured.

107. (1) The powers conferred upon the insured by this Part with regard to the designation or appointment of any one or more beneficiaries, the alteration or revocation of such designation or appointment, and the apportionment or reapportionment of insurance money between or among beneficiaries include the power from time to time to appoint one or more trustees for any beneficiary, to revoke any such appointment or alter its terms to appoint one or more new trustees or to make provisions for the appointment of one or more new trustees.

Saving.

(2) The appointment of a trustee or trustees for any beneficiary does not take away from the Court or the insured any power of depriving the beneficiary of the benefit of the insurance money that the Court or the insured has under this Ordinance where the beneficiary has been designated as beneficiary without the appointment of a trustee.

Payment a discharge.

(3) Payment made to the trustee or trustees appointed pursuant to this section discharges the insurer.

Payment of share of minor, etc.

108. (1) Where no trustee is appointed to receive the share to which a minor or other person under disability is entitled, or where a trustee is named but refuses or neglects to act or dies or otherwise becomes incapable of acting, the share of the minor or other person under disability may be paid to a guardian, tutor or trustee of the minor or to a curator, committee or trustee of the other person under disability appointed under the law of the Territory.

Appointment of guardian.

(2) Where insurance money not exceeding two thousand dollars is payable to the spouse and children or to the children of the person whose life is insured, and one or more of the children are minors, the Court may, if the spouse is a parent of the minors, appoint him their guardian, with or without security, and the insurance money may be paid to such spouse as guardian.

(3) Where it appears that a guardian, tutor, curator, committee or trustee of a minor or other beneficiary under disability has been appointed in a foreign jurisdiction, and that the minor or other beneficiary is resident within that jurisdiction, the Court may authorize payment of the insurance money to the guardian, tutor, curator, committee or trustee with or without security in the Territory.

Guardian, etc.
in a foreign
jurisdiction.

PAYMENT INTO COURT.

109. (1) Where the insurer admits liability for the insurance money or any part thereof and it appears to the insurer

Order for
payment
into Court.

- (a) that there are adverse claimants,
- (b) that the place of abode of a person entitled is unknown,
or
- (c) that there is no person capable of giving or authorized to give a valid discharge,

the insurer may, at any time after the expiration of one month from the maturity of the contract, apply to the Court for an order for payment of the money into Court, and the Court may upon such notice, if any, as it thinks necessary make an order accordingly, and the application may in the first instance be made *ex parte*.

(2) Where the insurer admits liability for the insurance money or any part thereof payable to a minor and there is no person capable of giving a valid discharge therefor, the insurer may at any time after the expiration of one month from the maturity of the contract pay the money, less the costs mentioned in subsection (3), into Court to the credit of the minor.

Payment
into Court
for minor.

(3) The insurer may retain out of the insurance money for costs incurred upon payment into Court pursuant to subsection (2) the sum of ten dollars where the amount does not exceed one thousand dollars, and the sum of fifteen dollars in other cases, and payment of the remainder of the money into Court discharges the insurer.

Costs retained
out of
insurance
money.

(4) No order is necessary for payment into Court under subsection (2), but the Clerk of the Court shall receive the money upon the insurer filing with him an affidavit showing the amount payable and the name, date of birth and residence of the minor, and upon such payment being made the insurer shall forthwith notify the Public Administrator and deliver to him a copy of such affidavit.

Clerk of
Court to
receive
money, etc.

110. Where the insurer does not within two months after due proof of the claim pay the insurance money to some person competent to receive it under this Part or into Court, the Court may, upon application of any person, order that the insurance money or any part thereof, be paid into Court or may make such other order as to the distribution of the money as it may deem just, and payment made in accordance with the order is a sufficient discharge to the insurer.

Order for
payment
into Court.

Costs may be fixed by Court.

111. The Court may fix and ascertain without taxation the costs incurred upon or in connection with any application or order made under subsection (1) of section 109 or under section 110, and may order such costs to be paid out of the insurance money or by the insurer or the applicant or otherwise as seems just.

CONSTRUCTION OF PART.

Construction.

112. This Part shall be so interpreted and construed as to effect its general purpose of making uniform the law of the Territory and of those provinces that enact similar legislation.

PART V.

AUTOMOBILE INSURANCE.

INTERPRETATION.

Definitions.

113. In this Part,

"Driver's policy."

(a) "driver's policy" means a motor vehicle liability policy that insures a person named therein in respect of the operation or use by him of any automobile other than an automobile owned by him or registered in his name;

"Insured."

(b) "insured" means a person insured by a contract whether named or not;

"Motor vehicle liability policy."

(c) "motor vehicle liability policy" means a policy or that part of a policy that insures the owner or driver of an automobile against liability for loss or damage to persons or property; and

"Owner's policy."

(d) "owner's policy" means a motor vehicle liability policy that insures a person named therein in respect of the ownership, operation or use of any automobile owned by him and specifically described in the policy and, in respect of the ownership, operation or use of any other automobile that is within the definition thereof appearing in the policy.

GENERAL PROVISIONS.

Application.

114. (1) This Part applies in respect of automobile insurance and to any insurer carrying on the business of automobile insurance in the Territory and in respect of all contracts made in the Territory on or after the 1st day of May, 1956.

Insurance of automobile by fire insurance policy.

(2) Nothing in this Part prevents the insuring of an automobile against loss or damage by fire under a policy of fire insurance, and in that event this Part does not apply.

Non-applicability of sections 32 and 33.

(3) Sections 32 and 33 do not apply in respect of automobile insurance in respect of which this Part applies.

(4) This Part, other than section 137, does not apply in respect of insurance of an automobile chiefly used or operated off highways unless insured under a form of policy approved under this Part. Application.

115. (1) No insurer shall make any contract for a period exceeding fourteen days without a written application therefor, signed by the applicant or his agent duly authorized in writing. Requirements as to written application.

(2) No person carrying on the business of financing the sale or purchase of automobiles, no automobile dealer, insurance agent or broker, and no officer or employee of any such person, dealer, agent or broker, shall act as agent for an applicant under this section. Persons forbidden to act as agents for applicants.

(3) Every written application for a driver's policy shall set forth, Application for driver's policy.

- (a) the name, address and occupation or business of the applicant,
- (b) particulars of all accidents, losses or claims arising out of the ownership, use or operation of an automobile by the applicant within the three years preceding the application,
- (c) whether any insurer has cancelled any policy of automobile insurance of the applicant or refused automobile insurance to him,
- (d) whether any licence, permit, registration certificate or other like authority, issued to the applicant under any ordinance or under any law or statute of any province, state or country relating to automobiles, has been or continued to be, to the knowledge of the applicant, suspended or cancelled within the three years preceding the application, and
- (e) such further information as the insurer may require or the Commissioner may prescribe.

(4) Every other written application shall set forth, Application in other cases.

- (a) the name, address and occupation or business of the applicant,
- (b) the description of the automobile to be insured,
- (c) the purchase price to the applicant of the automobile,
- (d) whether the automobile was purchased new or otherwise,
- (e) particulars of any mortgage, lien or encumbrance thereon,
- (f) the place where the automobile is and will usually be kept,
- (g) the locality in which and the purpose for which the automobile is and will be used chiefly,
- (h) particulars of all accidents, losses or claims arising out of the ownership, use or operation of an automobile by the applicant within the three years preceding the application,
- (i) whether any insurer has cancelled any policy of automobile insurance of the applicant, or refused automobile insurance to him,

- (j) whether any licence, permit, registration certificate or other like authority, issued to the applicant or member of his family and household under any ordinance or under any law or statute of any province, state or country relating to automobiles, has been or continued to be, to the knowledge of the applicant, suspended or cancelled within the three years preceding the application, and
 - (k) such further information as the insurer may require or the Commissioner may prescribe.
- Special contracts. (5) Where the requirements of subsections (3) and (4) are, in the opinion of the Commissioner, inapplicable to any special form of contract, the Commissioner may prescribe the form of application or vary, omit or add to those requirements.
- Red ink endorsement. (6) Upon every written application and policy there shall be printed or stamped in conspicuous type, not less in size than ten point and in red ink, a copy of subsection (1) of section 121.
- Renewal of contract. (7) Where a contract is renewed without change or only the amount of the insurance, the rate of premium or the method of rating is changed, the renewal may be effected without a written application.
- Copy of application. (8) A copy of the application, or such part thereof as is material to the contract, shall be embodied in, endorsed upon or attached to the policy when issued by the insurer.
- Amendment of contract. **116.** Where it is proposed to change the subject matter of a contract by substitution or addition of one or more automobiles, the insurer may so amend the contract by an endorsement of the policy, but in such case the insurer shall obtain a written application signed in accordance with section 115 and containing such particulars required by that section as relate to the new subject matter.
- Contents of policy. **117.** (1) Every policy shall set forth,
 - (a) the name and address of the insurer,
 - (b) the name, address and occupation or business of the insured named therein,
 - (c) the premium for the insurance,
 - (d) the subject matter of the insurance,
 - (e) the indemnity for which the insurer may become liable,
 - (f) the event on the happening of which liability is to accrue,
 - (g) the term of the insurance, and
 - (h) except in case of motor vehicle liability policies, the name of the person to whom the insurance money is payable.
- Discrepancy between application and policy. (2) Unless otherwise expressly stated therein, any written application shall be deemed to be one for a policy embodying the terms and conditions of the insurer's corresponding standard policy form; and the policy shall be deemed to be in accordance with the application unless the insurer points out in writing to the insured named in the policy in what respect the policy differs

from the application, and, in that event, the insured shall be deemed to have accepted the policy unless within one week from the receipt of the notification he informs the insurer in writing that he rejects the policy.

(3) Notwithstanding any agreement, the insurer shall deliver or mail to the insured named therein the policy or a true copy thereof and every endorsement or amendment of the policy or a true copy thereof. Delivery of policy to insured.

118. (1) Subject to subsections (2) and (3) and sections 119 and 138, Statutory conditions.

(a) the conditions set forth in Part II of the Schedule are statutory conditions and shall be deemed to be part of every contract of automobile insurance and shall be printed on every policy with the heading "Statutory Conditions", and

(b) no variation or omission of a statutory condition is valid nor is anything contained in any addition to a statutory condition or in the description of the subject matter of the insurance effective in so far as it varies, avoids or is inconsistent with any such condition.

(2) Where the automobile insurance is neither insurance under a motor vehicle liability policy nor insurance against loss of or damage to an automobile designated in the policy, the Commissioner may prescribe appropriate conditions or may omit, vary or add to the statutory conditions referred to in this section. Prescription of conditions in certain cases.

(3) The Commissioner may approve a form of motor vehicle liability policy appropriate to insure a limited or restricted use of the automobile and in that case the statutory conditions referred to in this section shall be deemed to be amended so far as is necessary to give effect to the terms and conditions of the policy so approved and sections 128 and 129 shall not apply in such case. Form of motor vehicle liability policy.

119. (1) Where the policy does not insure against liability for loss or damage to persons or property, statutory condition 4 of the conditions referred to in section 118 shall not be deemed to be part of the policy. Certain conditions not part of policy.

(2) Where the policy does not insure against loss of or damage to an automobile, statutory condition 5 of the conditions referred to in section 118 shall not be deemed to be part of the policy. Idem.

120 (1) No insurer shall issue or deliver a policy or endorsement to a policy until a copy of the form of policy or endorsement has been on file with the Commissioner for at least thirty days, unless sooner approved in writing by him, nor if within that period the Commissioner notifies the insurer in writing that such form of policy or endorsement is not approved. Insurer must file with Commissioner copy of policy or endorsement before issue or delivery.

Reasons for not approving or disapproving.

(2) The Commissioner shall upon request specify the reasons for not approving or for disapproving of a form of policy or endorsement.

Approval may be revoked.

(3) Where approval has been given by the Commissioner pursuant to this section, the approval may be revoked by him at any time upon giving written notice to the insurer specifying the reasons for revocation of the approval.

Avoidance of policy for misrepresentation, fraud or violation of condition.

121. (1) Where

(a) an applicant for a contract

- (i) gives false particulars of the described automobile to be insured, to the prejudice of the insurer, or
- (ii) knowingly misrepresents or knowingly fails to disclose in the application any fact required to be stated therein,

(b) the insured violates a term or condition of the policy or commits a fraud, or

(c) the insured wilfully makes a false statement with respect to a claim under the policy,

a claim by the insured is invalid and the right of the insured to recover indemnity is forfeited.

Statements not in written application.

(2) Where a written application for a contract is made, no statement of the applicant shall be used in defence of a claim under the policy unless it is contained in the written application.

Relief against forfeiture.

122. Where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the insured or other matter or thing required to be done or omitted by the insured with respect to the loss, and a consequent forfeiture or avoidance of the insurance in whole or in part, and the Court deems it inequitable that the insurance should be forfeited or avoided on that ground, the Court may relieve against the forfeiture or avoidance on such terms as it may deem just.

Payment of insurance money.

123. Insurance money is payable in lawful money of Canada.

Waivers to be in writing.

124. No term or condition of a contract shall be deemed to be waived by the insurer in whole or in part unless the waiver is stated in writing and signed by an agent of the insurer.

Subrogation of insurer.

125. (1) Where an insurer makes any payment or assumes liability therefor under a contract of automobile insurance, it is subrogated to all rights of recovery of the insured against any person and may bring action in the name of the insured to enforce such rights.

Division of amount recovered.

(2) Where the net amount recovered in an action referred to in subsection (1), after deduction of the costs of the recovery, is not sufficient to provide a complete indemnity for the loss or

damage suffered, the amount shall be divided between the insurer and the insured in the proportions in which the loss or damage has been borne by them respectively.

126. No red ink shall be used in printing a policy, except for the name, address and emblem of the insurer, the policy number and the purposes mentioned in this Part. Use of red ink.

127. Any act or omission of the insurer resulting in non-compliance or imperfect compliance with any provision of this Part does not render a contract invalid as against the insured. Rights of insured preserved.

128. (1) Every owner's policy insures the person named therein and every other person who, with his consent, personally drives any automobile specifically described in the policy, against the liability imposed by law upon the insured named therein or any such other person for loss or damage Coverage of owner's policy.

- (a) arising from the ownership, use or operation of any such automobile within Canada, the continental United States of America or Alaska, or upon a vessel plying between ports thereof, and
- (b) resulting from,
 - (i) bodily injury to or death of any person,
 - (ii) damage to property, or
 - (iii) both.

(2) Nothing in subsection (1) precludes coverage being provided in an owner's policy to the person named therein and such other persons as may be specified therein, who, with his consent, personally drive any other automobile within the definition thereof appearing in the policy, against the liability imposed by law upon the insured named therein or upon any such other person for loss or damage described in paragraphs (a) and (b) of subsection (1).

(3) Any person insured by but not named in a policy may recover indemnity in the same manner and to the same extent as if named therein as the insured, and for that purpose shall be deemed to be a party to the contract and to have given consideration therefor. Rights of unnamed insured.

129. Every driver's policy insures the person named therein against the liability imposed by law upon the insured for loss or damage, Coverage of driver's policy.

- (a) arising from the operation or use by him of any automobile, other than an automobile owned by him or registered in his name, while he is personally in control as driver or occupant of the automobile within Canada, the continental United States of America or Alaska, or upon a vessel plying between ports thereof, and
- (b) resulting from
 - (i) bodily injury to or death of any person,
 - (ii) damage to property, or
 - (iii) both.

Liabilities
of insurer.

130. (1) Under an owner's or a driver's policy the insurer shall,

- (a) upon receipt of notice of loss or damage caused to persons or property, make such investigations, conduct such negotiations with the claimant and effect such settlement of any resulting claims, as may be deemed expedient by the insurer,
- (b) defend in the name and on behalf of the insured and at the cost of the insurer any civil action that may at any time be brought against the insured on account of loss or damage to persons or property,
- (c) pay all costs taxed against the insured in any civil action defended by the insurer and any interest accruing after entry of judgment upon that part of the judgment that is within the limits of the insurer's liability, and
- (d) in case the injury be to a person, reimburse the insured for outlay for such medical aid as may be immediately necessary at the time.

Application
to Court
where more
than one
policy.

(2) Where a person is insured under more than one motor vehicle liability policy, whether the insurance is first loss insurance or excess, and a question arises under paragraph (b) of subsection (1) between an insurer and the insured or between the insurers as to which insurer shall undertake the obligation to defend in the name and on behalf of the insured, whether or not any insurer denies liability under its policy, the insured or any insurer may apply to the Court and the Court shall give such directions as may appear proper with respect to the performance of the obligation.

Parties
entitled
to notice,
etc.

(3) On an application under subsection (2), the only parties entitled to notice thereof and to be heard thereon are the insured and his insurers, and no material or evidence used or taken upon such an application is admissible upon the trial of an action brought against the insured for loss or damage to persons or property arising out of the use of the automobile in respect of which the insurance is provided.

Effect of
order.

(4) An order under subsection (2) does not affect the rights and obligations of the insurers with respect to payment of any indemnity under their respective policies.

Contribution
where excess
insurance.

(5) Where the insured has indemnity under two or more policies and any one or more are excess insurance by virtue of section 135, the insurers shall, as between themselves, contribute to the payment of the expenses, costs and reimbursement provided for in subsection (1) in accordance with their respective liabilities for damages against the insured.

Exceptions to
liability
of insurer.

131. Subject to section 134, an insurer is not liable under an owner's policy or a driver's policy

- (a) for any liability imposed by any workmen's compensation law upon the insured, or

- (b) for loss or damage resulting from bodily injury to or the death of
 - (i) the son, daughter, wife, husband, mother, father, brother or sister of the insured while being carried in or upon, or entering or getting on to, or alighting from an automobile, or
 - (ii) the insured,
- nor, unless the coverage is expressly extended under section 133,
- (c) to any person, not being the owner of the automobile, engaged in the business of an automobile garage, repair shop or service station or of an automobile dealer, for loss or damage sustained while engaged in the operation or repair of an automobile,
 - (d) for any loss or damage resulting from bodily injury to or the death of any person being carried in or upon or entering or getting on to, or alighting from an automobile,
 - (e) for loss of or damage to property carried in or upon an automobile or to any property owned or rented by, or in the care, custody or control of the insured,
 - (f) for loss or damage resulting from bodily injury to or the death of any employee of the insured while engaged in the operation or repair of an automobile, or
 - (g) where the coverage is expressly excluded by endorsement approved by the Commissioner, for loss or damage arising from the ownership, use or operation of any machinery or apparatus, including its equipment, mounted on or attached to the automobile with a separate power or heating unit, while at the site of the use or operation of such machinery or apparatus.

132. Every owner's and driver's policy shall insure,

- (a) in case of bodily injury or death, to the limit of at least
 - (i) ten thousand dollars, exclusive of interest and costs, against loss or damage resulting from bodily injury to or the death of any one person, and
 - (ii) twenty thousand dollars, exclusive of interest and costs, against loss or damage resulting from bodily injury to or death of two or more persons in any one accident; and
- (b) in case of property damage, to the limit of at least two thousand dollars, exclusive of interest and costs, for damage to property resulting from any one accident.

133. (1) In the case of an owner's or driver's policy, the insurer may, in consideration of an additional stated premium and not otherwise, extend the coverage in whole or in part

- (a) to any or all of the matters mentioned in paragraphs (c), (e) and (f) of section 131, by an endorsement on the policy, and

- (b) to the matter mentioned in paragraph (d) of section 131, by a provision in the policy or an endorsement on it.
- Idem. (2) The insurer may, in the case of an owner's policy extend the coverage in whole or in part in respect of the operation or use of automobiles not owned by or registered in the name of the insured.
- Other matters. (3) The insurer may, in the case of an owner's policy or a driver's policy, extend the coverage to such other matters as the Commissioner may approve.
- Commissioner to approve extension. (4) No insurer shall extend the coverage under subsection (2) or (3) without the approval of the Commissioner of the form of the extended coverage, the method of providing therefor and of the necessity or otherwise of an additional stated premium for the coverage.
- Coverage for necessary medical, surgical and other expenses. **134.** (1) An insurer issuing an owner's or a driver's policy may, in consideration of an additional stated premium, in addition to the other insuring agreements therein, agree to pay for each person who sustains bodily injury caused by an accident while driving, being carried in or upon, or entering or getting on to or alighting from the automobile specifically described in the policy or within the definition thereof appearing in the policy within Canada, the continental United States of America, or Alaska, or upon a vessel plying between ports thereof, if the automobile is being used by the insured named in the policy or with his consent, all reasonable expenses incurred, within one year from the date of the accident as a result of the injury, for necessary medical, surgical, dental, ambulance, hospital, professional nursing and funeral services.
- Commissioner's approval. (2) No insurer shall give insurance mentioned in subsection (1) without the approval of the Commissioner of the terms and conditions thereof.
- Proportioning liability of insurer. **135.** (1) Subject to subsection (2), where the insured named in a policy has or places any additional or other valid insurance of his interest in the subject matter of the contract, or any part thereof, the insurer shall be liable only for its ratable proportion of any loss or damage.
- Where more than one motor vehicle liability policy. (2) Insurance under a valid owner's policy shall, as respects the liability arising from the ownership, use or operation of the automobile specifically described in the policy, be a first loss insurance, and insurance attaching under any other valid motor vehicle policy shall be excess insurance only.
- Copy on policy. (3) A copy of subsections (1) and (2) shall be printed or stamped in conspicuous type, not less in size than ten point, upon every automobile insurance policy and those subsections constitute terms of the contract between the insurer and the insured.
- Effect of subsection (2). (4) Subsection (2) has effect as between insurers.

136. Where any provision of sections 128 to 135 is inapplicable by reason of the requirements of any Act or Ordinance or, in the opinion of the Commissioner, is unsuitable to any special form of contract, he may approve a form of motor vehicle liability policy sufficient or appropriate to insure the risks required or proposed to be insured and in that case those sections do not apply. Policy in special cases.

137. (1) Any person who has a claim against an insured, for which indemnity is provided by a motor vehicle liability policy, notwithstanding that such person is not a party to the contract, is entitled, upon recovering a judgment therefor against the insured, to have the insurance money payable under the policy applied in or towards satisfaction of his judgment and of any other judgments or claims against the insured covered by the indemnity and may, on behalf of himself and all persons having such judgments or claims, maintain an action against the insurer to have the insurance money so applied. Rights of certain creditors of insured in insurance money.

(2) No creditor of the insured is entitled to share in the insurance money payable under any such policy in respect of any claim for which indemnity is not provided by the policy. Other creditors.

(3) No

- (a) assignment, waiver, surrender, cancellation or discharge of the policy, or of any interest therein, or if the proceeds thereof, made by the insured after the happening of the event giving rise to a claim under the policy,
- (b) act or default of the insured before or after such event in violation of any provision of this Part or of the terms of the contract, and
- (c) violation of the *Criminal Code* or of any law or statute of any province or the Territory, state or country, by the owner or driver of an automobile,

Indisputability of liability of insurer.

prejudices the right of any person, entitled under subsection (1), to have the insurance money applied upon his judgment or claim, nor shall anything referred to in paragraphs (a), (b) and (c) be available to the insurer as a defence to the action.

(4) It is not a defence to an action under this section that an instrument issued as a motor vehicle liability policy by a person engaged in the business of an insurer and alleged by a party to the action to be such a policy, is not a motor vehicle liability policy; and the provisions of this section apply, *mutatis mutandis*, to the instrument.

(5) The insurer may require any other insurers liable to indemnify the insured in whole or in part in respect of judgments or claims referred to in subsection (1) to be made parties to an action under this section and to contribute according to their respective liabilities, whether this be ratably or by way of first loss or excess insurance, as the case may be, and the insured shall, on demand, furnish the insurer with particulars of all other insurance covering the subject matter of the contract. Contribution among insurers.

Defence where excess coverage.

(6) Subject to subsection (7), where one or more policies provide for coverage in excess of the limits mentioned in section 132 or for extended coverage pursuant to subsections (1) and (3) of section 133, nothing in this section with respect to such excess coverage or extended coverage prevents any insurer from availing itself, as against a claimant, of any defence that the insurer is entitled to set up against the insured.

Application of subsection (6).

(7) Where a policy provides for extended coverage in respect of loss or damage resulting from bodily injury to, or the death of, any person being carried in or upon, or entering, or getting on to or alighting from an automobile operated in the business of carrying passengers for compensation or hire, subsection (6) applies only to that part of such extended coverage,

- (a) that exceeds any minimum coverage required by this Ordinance, or
- (b) where a greater minimum coverage is required by or pursuant to any other Ordinance, exceeds such greater minimum coverage.

Liability of insured to reimburse insurer.

(8) The insured is liable to pay or reimburse the insurer, upon demand, any amount that the insurer has paid by reason of this section that it would not otherwise be liable to pay.

Right of insurer, when liability denied, to be made a third party in action.

(9) Where an insurer denies liability under a motor vehicle liability policy, it has the right upon application to the Court to be made a third party in any action to which the insured is a party and in which a claim is made against the insured by any party to the action in which it is or might be asserted that indemnity is provided by the said policy, whether or not the insured files a defence or a demand of notice of proceedings, and upon being made a third party such insurer has the right to contest the liability of the insured to any party claiming against the insured, and to contest the amount of any claim made against the insured to the same extent as if a defendant in the action, including for such purposes the right to deliver a statement of defence to the claim of any party against the insured and to deliver other pleadings and to have production and discovery from any party adverse in interest and the right to examine and cross-examine witnesses at the trial.

Idem.

(10) An insurer is entitled to avail itself of subsection (9) notwithstanding that another insurer is defending in the name and on behalf of the insured an action to which its insured is a party.

Partial payment of loss clause.

138. A policy, other than a motor vehicle liability policy, may contain a clause to the effect that the insurer in the event of loss shall pay only an agreed portion of any loss that may be sustained or the amount of the loss after deduction of a sum specified in the policy, in either case not exceeding the amount of the insurance, in which case there shall be printed upon the face of the policy in conspicuous type, in red ink, the words: "This policy contains a partial payment of loss clause."

139. Where a claim is made under any policy other than a motor vehicle liability policy, the insurer shall, notwithstanding any agreement, adjust the amount of the claim with the insured named in the policy as well as with any person having an interest indicated in the policy. Adjustment of claim with insured.

140. (1) Every person who fails to comply with or violates any provision of this Part is guilty of an offence. Offence.

(2) Every person guilty of an offence against this Part is liable on summary conviction to a fine not exceeding two hundred dollars.

PART VI.

ACCIDENT AND SICKNESS INSURANCE.

INTERPRETATION.

- 141.** In this Part, Definitions.
- (a) "contract" means a contract of accident insurance or of sickness insurance or of both; "Contract."
 - (b) "creditor's group accident insurance" and "creditor's group sickness insurance" mean, respectively, accident insurance and sickness insurance effected by a creditor whereby the lives or well-being or the lives and well-being of a number of his debtors are insured severally under a single contract; "Creditor's group accident insurance" and "creditor's group sickness insurance."
 - (c) "group accident insurance" and "group sickness insurance" mean, respectively, accident insurance and sickness insurance, other than creditor's group accident insurance and creditor's group sickness insurance, whereby the lives or well-being or the lives and well-being of a number of persons are insured severally under a single contract between an insurer and an employer or other person contracting with the insurer; "Group accident insurance" and "group sickness insurance."
 - (d) "insured" means a person who makes a contract with an insurer; "Insured."
 - (e) "person" includes a firm, partnership or corporation, an unincorporated society or association and trade union; and "Person."
 - (f) "person insured" means a person in respect of an accident to whom, or in respect of whose sickness, benefits are payable under a contract. "Person insured."

APPLICATION OF PART.

142. (1) This Part applies to accident insurance and to sickness insurance and to an insurer carrying on the business of accident insurance or sickness insurance or both. Application.

- (2) This Part does not apply to Exceptions.
- (a) creditor's group accident insurance,

- (b) creditor's group sickness insurance,
- (c) disability insurance,
- (d) double indemnity insurance, or
- (e) insurance provided under section 134.

Group insurance.

(3) This Part, except sections 143, 150, 151, 157, 159, 160, 161 and 164, does not apply to group accident insurance or group sickness insurance.

CONTRACTS OF INSURANCE.

Policy to evidence contract.

143. A contract shall be evidenced by an instrument in writing called, in this Part, a policy.

Contents of policy.

- 144.** Every policy shall contain
- (a) the name and address of the insurer,
 - (b) the name of the insured,
 - (c) the name of the person to whom the insurance money is payable,
 - (d) the premium for the insurance,
 - (e) the indemnity for which the insurer may become liable,
 - (f) the event on the happening of which such liability is to accrue, and
 - (g) the term of the insurance.

Exceptions or reductions.

145. (1) Subject to subsections (2), (3) and (4) of this section, to the statutory conditions prescribed under section 146 and to section 158, the insurer shall set forth in the policy every exception or reduction affecting the amount payable under contract, either in the provision affected by the exception or reduction or under a heading such as "Exceptions" or "Reductions".

(2) Where the exception or reduction affects only one provision in the policy it shall be set forth in that provision.

(3) Where the exception or reduction is contained in an endorsement, insertion or rider, the endorsement, insertion or rider shall, unless it affects all amounts payable under the contract, make reference to the provisions in the policy affected by the exception or reduction.

(4) This section does not apply to a policy issued by a fraternal society.

Statutory conditions.

146. Subject to section 147, the conditions set forth in Part III of the Schedule shall be deemed to be part of every contract and shall be printed on every policy under the heading "Statutory Conditions".

Omission or variation of conditions.

147. (1) Where a statutory condition is not applicable to the benefits provided by the contract it may be omitted from the policy or varied so that it will be applicable.

(2) Statutory conditions 3, 4 and 9 may be omitted from the policy if the contract does not contain any provisions respecting the matters dealt with therein.

(3) Statutory conditions 5 and 6 may be omitted from the policy if the contract does not provide that it may be terminated by the insurer.

(4) Statutory conditions 3, 4, 5, 6 and 9, and statutory condition 7 except, in policies providing benefits for loss of time, subparagraphs (a) and (b) of subsection (1) thereof, may be varied but if by reason of the variation the contract is less favourable to the insured, person insured or beneficiary than it would be if the condition had not been varied, the condition shall be deemed to be included in the policy in the form in which it appears in Part III of the Schedule.

(5) Statutory conditions 10 and 11 may be varied by shortening the periods of time prescribed therein and statutory condition 12 may be varied by lengthening the period of time prescribed therein.

(6) The title of a statutory condition shall be reproduced in the policy along with the statutory condition but the number of a statutory condition may be omitted.

(7) In the case of a contract made by a fraternal society,

(a) the following provisions shall be printed on every policy in substitution for subsection (1) of statutory condition 1 in Part III of the Schedule:

“1. (1) This Policy, the Act or instrument of incorporation of the insurer, its constitution, by-laws and rules, and the amendments made from time to time to its constitution, by-laws or rules, the application for the contract and the medical statement of the applicant constitute the entire contract and no agent has authority to change the contract or waive any of its provisions.”, and

(b) statutory condition 5 in Part III of the Schedule shall not be printed on the policy.

148. (1) Where a policy is delivered, the contract is as binding on the insurer as if the premium had been paid, although it has not in fact been paid, and although delivered by an officer or agent of the insurer who did not have authority to deliver it.

(2) The insurer may deduct the unpaid premium from the amount for which it may become liable under the contract or may sue the insured therefor.

(3) Where the premium or a part thereof is paid by a cheque or a promissory note and the cheque is not paid on presentation or the promissory note is not paid at maturity the contract is voidable at the option of the insurer.

(4) This section does not apply to a contract made by a fraternal society.

INSURABLE INTEREST.

Insurable interest in own life and well-being.

149. Every person has an insurable interest in his own life and well-being.

Insurable interest in lives and well-being of others.

150. Without restricting the meaning that "insurable interest" now has in law, each of the following persons has an insurable interest:

- (a) a parent in the life and well-being of his child under twenty-five years of age;
- (b) a husband in the life and well-being of his wife;
- (c) a wife in the life and well-being of her husband;
- (d) one person in the life and well-being of another upon whom he is wholly or in part dependent for support or education, or from whom he is receiving support or education;
- (e) a corporation or other person in the life and well-being of its or his officer or employee; and
- (f) a person who has a pecuniary interest in the duration of the life and continued well-being of another person, in the life and well-being of that person.

Contract void without insurable interest.

151. (1) A contract is void, if, at the time at which it would otherwise take effect and be binding, the insured has no insurable interest in the person insured.

Group contracts.

(2) Notwithstanding subsection (1), a contract of group accident insurance or of group sickness insurance or of both is valid if it provides benefits solely for the persons insured under the contract.

When insurable interest unnecessary.

152. Where the insured has at the time at which the contract takes effect an insurable interest in the person insured, it is not necessary for the validity of the contract or an assignment thereof that a beneficiary, or a person claiming under an assignment, or by will or by succession, have an insurable interest.

POLICIES ON THE LIVES OF MINORS.

Capacity of minors.

153. A minor, after attaining the age of fifteen years, has the capacity of a person of full age

- (a) to effect a contract on his own life or well-being and to deal with the contract,
- (b) to deal with a contract on his own life or well-being effected by him before attaining the age of fifteen years,
- (c) to deal with his interest in a contract effected on his life or well-being by another, whether effected before or after the minor attained the age of fifteen years, and
- (d) if married, to effect a contract on the life or well-being of his spouse or of his children, or of both, and to deal with the contract.

MISREPRESENTATION AND NON-DISCLOSURE.

154. The statements made by the insured in his application for the contract are, in the absence of fraud, representations and not warranties. Statements in applications.

155. (1) Except as provided in subsection (2), after a contract, including renewals thereof, has been in force for two years with respect to a person insured, every statement made in the written application in respect of that person, other than a fraudulent statement or a statement erroneous as to age, shall be deemed to be true and is incontestable. Incontestability.

(2) Where a claim arises from a loss incurred or a disability beginning before a contract, including renewals thereof, has been in force for two years with respect to the person in respect of whom the claim is made, subsection (1) does not apply to that claim. Exception.

156. Where a person insured suffers or has suffered from a disease or physical condition that existed prior to the date the contract came into force with respect to that person and the disease or physical condition is not specifically excluded from the insurance, Pre-existing conditions.

- (a) the prior existence of the disease or physical condition is not, except in the case of fraud, available as a defence against liability, in whole or in part, for a loss incurred or a disability beginning after the contract, including renewals thereof, has been in force for two years with respect to that person, and
- (b) the existence of the disease or physical condition is not, except in the case of fraud, available as a defence against liability, in whole or in part, if the disease or physical condition was disclosed in the written application for the contract.

BENEFICIARIES.

157. (1) Where insurance money is payable upon death by accident, the insured, or in the case of group accident insurance the person insured, may designate in writing a beneficiary to receive the insurance money or part thereof and may alter or revoke in writing any prior designation. Designation of beneficiary.

(2) If the beneficiary is not living at the time of the death of the person insured, the insurance money is payable to the insured or his estate or in the case of group accident insurance the estate of the person insured, unless the instrument by which the beneficiary is designated otherwise provides. Debt of beneficiary.

(3) A beneficiary designated pursuant to subsection (1) may upon the death of the person insured enforce for his own benefit the payment of insurance money payable to him and payment to the beneficiary discharges the insurer, but the insurer may set up any defence that it could have set up against the insured, or the person insured in the case of group accident insurance, or the personal representative of either of them. Right to sue.

MISCELLANEOUS.

Mis-statement
of age.

158. (1) Subject to subsection (2), if the age of the person insured has been mis-stated, the amounts payable under the contract are those that the premium paid would have purchased if the correct age had been stated.

(2) Where the age of the person insured affects the commencement or termination of the insurance, the true age governs.

Presumption
of death.

159. Where a contract provides for the payment of moneys upon the death by accident of the person insured and the person insured and the beneficiary perish in the same disaster, it shall be prima facie presumed that the beneficiary died first.

Payment into
Court.

160. (1) Where the insurer admits liability for the insurance money or any part thereof, and it appears to the insurer that

(a) there are adverse claimants,

(b) the place of abode of a person entitled is unknown, or

(c) there is no person capable of giving and authorized to give a valid discharge, who is willing to do so,

the insurer may apply *ex parte* to the Court for an order for payment of the money into Court, and the Court may upon such notice, if any, as it thinks necessary make an order accordingly.

Cost of
proceedings.

(2) The Court may fix and ascertain without taxation the costs incurred upon or in connection with any application or order made under subsection (1) and may order the costs to be paid out of the insurance money or by the insurer or otherwise as seems just.

Discharge
of insurer.

(3) A payment made pursuant to an order under subsection (1) discharges the insurer to the extent of the payment.

Payments not
exceeding
\$2,000.

161. Where insurance money is payable to a beneficiary or to the estate of the insured or of the person insured, the insurer may, if the contract so provides, pay an amount not exceeding two thousand dollars to

(a) a relative by blood or connection by marriage of the insured or of the person insured, or

(b) any person appearing to the insurer to be equitably entitled thereto by reason of having incurred expense for the maintenance, medical attendance or burial of the insured or person insured or to have a claim against the estate of the insured or of the person insured in relation thereto.

Undue
prominence.

162. The insurer shall not, in the policy, give undue prominence to any provision or statutory condition as compared to other provisions or statutory conditions, unless the effect of that provision or statutory condition is to increase the premium or decrease the benefits otherwise provided for in the policy.

163. Where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the claimant or as to any matter or thing to be done or omitted by the insured or claimant with respect to the loss insured against, and a consequent forfeiture or avoidance of the insurance in whole or in part, and a Court before which a question relating thereto is tried deems it inequitable that the insurance should be forfeited or avoided on that ground, the Court may relieve against the forfeiture or avoidance on such terms as it deems just.

Relief from forfeiture.

164. No officer, agent, employee or servant of the insurer or any person soliciting accident insurance or sickness insurance or both, whether an agent of the insurer or not, shall, to the prejudice of the insured or of the person insured, be deemed to be for any purpose whatever the agent of the insured or of the person insured in respect of any question arising out of the contract.

Presumption against agency.

PART VII.

FRATERNAL SOCIETIES.

INTERPRETATION.

165. In this Part,

Definitions.

- (a) "rates of contribution" means the regular net premiums, dues, rates or contributions receivable from the members of a society for the purpose of the payment at maturity of the society's certificates or contracts of insurance; and
- (b) "society" means a fraternal society.

"Rates of contribution."

"Society."

GENERAL PROVISIONS.

166. (1) Subject to subsection (2), this Part applies to all societies carrying on the business of life insurance in the Territory.

Application.

(2) Section 176 does not apply to a society the membership of which is limited by its constitution or laws to municipal or government employees.

167. The following shall not be deemed societies within the meaning of this Part:

Societies not deemed to be fraternal societies.

- (a) a corporation not otherwise provided for in this Ordinance that has, by or under the authority of an Act of the Parliament of Canada, created a fund for paying a gratuity on the happening of death, sickness, infirmity, casualty, accident, disability or any change of physical or mental condition;
- (b) a corporation not otherwise provided for in this Ordinance that has, by or under the authority of an Act

of the Parliament of Canada, an insurance and provident society or association, or an insurance or guarantee fund in connection with the corporation;

- (c) a corporation that undertakes or offers to undertake contracts of insurance other than with its own members exclusively, or for more than five thousand dollars payable on the death of any one member other than a funeral benefit, or any contracts of insurance with its members other than,
 - (i) life insurance,
 - (ii) contracts for the payment of mortuary or funeral benefits, or
 - (iii) old age insurance;
- (d) a corporation in which the insurance fund is used for the purposes of a mercantile or business enterprise, or for mercantile profit, or a society formed on the lodge system, the insurance fund of which is held other than as a trust fund for the members insured;
- (e) a society in which the persons insured do not exercise, either directly or through representatives elected for a term not exceeding four years, effective control over the insurance fund of the society, or in which the officers or other persons having the disposition, control or possession of the insurance fund are elected or appointed for a longer period than four years; and
- (f) any corporation that undertakes contracts of insurance but is not formed exclusively for that purpose and does not for the purposes of such contracts keep distinct and separate funds, securities, books and vouchers.

Rules, etc.,
deliverable
on demand.

168. (1) A copy of the constitution, by-laws and rules of a society relating to its insurance contracts and to the management and application of its insurance funds shall be delivered by the society to any person requiring the same on payment of twenty-five cents.

(2) If an officer or agent of a society, with intent to mislead or defraud, gives to any person a copy of the constitution, by-laws and rules other than those then in force on the pretence that they are the constitution, by-laws and rules then in force, he is guilty of an offence.

Unmatured
policies as
liabilities.

169. No unmatured policy or contract creates any claim or liability against the society while a going society, or against the estate of the society in a winding-up or liquidation, but in a winding-up or liquidation the insured or beneficiary for value under the unmatured policy or contract is entitled to share in the surplus assets of the society.

170. (1) The liabilities of a member under his contract shall be limited to the assessments, fees and dues that became payable within the preceding twelve months and of which at that time notice had been given in accordance with the constitution, by-laws and rules of the society.

Limitations
of member's
liability.

(2) A member may at any time withdraw from the society by delivering or sending by registered post to the society notice in writing of his intention to withdraw, and paying or tendering the assessments, fees and dues mentioned in subsection (1).

Withdrawal.

(3) Upon his withdrawal the member shall become thereby released from all further liability under his contract.

Release of
liability.

(4) This section shall be subject to the provisions of any rules to the contrary certified by the Commissioner.

171. No forfeiture or suspension is incurred by a member by reason of any default in paying any contribution or assessment, except such as are payable in fixed sums and at fixed times, until

Notice before
forfeiture
of benefit.

(a) after notice to the member

(i) stating the amount due by him, and

(ii) stating that in case of default of payment within a reasonable time, being not less than thirty days, to the proper officer, who shall be named in the notice, the member's interest or benefit will be forfeited or suspended, and

(b) default has been made by the member in paying his contribution or assessment in accordance with such notice.

172. Where under the constitution, by-laws or rules of a society a defaulting member is entitled to be reinstated on payment of arrears after a stated number of days' default, section 171 does not prejudice the rights of the member.

Saving
rights to
re-instatement.

173. Where it is stipulated that the benefit of a contract shall be suspended, reduced or forfeited for any other reason than for non-payment of money, the stipulation is not valid unless it is held to be just and reasonable under the circumstances of the case.

Conditions of
restricted
forfeiture.

174. In any contract in which total abstinence from intoxicating liquors is made an express condition, such condition shall be deemed to be just and reasonable.

Condition
as to
abstinence.

175. (1) Subject to subsection (2), any notice required to be given to a member for any purpose of this Ordinance or of the constitution, by-laws or rules of the society may be effectually given by written or printed notice delivered or sent by registered post to the member or left at his last known place of abode or business.

How notice
may be
given to
members.

Notice of reduction of benefit.

(2) A notice of the reduction of any benefit payable under a contract or of the increase of the premium payable thereunder shall be sent by registered post to the member at his last known place of abode or of business.

Reduction of benefits or increase of rates.

176. A society may by amendment of its constitution, by-laws or rules

(a) reduce the benefits payable under any of its contracts, or

(b) increase the rates of contribution payable by any of its members, as a whole or as a class,

and the amendment when adopted by a majority of the votes cast by the members of the supreme legislative body of the society at a regular or special meeting of the supreme legislative body of the society duly called is binding upon the members of the society, their beneficiaries or legal representatives and all persons deriving legal rights from any member or beneficiary, notwithstanding anything contained in the provisions of the constitution, by-laws and rules before the amendments, or in the Ordinance or other instrument of incorporation of the society or in any contract, policy or certificate of insurance heretofore or hereafter issued by the Society.

PART VIII.

GENERAL PROVISIONS APPLICABLE TO INSURERS.

Payment to agent deemed payment to insurer.

177. (1) Subject to subsection (2), payments in cash in whole or in part to an agent of an insurer of the amount of a premium or an assessment due in respect of a contract issued by the insurer, shall be deemed a payment to the insurer, notwithstanding any condition or stipulation to the contrary.

Application.

(2) This section does not apply in respect of life insurance.

Agent or insurer a trustee of premiums.

178. An agent who acts in negotiating, renewing or continuing a contract with an insurer and receives any money or substitute for money as a premium for such a contract from the insured, shall be deemed to hold the premium in trust for the insurer, and, if he fails to pay it over to the insurer within thirty days after written demand made upon him therefor, less his commission and any deductions to which, by the written consent of the insurer, he may be entitled, his failure to do so is prima facie evidence that he has used or applied the said premiums for a purpose other than paying the same over to the insurer.

Trafficking in life insurance policies.

179. Any person, other than an insurer or its duly authorized agent,

(a) who advertises or holds himself out as a purchaser of life insurance policies or of benefits thereunder, or

(b) who traffics or trades in life insurance policies for the purpose of procuring the sale, surrender, transfer, assignment, pledge or hypothecation thereof to himself or any other person,
is guilty of an offence.

180. Any information, document, record, statement or thing, made or disclosed to the Commissioner concerning any person licensed or applying for a licence under this Ordinance is absolutely privileged and shall not be used as evidence in any action or proceeding in any Court brought by or on behalf of such person. Privilege of certain reports, etc.

181. (1) Subject to subsection (2), unless the contract otherwise provides, a violation of any criminal or other law in force in the Territory or elsewhere shall not, *ipso facto*, render unenforceable a claim for indemnity under a contract of insurance except where the violation is committed by the insured, or by another person with the consent of the insured, with intent to bring about loss or damage. Claim for indemnity not rendered unenforceable by violation of criminal or other law.

(2) In the case of a contract of life insurance, subsection (1) applies only in respect of disability insurance undertaken as part of the contract.

PART IX.

PENALTIES.

182. (1) Every person who fails to comply with or violates any provision of this Ordinance is guilty of an offence. Offence.

(2) Every person who is guilty of an offence under this Ordinance, for which no other penalty is provided by the Ordinance, is liable upon summary conviction to a fine not exceeding two hundred dollars. Penalty.

183. Every prosecution for any contravention of this Ordinance shall be commenced within two years of such contravention. Limitation.

SCHEDULE.

PART I.

(Section 44)

STATUTORY CONDITIONS.

FIRE.

MISREPRESENTATION.

1. If any person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance which is material to be made known to the insurer in order to enable it to judge of the risk to be undertaken, the contract shall be void as to the property in respect of which the misrepresentation or omission is made.

FORM OF CONTRACT.

2. After application for insurance, if the same is in writing it shall be deemed that any policy sent to the insured is intended to be in accordance with the terms of the application, unless the insurer points out in writing the particulars wherein it differs from the application, in which case the insured may, within two weeks from the receipt of the notification, reject the policy.

PROPERTY NOT INSURED.

3. Unless otherwise specifically stated in the policy, money, books of account, securities for money, evidences of debt or title, and automobiles, tractors and other motor vehicles, are not insured.

RISKS NOT COVERED.

4. Unless otherwise specifically stated in the policy, the insurer is not liable for the losses following, that is to say,

- (a) for loss of or damage to property owned by any person other than the insured, unless the interest of the insured therein is stated in the policy;
- (b) for loss or damage caused by invasion, insurrection, riot, civil commotion, military or usurped power;
- (c) for loss due to the want, within the knowledge of the insured, of good and substantial chimneys; or caused by ashes or embers being deposited, with the knowledge and consent of the insured, in wooden vessels; or by stoves or stove-pipes being, to the knowledge of the insured, in an unsafe condition or improperly secured; or
- (d) for loss of or damage to goods while undergoing any process in or by which the application of fire heat is necessary.

RISKS NOT COVERED EXCEPT BY SPECIAL PERMISSION.

5. Unless permission is given by the policy or endorsed thereon, the insurer shall not be liable for loss or damage occurring,

REPAIRS.

- (a) to buildings or their contents during alteration or repair of the buildings and in consequence thereof; fifteen days being allowed in each year for incidental alterations or repairs without such permission;

INFLAMMABLE SUBSTANCES.

- (b) while illuminating gas or vapour is generated by the insured, or to his knowledge, in the building insured or which contains the property insured, or while there is stored or kept therein by the insured, or to his knowledge, by any person under his control, petroleum, or any liquid product thereof, coal oil, camphene, gasoline, burning fluid, benzine, naphtha, or any of their constituent parts (refined oil for lighting, heating or cooking purposes only, not exceeding five gallons in quantity, gasoline, if contained in a tightly closed metallic can free from leaks and not exceeding one quart in quantity, or lubricating oil not being crude petroleum nor oil of less specific gravity than is required by law for illuminating purposes, not exceeding five gallons in quantity, excepted), or more than twenty-five pounds weight of gunpowder, dynamite or similar explosives;

CHANGE OF INTEREST.

- (c) after the interest of the insured in the subject matter of the insurance is assigned, but this condition is not to apply to an authorized assignment under the *Bankruptcy Act* or to change of title by succession, by operation of law or by death; or

VACANCY.

- (d) when the building insured or containing the property insured is, to the knowledge of the insured, vacant or unoccupied for more than thirty consecutive days, or being a manufacturing establishment, ceases to be operated and continues out of operation for more than thirty consecutive days.

EXPLOSION AND LIGHTNING.

6. The insurer will make good loss or damage caused by lightning or by the explosion of coal or natural gas in a building not forming part of gas works, whether fire ensues therefrom or not; and loss or damage by fire caused by any other explosion; but, if electrical appliances or devices are insured, any loss or damage to them caused by lightning or other

electrical currents is excluded and the insurer shall be liable only for such loss or damage to them as may occur from fire originating outside the article itself.

MATERIAL CHANGE.

7. Any change material to the risk and within the control and knowledge of the insured shall avoid the policy as to the part affected thereby unless the insurer or its local agent is promptly notified in writing of the change; and the insurer when so notified may return the unearned portion, if any, of the premium paid and cancel the policy, or may notify the insured in writing that, if he desires the policy to continue in force, he must within fifteen days of the receipt of the notice pay to the insurer an additional premium, and in default of such payment the policy shall no longer be in force and the insurer shall return the unearned portion, if any, of the premium paid.

OTHER INSURANCE.

8. (1) If the insured has at the date of this policy any other insurance on property covered thereby which is not disclosed to the insurer, or hereafter effects any other insurance thereon without the written assent of the insurer, he shall not be entitled to recover more than sixty per cent of the loss in respect of such property; but if for any fraudulent purpose the insured does not disclose such other insurance, this policy shall be void.

(2) The insurer shall be deemed to have assented to such other insurance unless it dissents by notice in writing within two weeks after notice thereof.

(3) In the event of there being any other insurance on property herein described at the time of the happening of a loss in respect thereof, the insurer shall be liable only for payment of a ratable proportion of the loss or a ratable proportion of such amounts as the insured shall be entitled to recover under clause (1) of this condition.

MORTGAGEES AND OTHER PAYEES.

9. Where the loss, if any, under a policy has, with the consent of the insurer, been made payable to some person other than the insured, the policy shall not be cancelled or altered by the insurer to the prejudice of such person without reasonable notice to him.

TERMINATION OF INSURANCE.

10. (1) The insurance may be terminated,
(a) subject to the provisions of condition 9, by the insurer giving to the insured at any time fifteen days' notice of cancellation by registered mail, or five days' notice of cancellation personally delivered, and, if the insurance is on the cash plan, refunding the excess of premium actually paid by the insured beyond the *pro rata* premium for the expired time;

(b) if on the cash plan, by the insured giving notice of termination to the insurer, in which case the insurer shall, upon surrender of this policy, refund the excess of premium actually paid by the insured beyond the customary short rate for the expired time.

(2) Repayment of the excess premium may be made by money, post office order or postal note or by cheque payable at par and certified by a chartered bank doing business in the Territory. If the notice is given by registered letter, such repayment shall accompany the notice, and in such case the fifteen days mentioned in clause (a) of this condition shall commence to run from the day following the receipt of the registered letter at the post office to which it is addressed.

SALVAGE.

11. After any loss or damage to insured property, it shall be the duty of the insured, when and as soon as practicable, to secure the insured property from further damage, and to separate as far as reasonably may be the damaged from the undamaged property, and to notify the insurer of the separation.

INSURANCE ON GOODS MOVED.

12. If any of the insured property is necessarily removed to prevent damage or further damage thereto, that part of the insurance under this policy which exceeds the amount of the insurer's liability for any loss already incurred shall for seven days only, or for the unexpired term if less than seven days, cover the property removed and any property remaining in the original location in the proportions which the value of the property in the respective locations bears to the value of the property in them all; and the insurer will contribute *pro rata* towards any loss or expense connected with such act of salvage, according to the respective interests of the parties.

ENTRY, CONTROL, ABANDONMENT.

13. After any loss or damage to insured property, the insurer shall have an immediate right of access and entry by accredited agents sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and, after the insured has secured the property, a further right of access and entry sufficient to enable them to make appraisal or particular estimate of the loss or damage, but the insurer shall not be entitled to the control or possession of the insured property, or the remains or salvage thereof, unless it accepts a part thereof at its agreed value or its value as ascertained according to condition 17 or undertakes replacement under condition 19, and without the consent of the insurer there can be no abandonment to it of insured property.

WHO TO MAKE PROOF OF LOSS.

14. Proof of loss must be made by the insured, although the loss is payable to a third person, except that, in the case of the absence of the insured or his inability to make the same, proof may be made by his agent, such absence or inability being satisfactorily accounted for or in the like case or if the insured refuse to do so, by a person to whom any part of the insurance money is payable.

REQUIREMENTS AFTER LOSS.

15. Any person entitled to claim under this policy shall,
- (a) forthwith after loss give notice in writing to the insurer;
 - (b) deliver, as soon thereafter as practicable, a particular account of the loss;
 - (c) furnish therewith a statutory declaration declaring,
 - (i) that the account is just and true,
 - (ii) when and how the loss occurred, and if caused by fire, how the fire originated, so far as the declarant knows or believes,
 - (iii) that the loss did not occur through any wilful act or neglect or the procurement, means or connivance of the insured,
 - (iv) the amount of other insurances and names of other insurers,
 - (v) all liens and encumbrances on the property insured, and
 - (vi) the place where the property insured, if moveable, was deposited at the time of the fire; and
 - (d) if required and if practicable, produce books of account, warehouse receipts and stocks lists, and furnish invoices and other vouchers verified by statutory declaration, and furnish a copy of the written portion of any other policy. The evidence furnished under this clause shall not be considered proofs of loss within the meaning of conditions 18 and 19.

FRAUD.

16. Any fraud or wilfully false statement in a statutory declaration, in relation to any of the above particulars, shall vitiate the claim of the person making the declaration.

ARBITRATION.

17. If any difference arises as to the value of the property insured, the property saved or the amount of the loss, such value and amount and the proportion thereof, if any, to be paid by the insurer, shall whether the right to recover on the policy is disputed or not, and independently of all other questions, be submitted to the arbitration of some person to be chosen by both parties, or if they cannot agree on one person, then to two persons, one to be chosen by the insured

and the other by the insurer, and a third to be appointed by the persons so chosen, or on their failing to agree, then by a judge of the Court; and such reference shall be subject to the provisions of the *Arbitration Ordinance*; and the award shall, if the insurer is in other respects liable, be conclusive as to the amount of the loss and the proportion to be paid by the insurer; where the full amount of the claim is awarded the costs shall follow the event; and in other cases all questions of costs shall be in the discretion of the arbitrators.

WHEN LOSS PAYABLE.

18. The loss shall be payable within sixty days after completion of the proofs of loss, unless the contract provides for a shorter period.

REPLACEMENT.

19. The insurer, instead of making payment, may repair, rebuild or replace the property damaged or lost, giving written notice of its intention so to do within fifteen days after receipt of the proofs of loss. In such event the insurer shall commence to so repair, rebuild or replace the property within thirty days after receipt of the proofs of loss and shall thereafter proceed with all due diligence to the completion thereof.

ACTION.

20. Every action or proceeding against the insurer for the recovery of any claim under or by virtue of this policy shall be absolutely barred unless commenced within one year next after the loss or damage occurs.

AGENCY.

21. Any officer or agent of the insurer who assumes on behalf of the insurer to enter into a written agreement relating to any matter connected with the insurance shall be deemed prima facie to be the agent of the insurer for the purpose.

WAIVER OF CONDITION.

22. No condition of this policy shall be deemed to have been waived by the insurer, either in whole or in part, unless the waiver is clearly expressed in writing signed by an agent of the insurer.

NOTICE.

23. Any written notice to the insurer may be delivered at or sent by registered post to the chief agency or head office of the insurer in Canada or delivered or sent to any authorized agent of the insurer therein. Written notice may be given to the insured by letter personally delivered to him or by registered letter addressed to him at his last post office address notified to the insurer, or, where no address is notified and the address is not known, addressed to him at the post office of the agency, if any, from which the application was received.

SUBROGATION.

24. The insurer may require from the insured an assignment of all right of recovery against any other party for loss or damage to the extent that payment therefor is made by the insurer.

FORM A.

(Section 50)

PROOF OF LOSS.

Policy No. Amount of Policy \$

To Insurance Company.

By your Policy of Insurance No..... issued at your
 Agency, dated the
 day of and expiring the day of
 at 12 o'clock noon, you insured

against loss or damage by fire, to the amount of dollars according to the terms and conditions printed therein N.B.—(*Give particulars of the material loss sustained and the value thereof as follows*): A particular account of the loss is attached hereto and marked Exhibit A, and forms part of this proof and the ACTUAL CASH VALUE of each specific subject thus situated and described by the aforesaid policy at the time of loss, and the ACTUAL LOSS and DAMAGE by said fire to same as shown by the particular account attached hereto were as follows:

1st Item of Policy	Sound	Total	Total	Amount	Claimed
2nd Item of Policy	value	loss	insur-	named in under	
3rd Item of Policy			ance	this	this
4th Item of Policy				policy	policy
5th Item of Policy					
<hr/>					
TOTAL					

Total amount claimed of this company under above named policy \$

The said account is just and true.

The said property was (damaged or destroyed) by fire at or about o'clock m. on the day of

.....19....., and was then occupied as

The fire to the best of my knowledge and belief was caused by

The loss did not occur nor was the fire caused through any wilful act or neglect or the procurement, means or connivance of the insured.

The amount of other insurances and the names of other insuring companies were as follows:

Name of Company

Amount of Insurance

The property described in the said policy belonged at the time of the fire hereinafter mentioned, to and no other person or persons had any interest therein except as follows:

Name of Person

Name and extent of interest, lien or encumbrance.....

The movable property insured was deposited in..... at the time of the fire.

I, do solemnly declare that the foregoing claims and statements are to the best of my knowledge and belief true in every particular, and I make this solemn declaration conscientiously believing it to be true and knowing it is of the same force and effect as if made under oath, and by virtue of the *Canada Evidence Act*.

Declared before me at.....
this day of
.....
A Commissioner for Oaths for the
Yukon Territory. }
(Insured)

SCHEDULE.

PART II.
(Section 118)

STATUTORY CONDITIONS.
AUTOMOBILE.

MATERIAL CHANGE IN RISK.

In these statutory conditions, unless the context otherwise requires, the word "insured" means a person insured by the policy, whether named or not.

1. (1) The insured named in the policy shall promptly notify the insurer, or its local agent, in writing, of any change in the risk material to the contract and within his knowledge.

(2) Without restricting the generality of the foregoing the words "change in the risk material to the contract" shall include

- (a) any change in the insurable interest of the insured named in the policy in the automobile, by sale, assignment or otherwise, except through change of title by succession, death or proceedings under the *Bankruptcy Act*; and in cases other than motor vehicle liability policies;
- (b) any mortgage, lien or encumbrance affecting the automobile after the application for the policy; and
- (c) any other insurance of the same interest, whether valid or not, covering loss or damage insured by the policy or any portion thereof.

PROHIBITED USE.

2. (1) The insured shall not drive or operate the automobile,
(a) whilst under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the automobile;

- (b) unless he is for the time being either authorized by law or qualified to drive or operate the automobile, or while he is under the age of sixteen years or under such other age as is prescribed by the law of the province or Territory where he resides at the time the policy is issued;
- (c) for any illicit or prohibited trade or transportation; or
- (d) in any race or speed test.

(2) The insured shall not permit, suffer, allow or connive at the use of the automobile,

- (a) by any person under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the automobile;

- (b) by any person, unless such person is for the time being either authorized by law or qualified to drive or operate the automobile, or while such person is under the age of sixteen years or under such other age as is prescribed by law;
- (c) for any illicit or prohibited trade or transportation; or
- (d) in any race or speed test.

USES PROHIBITED WITHOUT PERMISSION.

3. Unless permission is expressly given by an endorsement of the policy and in consideration of an additional stated premium, the automobile shall not be rented or leased nor shall it be used,

- (a) to carry explosives; or
- (b) as a taxicab, public omnibus, livery, jitney or sightseeing conveyance or for carrying passengers for compensation or hire.

4. In the case of indemnity afforded by motor vehicle liability policies, the automobile shall not be used for the towing of a trailer owned or hired by the insured that is not covered by like indemnity by the insurer; nor shall a trailer so covered by the policy be towed by an automobile owned or hired by the insured that is not covered by like indemnity by the insurer.

5. In cases other than motor vehicle liability policies the insurer shall not be liable for loss or damage that is caused directly or indirectly by bombardment, invasion, civil war, insurrection, rebellion, revolution, military or usurped power, or by operations of armed forces while engaged in hostilities, whether war be declared or not, or by civil commotion arising from any of the foregoing, unless the policy or an endorsement thereon expressly provides otherwise.

INSURED TO GIVE NOTICE OF ACCIDENT AND CLAIM.

6. (1) The insured shall promptly give to the insurer written notice, with all available particulars, of any accident involving loss or damage to persons or property, and of any claim made on account of accident; shall verify by affidavit or statutory declaration, if required by the insurer, that the claim arises out of the operation or use of the automobile and that the person operating or responsible for the operation of the automobile at the time of the accident is a person insured by the policy; and shall forward immediately to the insurer every writ, letter, document or advice received by him from or on behalf of the claimant.

CO-OPERATION OF INSURED AND INSURER IN CLAIM SETTLEMENT.

(2) The insured shall not voluntarily assume any liability or settle any claim except at his own cost. The insured shall not interfere in any negotiations for settlement or in any legal

proceeding, but, whenever requested by the insurer, shall aid in securing information and evidence and the attendance of any witness, and shall co-operate with the insurer, except in a pecuniary way, in the defence of any action or proceeding or in the prosecution of any appeal.

LOSS OR DAMAGE TO THE AUTOMOBILE.

7. (1) Upon the occurrence of loss of or damage to the automobile, the insured shall, if the loss or damage is covered by this policy,

- (a) forthwith give notice thereof, in writing, to the insurer, with fullest information obtainable at the time and shall, at the expense of the insurer, and as far as reasonably possible, protect the automobile from further loss or damage, and any such further loss or damage accruing directly or indirectly from a failure to protect shall not be recoverable hereunder. No repairs shall be undertaken or any physical evidence of the loss or damage removed without the written consent of the insurer, except such repairs as are immediately necessary for the protection of the automobile from further loss or damage; or until the insurer has had a reasonable time to make the examination provided for in statutory condition 9;
- (b) deliver to the insurer, within ninety days of the date of the loss or damage, a statutory declaration stating so far as the insured knows or believes, the place, time, cause and amount of the loss or damage, the interest of the insured and of all others therein, the encumbrances thereon, all other insurance, whether valid or not, covering the automobile, and that the loss or damage did not occur through any wilful act or neglect, procurement, means or connivance of the insured.

EXAMINATION OF INSURED.

(2) The insured shall submit to examination under oath, and shall produce for examination, at such reasonable place as is designated by the insurer or its representative, all documents in his possession or control which relate to the matters in question, and shall permit extracts and copies thereof to be made.

INSURER LIABLE FOR CASH VALUE OF AUTOMOBILE.

(3) The insurer shall not be liable beyond the actual cash value of the automobile at the time any loss or damage occurs, and the loss or damage shall be ascertained or estimated according to the actual cash value with proper deduction for depreciation, however caused, and shall in no event exceed what it would cost to repair or replace the automobile or any part thereof with material of like kind and quality; provided that in the event of any part of the automobile being obsolete

and out of stock, the liability of the insurer in respect thereof shall be limited to the value of the part at the time of loss or damage not exceeding the maker's last list price.

(4) Except where an appraisal has been had, the insurer instead of making payment may, within a reasonable time, repair, rebuild or replace the property damaged or lost with other of like kind and quality, giving written notice of its intention so to do within seven days after the receipt of the proofs of loss; but there can be no abandonment of the automobile to the insurer without its consent; in the event of the insurer exercising such option, the salvage, if any, shall revert to it.

IN CASE OF DISAGREEMENT.

(5) In the event of disagreement as to the nature and extent of the repairs and replacements required, or as to their adequacy, if effected, or as to the amount payable in respect of any loss or damage, such questions shall be determined by appraisers before recovery can be had hereunder, whether the right to recover on the policy is disputed or not, and independently of all other questions.

APPRAISAL.

(6) The insured and the insurer shall each select one appraiser, and the two so chosen shall then select a disinterested umpire. Thereafter the two appraisers together shall estimate or appraise the loss or damage, stating separately sound value and damage, or determine the adequacy of such repairs or replacements, and, failing to agree, shall submit their differences to the umpire.

APPOINTMENT OF APPRAISERS.

(7) In case either party fails to name the appraiser within seven clear days after being served with written notice so to do, or in case the appraisers fail to agree upon an umpire within fifteen days after their appointment, or in case an appraiser or umpire refuses to act or is incapable of acting, or dies, a judge of a superior, county or district court having jurisdiction in the county or district in which the appraisal is to be made may appoint such appraiser or umpire on the application of the insured or of the insurer.

AWARD.

(8) An award in writing of the two appraisers, or of one appraiser and the umpire, shall determine the nature and extent or adequacy of the repairs and replacements made or required, or the amount of loss or damage.

COST OF APPRAISAL.

(9) Each party shall pay the appraiser selected by him, and shall bear equally the other expenses of the appraisal and of the umpire.

WAIVER.

8. Neither the insurer nor the insured shall be deemed to have waived any term or condition of this policy by any act relating to the appraisal or to the delivery and completion of proofs of loss, or to the investigation or adjustment of the claim.

INSPECTION OF AUTOMOBILE.

9. The insurer shall be permitted at all reasonable times to inspect the automobile and its equipment.

TIME AND MANNER OF PAYMENT OF INSURANCE MONEY.

10. (1) An insurer shall pay the insurance money for which it is liable under a contract within sixty days after the proof of loss has been received by it, or, where an appraisal is had under statutory condition 7, within fifteen days after the award is rendered by the appraisers.

WHEN ACTION MAY BE BROUGHT.

(2) The insured may not bring an action to recover the amount of a claim under the policy unless the requirements of statutory conditions 6 and 7 are complied with nor until the amount of the loss has been ascertained as therein provided, or by a judgment against the insured after trial of the issue, or by agreement between the parties with the written consent of the insurer.

LIMITATION OF ACTIONS.

(3) Every action or proceeding against an insurer under a contract in respect of loss or damage to the automobile shall be commenced within one year next after the happening of the loss and not afterwards, and in respect of loss or damage to persons or property shall be commenced within one year next after the cause of action arose, and not afterwards.

WHO MAY GIVE NOTICE AND PROOFS OF CLAIM.

11. Notice of claim may be given and proof of claim may be made by the agent of the insured named in the policy in case of absence or inability of such insured to give the notice or make the proof, such absence or inability being satisfactorily accounted for, or in the like case, or if such insured refuses to do so, by a person to whom any part of the insurance money is payable.

CANCELLATION.

12. (1) The policy may be cancelled at any time at the request of the insured named therein, and the insurer shall, upon surrender of the policy, refund the excess of paid premium above the customary short rate premium for the time the policy has been in force.

(2) This policy may be cancelled at any time by the insurer giving to the insured named in the policy fifteen days' notice in writing of cancellation by registered post, whether registered within or without Canada, or five days' notice of cancellation personally delivered, and refunding the excess of paid premium beyond the pro rata premium for the expired time. Repayment of excess premiums may be made by money, post office order, postal note or cheque. Such repayment shall accompany the notice, and in such case the fifteen days above mentioned shall commence to run from the day following the receipt of the registered letter at the post office to which it is addressed.

(3) In this condition the expression "paid premium" means premium actually paid by the insured to the insurer or its agent, and does not include any premium or part thereof paid to the insurer by an agent unless actually paid to the agent by the insured.

NOTICE.

13. (1) Any written notice to the insurer may be delivered at or sent by registered post to the chief agency or head office of the insurer in Canada. Written notice may be given to the insured named in the policy by letter personally delivered to him or by registered letter addressed to him at his last post office address notified to the insurer, or, where no address is notified and the address is not known, addressed to him at the post office of the agency, if any, from which the application was received.

(2) In this condition the expression "registered" shall mean registered within or without Canada.

SCHEDULE.

PART III.

(Section 146)

STATUTORY CONDITIONS.
ACCIDENT AND SICKNESS.

THE CONTRACT.

1. (1) This policy, including the endorsements, insertions or riders, if any, and the application for the contract if attached to the policy, constitutes the entire contract and no agent has authority to change the contract or waive any of its provisions.

WAIVER.

(2) The insurer shall be deemed not to have waived any condition of this contract, either in whole or in part, unless the waiver is clearly expressed in writing signed by the insurer.

MATERIAL FACTS.

2. No statement made by the insured on his application for this contract may be used in defence of a claim under, or to avoid, this contract unless it is contained in the written application for the contract and unless a copy of the application, or such part thereof as is material to the contract, is endorsed upon, inserted in or attached to the policy when issued.

CHANGES IN OCCUPATION.

3. (1) If, after this policy is issued, the person insured engages for compensation in an occupation that is classified by the insurer as more hazardous than that stated in this policy, the liability under this contract is limited to the amount that the premium paid would have purchased for the more hazardous occupation according to the limits, classification of risks and premium rates in use by the insurer at the time the person insured engaged in the more hazardous occupation.

(2) If the person insured changes his occupation from that stated in this policy to an occupation classified by the insurer as less hazardous and so advises the insurer in writing, the insurer shall either

(a) reduce the premium rate, or

(b) issue a policy for the unexpired term of this contract at the lower rate of premium applicable to the less hazardous occupation,

according to the limits, classification of risks and premium rates used by the insurer at the date of receipt of advice of the change in occupation, and shall refund to the insured the amount by which the unearned premium on this contract exceeds the premium at the lower rate for the unexpired term.

RELATION OF EARNINGS TO INSURANCE.

4. Where the benefits for loss of time payable hereunder, either alone or together with benefits for loss of time under another contract, including a contract of group accident insurance or group sickness insurance or of both and a life insurance contract providing disability insurance, exceed the money value of the time of the person insured, the insurer is liable only for that proportion of the benefits for loss of time stated in this policy that the money value of the time of the person insured bears to the aggregate of the benefits for loss of time payable under all such contracts and the excess premium, if any, paid by the insured shall be returned to him by the insurer.

TERMINATION BY INSURED.

5. The insured may terminate the contract at any time by giving written notice of termination to the insurer by registered mail to its head office or chief agency in the Territory or by delivery thereof to an authorized agent of the insurer and the insurer shall, upon surrender of this policy, refund the amount of premium paid in excess of the short rate premium for the expired time according to the table in use by the insurer at the time of termination.

TERMINATION BY INSURER.

6. (1) The insurer may terminate the contract at any time by giving written notice of termination to the insured and by refunding concurrently with the giving of notice the amount of premium paid in excess of the pro rata premium for the expired time.

(2) The notice of termination may be delivered to the insured, or it may be sent by registered mail to the latest address of the insured on the records of the insurer.

(3) Where the notice of termination is delivered to the insured, five days notice of termination shall be given; where it is mailed to the insured, ten days notice of termination shall be given and the ten days shall begin on the day following the arrival of the notice at the post office to which it is addressed.

NOTICE OF PROOF OF CLAIM.

7. (1) The insured or his agent, or a beneficiary entitled to make a claim or his agent, shall

- (a) give written notice of claim to the insurer
 - (i) by delivery thereof, or by sending it by registered mail to the head office or chief agency of the insurer in the Territory, or
 - (ii) by delivery thereof to an authorized agent of the insurer not later than thirty days from the date of the accident or the beginning of the disability due to sickness,

- (b) within ninety days from the date of the accident or the beginning of the disability due to sickness for which the claim is made, furnish to the insurer such proof of claim as is reasonably possible in the circumstances of the happening of the accident or sickness and the loss occasioned thereby, and
- (c) if so required by the insurer, furnish a certificate as to the cause and nature of the accident or sickness for which the claim is made and as to the duration of the disability caused thereby, from a medical practitioner legally qualified to practise in the Territory.

FAILURE TO GIVE NOTICE OR PROOF.

(2) Failure to give notice of claim or furnish proof of claim within the time prescribed in this statutory condition will not invalidate the claim if the notice or proof is given or furnished as soon as reasonably possible and in no event later than one year from the date of the accident or the beginning of the disability due to sickness and if it is shown that it was not reasonably possible to give notice or furnish proof within the time so prescribed.

INSURER TO FURNISH FORMS FOR PROOF OF CLAIM.

8. The insurer shall furnish forms for proof of claim within fifteen days after receiving notice of claim but where the claimant has not received the forms within that time he may submit his proof of claim in the form of a written statement of the happening and character of the accident or sickness giving rise to the claim and of the extent of the loss.

RIGHT OF EXAMINATION.

9. The insurer has the right, and the claimant shall afford to the insurer an opportunity, to examine the person of the person insured when and as often as it may reasonably require, while the claim hereunder is pending and also, in the case of the death of the person insured to make an autopsy subject to any law of the Territory relating to autopsies.

WHEN MONEYS PAYABLE OTHER THAN FOR LOSS OF TIME.

10. All moneys payable under this contract other than benefits for loss of time shall be paid by the insurer within sixty days after it has received proof of claim.

WHEN LOSS OF TIME BENEFITS PAYABLE.

11. The initial benefits for loss of time shall be paid by the insurer within thirty days after it has received proof of claim, and payments shall be made thereafter within each succeeding

sixty-day period while the insurer remains liable for the payments if the insured, whenever required to do so, furnished prior to payment proof of continuing disability.

LIMITATION OF ACTIONS.

12. An action or proceeding against the insurer for the recovery of a claim under this contract shall not be begun after one year from the date on which the cause of action arose.

CHAPTER 58.

AN ORDINANCE RESPECTING THE FORM AND INTERPRETATION OF ORDINANCES.

SHORT TITLE.

Short Title. **1.** This ordinance may be cited as the *Interpretation Ordinance*.

INTERPRETATION.

Definitions. **2.** (1) In this Ordinance,
 "Enactment." (a) "enactment" means an Ordinance or a regulation or any portion of an Ordinance or a regulation;
 "Public officer." (b) "public officer" includes any person in the public service of the Territory
 (i) who is authorized to do or enforce the doing of any act or thing or to exercise any power, or
 (ii) upon whom any duty is imposed by or under any public Ordinance;
 "Regulation." (c) "regulation" includes any rule, rule of court, order prescribing regulations, tariff of costs or fees, form, by-law, resolution or order made in the execution of a power given by an enactment; and
 "Repeal." (d) "repeal" includes revoke or cancel.
 Lapsed enactment deemed repealed. (2) For the purposes of this Ordinance, an enactment that has expired or lapsed or otherwise ceased to have effect shall be deemed to be repealed.

APPLICATION.

Application to all Ordinances. **3.** (1) Every provision of this Ordinance extends and applies to every enactment, unless a contrary intention appears, enacted or made before or after the commencement of this Ordinance.
 Not if contrary intention appears. (2) Where an enactment contains an interpretation section or provision, it shall be read and construed as being applicable only if the contrary intention does not appear.
 This Ordinance applies to itself. (3) The provisions of this Ordinance apply to the interpretation of this Ordinance.
 Rule not inconsistent not excluded. (4) Nothing in this Ordinance shall be construed to exclude the application to any enactment of a rule of construction applicable thereto and not inconsistent with this Ordinance.

OPERATION.

4. (1) Where an enactment is expressed to come into force or operation on a particular day, or on a day fixed by proclamation or otherwise, it shall be construed as coming into force or operation immediately on the expiration of the previous day; and where an enactment is expressed to expire, lapse or otherwise cease to have effect on a particular day, it shall be construed as ceasing to have effect immediately on the commencement of the following day.

Date of coming into force and expiration of Ordinances.

(2) Where an enactment is not to come into force or operation immediately on its being passed or made and it confers power

- (a) to make appointments,
- (b) to hold elections,
- (c) to make regulations,
- (d) to make, grant or issue instruments,
- (e) to give notices,
- (f) to prescribe forms, or
- (g) to do any other thing,

Powers exercisable under Ordinances not coming into force on assent.

that power may, for the purpose of making the enactment effective upon its commencement, be exercised at any time after the passing or making thereof, but a regulation made thereunder before the commencement of the enactment has no effect until the commencement of the enactment, except in so far as may be necessary to make the enactment effective upon its commencement.

CONSTRUCTION.

5. (1) The law is considered as always speaking, and whenever a matter or thing is expressed in the present tense, it shall be applied to the circumstances as they arise so that effect may be given to each enactment according to its true spirit, intent and meaning.

Ordinance always speaking.

(2) The expression "now", "next", "heretofore" or "hereafter" shall be interpreted as having reference to the time when the enactment or the part or provision thereof containing the expression came into force.

"Now."
"Next."
"Heretofore."
"Hereafter."

(3) The expression "shall" shall be read as imperative and the expression "may" as permissive and empowering.

"Shall."
"May."

(4) The expression "herein" used in a section or provision of an enactment relates to the whole enactment and not to that section or provision only.

"Herein."

(5) Definitions or rules of interpretation contained in an enactment, unless the contrary intention appears, apply to the construction of the provisions of the enactment that contain those definitions or rules of interpretation, as well as to the other provisions of the enactment.

Definitions or rules of interpretation.

6. Every Ordinance is a public Ordinance unless by express provision it is declared to be a private Ordinance.

Ordinance to be deemed public.

- Provisions in private Ordinances. **7.** No provision in a private Ordinance affects the rights of a person except only as therein mentioned or referred to.
- Preamble part of Ordinance. **8.** The preamble of an enactment shall be read as a part thereof intended to assist in explaining its purport and object.
- Marginal notes and references. **9.** Marginal notes and references to former enactments form no part of an enactment but shall be deemed to have been inserted for convenience of reference only.
- Every Ordinance remedial. **10.** Every enactment and every provision thereof shall be deemed remedial, and shall be given such fair, large and liberal construction and interpretation as best insures the attainment of its objects.
- Expressions in regulations have same meaning as in enactment. **11.** Where an enactment confers power to make regulations or to grant, make or issue an order, writ, warrant, scheme or letters patent, expressions used therein shall, unless the contrary intention appears, have the same respective meanings as in the enactment conferring the power.
- Her Majesty not bound. **12.** No provision in an enactment is binding on Her Majesty or affects Her Majesty or Her Majesty's rights or prerogatives in any manner whatsoever unless it is expressly stated therein that Her Majesty is bound thereby.
- Powers vested in corporation. **13.** Words in an enactment establishing a corporation
 (a) vest in the corporation power to sue and be sued, to contract and be contracted with by its corporate name, to have a common seal and to alter or change it at pleasure, to have perpetual succession, to acquire and hold personal property or movables for the purposes for which the corporation is constituted and to alienate the same at pleasure,
 (b) vest in a majority of the members of the corporation the power to bind the others by their acts, and
 (c) exempt from personal liability for its debts, obligations or acts such individual members of the corporation as do not contravene the provisions of the enactment incorporating them.
- Proclamation issued under Order of Commissioner. **14.** When the Commissioner is authorized to do an act by proclamation, it is to be understood that the proclamation is a proclamation issued under an Order of the Commissioner, but it is not necessary to mention in the proclamation that it is issued under the Order.
- Public officers appointed during pleasure. **15.** Every public officer appointed before or after the commencement of this Ordinance by or under the authority of an enactment or otherwise, holds office during pleasure only, unless it is otherwise expressed in the enactment or in his commission or appointment.

16. (1) Words authorizing the appointment of a public officer include the power of

- (a) removing or suspending him,
- (b) reappointing or reinstating him,
- (c) appointing another in his stead or to act in his stead, and
- (d) fixing his remuneration and varying or terminating it,

in the discretion of the authority in whom power of appointment is vested.

Implied powers to remove public officers and fix remuneration.

(2) Words directing or empowering a public officer to do any act or thing, or otherwise applying to him by his name of office, include his successors in the office and his or their deputy.

Implied powers of successors in office.

(3) Where a power is conferred or a duty imposed on the holder of an office as such, the power may be exercised and the duty shall be performed by the person for the time being charged with the execution of the powers and duties of the office.

Power to be exercised by holder of office.

17. In an enactment

Implied powers.

(a) where anything is directed to be done by or before a public officer, a magistrate or a justice of the peace, it shall be done by or before one whose jurisdiction or power extends to the place where such thing is to be done;

Officer to act within jurisdiction.

(b) where power is given to the Commissioner or a public officer to do or enforce the doing of any act or thing, all such powers shall be deemed to be also given as are necessary to enable him to do or enforce the doing of the act or thing;

Additional powers.

(c) where any act or thing is required to be done by more than two persons, a majority may do it;

Majority may do any act.

(d) where a power is conferred or a duty imposed the power may be exercised and the duty shall be performed, from time to time, as occasion requires;

Continuance of powers.

(e) where power is conferred to make regulations, the power shall be construed as including power, exercisable in like manner and subject to like consent and conditions, if any, to rescind, revoke, amend or vary the regulations and make others;

Revocation and alteration.

(f) where a form is prescribed, deviations therefrom not affecting the substance nor calculated to mislead, shall not invalidate the form used;

Deviation in forms.

(g) words importing male persons include female persons and corporations;

Sex.

(h) words in the singular include the plural, and words in the plural include the singular;

Number.

(i) where a word is defined, other parts of speech and tenses of that word have corresponding meanings;

Corresponding meanings of parts of speech.

(j) where the time limited for the doing of anything expires or falls upon a holiday, the time so limited extends to and the thing may be done on the first following day that is not a holiday;

Holidays.

- Reckoning time. (k) where a number of days not expressed to be "clear days" is prescribed, it shall be reckoned exclusively of the first day and inclusively of the last, but where the days are expressed to be "clear days" or where the term "at least" is used both the first day and the last shall be excluded; and
- "Clear days."
- Time. (l) a reference to time shall be deemed to be a reference to standard time.

REFERENCES.

Citation of Ordinances or Acts. **18.** (1) In an enactment or document, an Ordinance of the Territory or of the Northwest Territories, or an Act of any province or of Canada, may be cited by reference to its title or short title, if any, either with or without reference to the chapter, or by reference to the number of the chapter of the Revised Ordinances or Revised Statutes or of the Ordinances or Statutes for the year of Our Lord or the regnal year in which the Ordinance or Act was passed.

Citation includes amendments. (2) A citation of or reference to an enactment of the Territory or the Northwest Territories or to an Act of a province or of Canada shall be read as a citation of or reference to the enactment or Act as amended.

Reference to enactment as printed by authority. **19.** (1) A reference in an enactment by number or letter to any section, subsection, paragraph, subparagraph, clause, subclause or other division or line of another enactment shall be read as a reference to the section, subsection, paragraph, subparagraph, clause, subclause or other division or line of such other enactment as printed by authority of law.

Citations of sections to be inclusive. (2) A reference in an enactment by number or letter to two or more parts, divisions, sections, subsections, paragraphs, subparagraphs, clauses, subclauses, schedules or forms in an enactment shall be read as including the number or letter first mentioned and the number or letter last mentioned.

Reference to parts of Ordinance. (3) A reference in an enactment to a part, division, section, schedule or form shall, unless the contrary intention appears, be read as a reference to a part, division, section, schedule or form of the enactment in which the reference occurs.

Reference in section. (4) A reference in an enactment to a subsection, paragraph, subparagraph, clause or subclause shall, unless the contrary intention appears, be read as a reference to a subsection, paragraph, subparagraph, clause or subclause of the section, subsection, paragraph, subparagraph or clause, as the case may be, in which the reference occurs.

Reference to regulations. (5) A reference in an enactment to regulations shall, unless the contrary intention appears, be read as a reference to regulations made under the enactment in which the reference occurs.

WORDS AND PHRASES.

- | | Definitions. |
|--|--|
| 20. (1) In an enactment, the expression | |
| (a) "bank" or "chartered bank" means a bank to which the <i>Bank Act</i> applies; | "Bank" or "Chartered Bank." |
| (b) "commencement" when used with reference to an enactment or any provision thereof means the time at which the enactment or provision comes into force or operation; | "Commencement." |
| (c) "Commissioner" means the Commissioner of the Yukon Territory or the person executing the office and functions of the Commissioner of the Yukon Territory; | "Commissioner." |
| (d) "Commissioner in Council" means the Commissioner acting by and with the advice and consent of the Council of the Territory; | "Commissioner in Council." |
| (e) "Council" means the Council of the Yukon Territory; | "Council." |
| (f) "Court" means the Territorial Court of the Yukon Territory; | "Court." |
| (g) "felony" means any crime that before the passing of the <i>Criminal Code, 1914</i> , would have been a felony under the law of Canada; | "Felony." |
| (h) "fiscal year" when used with respect to the government of the Territory, means the twelve months ending the 31st day of March; | "Fiscal year." |
| (i) "Her Majesty", "His Majesty", "the Queen", "the King", or "the Crown" means the Sovereign of the United Kingdom, Canada and Her other Realms and Territories, and Head of the Commonwealth; | "Her Majesty."
"The Crown."
"The Queen." |
| (j) "holiday" includes Sunday, New Year's Day, Good Friday, Easter Monday, Victoria Day, Dominion Day, the seventeenth day of August known as Discovery Day, Labour Day, Remembrance Day, Christmas Day, the birthday or the day fixed by proclamation for the celebration of the birthday of the reigning sovereign and any other day appointed by proclamation for a general fast or thanksgiving, and whenever a holiday other than Remembrance Day falls on a Sunday, the expression "holiday" includes the following day; | "Holiday." |
| (k) "judge" means a judge of the Court; | "Judge." |
| (l) "justice" means a justice of the peace and includes two or more justices when 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; | "Justice." |
| (m) "magistrate" includes justice of the peace; | "Magistrate." |
| (n) "misdemeanour" means any crime or offence that before the passing of the <i>Criminal Code, 1914</i> , would have been a misdemeanour under the law of Canada; | "Misdemeanour." |
| (o) "month" means calendar month; | "Month." |

"Oath" or "Affidavit."	(p) "oath", or "affidavit" in the case of persons for the time being allowed or required by law to affirm or declare instead of swearing, includes affirmation and declaration and "swear" in the like case includes "affirm" and "declare";
"Ordinance."	(q) "Ordinance" means an Ordinance of the Yukon Territory;
"Peace officer."	(r) "peace officer" means a peace officer as defined in the <i>Criminal Code</i> ;
"Person."	(s) "person" includes a corporation and the heirs, executors, administrators or other legal representatives of a person;
"Proclamation."	(t) "proclamation" means a proclamation under the seal of the Territory;
"Province."	(u) "province" includes the Northwest Territories;
"Security."	(v) "security" means sufficient security;
"Surety."	(w) "surety" means sufficient surety;
"Territory."	(x) "Territory" means the Yukon Territory as defined in the <i>Yukon Act</i> ;
"United Kingdom."	(y) "United Kingdom" means the United Kingdom of Great Britain and Northern Ireland;
"United States."	(z) "United States" means the United States of America;
"Will."	(aa) "will" includes codicil;
"Writing." "Written."	(ab) "writing", "written" or any term of like import includes words printed, painted, engraved, lithographed, photographed or represented or reproduced by any mode of representing or reproducing words in a visible form;
"Year."	(ac) "year" means calendar year; and
" <i>Yukon Gazette</i> ."	(ad) " <i>Yukon Gazette</i> " means the Yukon Official Gazette.
Names commonly used.	(2) In an enactment, a name commonly applied to a country, place, body, corporation, society, officer, functionary, person, party or thing means the country, place, body, corporation, society, officer, functionary, person, party or thing to which the name is commonly applied although the name is not the formal or extended designation thereof.

REPEAL AND AMENDMENT.

Amendment one with Ordinance.

21. An amending enactment shall, as far as consistent with the tenor thereof, be construed as part of the enactment that it amends.

Effect of repeal.

22. (1) Where an enactment is repealed in whole or in part, the repeal or revocation does not

- (a) revive an enactment or thing not in force or existing at the time when the repeal takes place,
- (b) affect the previous operation of the enactment so repealed or anything duly done or suffered thereunder,
- (c) affect a right, privilege, obligation or liability acquired, accrued, accruing or incurred under the enactment so repealed,

(d) affect an offence committed against or a violation of the provisions of the enactment so repealed, or any penalty, forfeiture or punishment incurred in respect thereof, or

(e) affect an investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment,

and an investigation, legal proceedings or remedy of the kind described in paragraph (e) may be instituted, continued or enforced and the penalty, forfeiture or punishment imposed as if the enactment had not been repealed or revoked.

(2) Where an enactment is repealed in whole or in part and other provisions are substituted therefor, Effect of repeal and substitution.

(a) every person acting under the enactment so repealed shall continue to act as if appointed under the provisions so substituted until another is appointed in his stead;

(b) every bond and security given by a person appointed under the enactment so repealed remains in force, and all offices, books, papers and things made or used under the repealed enactment shall continue to be used as before the repeal as far as consistent with the substituted provisions;

(c) every proceeding taken under the enactment so repealed shall be taken up and continued under and in conformity with the provisions so substituted, as far as consistently may be;

(d) in the recovery or enforcement of penalties and forfeitures incurred and in the enforcement of rights, existing or accruing under the enactment so repealed or in a proceeding in relation to matters that have happened before the repeal, the procedure established by the substituted provisions shall be followed as far as it can be adapted thereto; and

(e) when any penalty, forfeiture or punishment is reduced or mitigated by any of the provisions or substituted, the penalty, forfeiture or punishment if imposed or adjudged after the repeal shall be reduced or mitigated accordingly.

23. (1) Where an enactment is repealed in whole or in part and other provisions are substituted by way of amendment, revision or consolidation, Effect of repeal and substitution.

(a) all regulations made under the repealed enactment remain in force, in so far as they are not inconsistent with the substituted enactment, until they are annulled or others made in their stead, and Regulations.

(b) a reference, in an unrepealed enactment to the repealed enactment, shall, as regards a subsequent transaction, matter or thing, be read as a reference to the provisions of the substituted enactment relating to the same subject matter as the repealed enactment but where there are Reference.

no provisions in the substituted enactment relating to the same subject matter, the repealed enactment shall be read as unrepealed as far as is necessary to maintain or give effect to the unrepealed enactment.

Reference to substituted Ordinance or Act.

(2) Where an Ordinance of the Northwest Territories or an Act of a province or of Canada is repealed in whole or in part and other provisions are substituted by way of amendment, revision or consolidation, a reference in an enactment of the Yukon Territory to the repealed Ordinance or Act shall, as regards a subsequent transaction, matter or thing, be construed as a reference to the provisions of the substituted Ordinance or Act relating to the same subject matter as the repealed Ordinance or Act.

Repeal does not imply enactment in force.

24. (1) The repeal of an enactment in whole or in part is not and shall not be deemed to be or to involve a declaration that the enactment was or was considered by the Commissioner in Council or other person or body by whom the enactment was passed or made to have been previously in force.

Amendment does not imply a change in the law.

(2) The amendment of an enactment is not and shall not be deemed to be or to involve a declaration that the law under the enactment was or was considered by the Commissioner in Council or other person or body by whom the enactment was passed or made to have been different from the law as it is under the enactment as amended.

Repeal does not declare previous law.

(3) The repeal of an enactment in whole or in part or the amendment of an enactment is not and shall not be deemed to be or to involve any declaration as to the previous state of the law.

Re-enactment is not adoption of previous construction.

(4) A re-enactment, revision, consolidation or amendment of an enactment is not and shall not be deemed to be an adoption of the construction that has by judicial decision or otherwise been placed upon the language used in the enactment or upon similar language.

Substituted enactments take effect the day of repeal.

25. Whenever a part of an enactment is repealed and other provisions are substituted therefor, the substituted provisions, unless the contrary intention appears, take effect from the day the repealing enactment comes into force.

ENFORCEMENT OF THE LAW.

"Summary conviction."

26. (1) Unless otherwise therein specially provided, proceedings for the imposition of punishment by fine, penalty or imprisonment for enforcing an enactment or municipal by-law may be brought summarily before a justice of the peace under the provisions of the *Criminal Code* relating to summary convictions; and the words "on summary conviction" wherever they appear in an enactment or by-law shall refer to and mean under and by virtue of these provisions of the *Criminal Code*.

(2) When no time is specially limited in the enactment or law relating to the particular offence for making a complaint or laying an information, the complaint shall be made or the information laid within six months from the time when the matter of the complaint or information arose.

Complaint on information within six months.

27. Any duty, penalty, fine or sum of money or the proceeds of a forfeiture under any law of the Territory, if no other provision is made respecting it, constitutes territorial revenue and shall be paid into and form part of the Yukon Consolidated Revenue Fund.

Penalty, fines to form part of Yukon Consolidated Revenue Fund.

28. Where a pecuniary penalty or a forfeiture is imposed for the contravention of an enactment, then, if the provisions of the *Criminal Code* relating to summary convictions 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 Attorney General of Canada or of a private party suing as well for the Crown as himself; and, if no other provision is made for the appropriation of the penalty or forfeiture, one-half thereof shall constitute territorial revenue and shall be paid into and form part of the Yukon Consolidated Revenue Fund, and the other half shall belong to the private plaintiff, if any, and if there is none the whole shall constitute territorial revenue.

Recovery of penalty and forfeiture.

29. Where, under any enactment now in force or under any future enactment, a court or person is empowered or required to award imprisonment, the court or such person may in its discretion, unless such future enactment otherwise provides, award imprisonment with or without hard labour.

Power to award both fine and imprisonment.

ORDINANCES.

30. The following words may be inserted in the preamble 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 the said Territory, enacts as follows".

Form of enacting clause.

31. After the insertion of the words referred to in section 30, which shall follow the setting forth of the considerations or reasons upon which the law is grounded, if any, and which shall, with these considerations or reasons, constitute the entire preamble, the various clauses of the Ordinances shall follow in a concise and enunciative form.

Form of preamble.

32. The Clerk of the Council shall endorse on every Ordinance immediately after the title thereof, the day, month and year when the same was by the Commissioner assented to and such endorsement shall be taken to be part of such Ordinance and the date of such assent shall be the date of the commencement of the Ordinance if no later commencement is therein provided.

Endorsement of assent.

Ordinances to be in custody of Clerk.

33. All Ordinances heretofore passed, now passed and hereafter to be passed shall be and continue to remain of record in the custody of the Clerk of the Council.

Certified copies of Ordinances.

34. The Clerk of the Council shall affix the seal of the Territory to certified copies of all Ordinances intended for transmission to the Governor in Council or required to be produced before courts of justice and in any other case that the Commissioner may direct; 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.

Clerk to supply copies of Ordinances.

35. (1) The Clerk of the Council shall furnish a certified copy of any Ordinance to any person applying for the same upon receiving from such person the following fee:

- (a) for each Ordinance containing ten folios or less, the sum of one dollar, and
- (b) for each Ordinance containing over ten folios, a sum equal to ten cents a folio for each folio contained therein.

Certificate of Clerk on true copies.

(2) The Clerk of the Council shall place 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 19.....".

STANDARD TIME.

Reckoning of standard time.

36. (1) Subject to this section, standard time shall be reckoned as nine hours behind Greenwich Time and called Yukon Standard Time.

Regulations varying standard time.

(2) Notwithstanding subsection (1), the Commissioner may make regulations varying the manner of reckoning standard time.

CHAPTER 59.

AN ORDINANCE RESPECTING THE DISTRIBUTION OF ESTATES OF INTESTATES.

SHORT TITLE.

1. This Ordinance may be cited as the *Intestate Succession Ordinance*.

INTERPRETATION.

2. In this Ordinance,

(a) "estate" includes both real and personal property; and

(b) "issue" includes all lawful descendants of the ancestor.

Definitions.

"Estate."

"Issue."

DISTRIBUTION.

3. (1) Where a person dies intestate leaving a widow and one child, one-half of his estate shall go to the widow.

Widow's share where widow and child survive intestate.

(2) Where a person dies intestate leaving a widow and children, one-third of his estate shall go to the widow.

Widow's share where widow and children survive intestate.

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

Widow's share where widow and issue of children survive intestate.

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

Distribution to issue of intestate.

5. Where a person dies leaving a widow but no issue, his whole estate shall go to his widow.

Distribution where widow only survives intestate.

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

Distribution to father and mother.

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

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

Distribution to next-of-kin.

8. Where a person dies intestate leaving no widow, issue, father, mother, brother or sister and no children of any deceased brother or sister, his estate shall go to his next-of-kin.

Distribution among next-of-kin.

9. Where the estate goes to the next-of-kin, it shall be distributed equally among the next-of-kin of equal degree of consanguinity to the intestate and those who legally represent them; but in no case shall representation be admitted among collaterals after brothers' and sisters' children.

Degrees of kindred.

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

Descendants and relatives born after intestate's death.

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

Advanced by portion to child.

12. (1) Where a child of a person who has died wholly intestate has been advanced by the intestate by portion, the portion shall be reckoned, for the purposes of this section only, as part of the estate of the intestate distributable according to law; if the advancement is equal to or greater than the share of the estate that the child would be entitled to receive as above reckoned, the child and his descendants shall be excluded from any share in the estate; but if the advancement is not equal to such share, the child and his descendants shall be entitled to receive so much only of the estate of the intestate as is sufficient to make all the shares of the children in the estate and advancement equal as nearly as can be estimated.

Value of portion.

(2) The value of any portion advanced shall be deemed to be that which has been expressed by the intestate or acknowledged by the child in writing, otherwise the value shall be the value of the portion when advanced.

Onus of proof.

(3) The onus of proving that a child has been maintained or educated, or has been given money, with a view to a portion, shall be upon the person so asserting, unless the advancement has been expressed by the intestate, or acknowledged by the child, in writing.

Estate not disposed of by will.

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

Illegitimate children.

14. Illegitimate children and their issue shall inherit from the mother as if the children were legitimate, and shall inherit as if the children were legitimate through the mother, if dead, any estate or portion thereof that she would have taken, if living, by gift, devise or descent from any other person.

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

16. The estate of a woman dying intestate shall be distributed in the same proportions and in the same manner as the estate of a man so dying, the word "husband" being substituted for "widow", the word "her" for "his", the word "she" for "he", and the word "her" for "him", where such words respectively occur in sections 3, 4, 5, 6, 7, 8, 11 and 15.

17. (1) Where a wife has left her husband and is living in adultery at the time of his death she shall take no part of her husband's estate.

(2) Where a husband has left his wife and is living in adultery at the time of her death, he shall take no part of his wife's estate.

CHAPTER 60.

AN ORDINANCE RESPECTING THE
ADMINISTRATION OF JUSTICE.

SHORT TITLE.

Short Title. 1. This Ordinance may be cited as the *Judicature Ordinance*.

INTERPRETATION.

Definitions.	2 In this Ordinance,
"Action."	(a) "action" means a civil proceeding commenced in such manner as may be prescribed by this Ordinance or by rules of Court, and includes suit;
"Cause."	(b) "cause" includes any action, suit or other original proceeding between a plaintiff and a defendant;
"Clerk."	(c) "Clerk" or "Clerk of the Court" includes a deputy clerk;
"Court."	(d) "Court" means the Territorial Court of Yukon Territory, and "file in" or "pay into" Court means to file with or pay to a Clerk of the Court, as the case may be;
"Defendant."	(e) "defendant" includes a person served with any process, or served with notice of or entitled to attend any proceedings;
"Execution creditor."	(f) "execution creditor" includes an assignee of an execution creditor;
"Judgment."	(g) "judgment" includes decree;
"Matter."	(h) "matter" includes every proceeding in the Court not in a cause;
"Order."	(i) "order" includes rule;
"Party."	(j) "party" includes a person served with notice of or attending any proceeding, although not named in the record;
"Petitioner."	(k) "petitioner" includes every person making any application to the Court, either by petition, motion or summons, otherwise than as against a defendant;
"Plaintiff."	(l) "plaintiff" includes a person asking relief, otherwise than by way of counterclaim as a defendant, against any other person by any form of proceedings, whether the same are taken by action, petition, motion, summons or otherwise;
"Rules of Court."	(m) "rules of Court" includes the rules in force by virtue of this Ordinance and any other rules made under the authority of this Ordinance;
"Sheriff."	(n) "sheriff" includes deputy sheriff; and
"Verdict."	(o) "verdict" includes the finding of a jury and the decision of a judge.

JURISDICTION.

3. The jurisdiction of a judge shall be exercised so far as regards procedure and practice in the manner provided by this Ordinance and the rules of Court.

Jurisdiction as regards procedure and practice.

4. Actions shall be entered and, unless otherwise ordered by a judge, tried in the district where the cause of action arose or in which the defendant or one of several defendants resides or carries on business at the time the action is brought.

Entry of action and trial.

5. A judge sitting in chambers, if he announces that he is sitting in Court, has and may exercise and enjoy all the powers and authorities, rights, privileges and immunities that he has when presiding over the trial of an action, and any judgment given or decision or determination, or rule, order or decree made by him while sitting in chambers after such announcement has the same force and effect as if made while presiding over the trial of an action.

Powers same as in Court where chambers sittings declared to be Court sittings.

6. Where 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 estate 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; and thereupon the order has 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 estate or interest 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 the person in whom the chose in action is so ordered to be vested.

Power to make vesting orders.

7. (1) The Court has jurisdiction to grant alimony to a wife who would be entitled to alimony by the law of England, or to a wife who would be entitled by the law of England to a divorce and to alimony as incident thereto, or to a 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.

Jurisdiction as to alimony.

(2) The Court may, after action brought, issue an order restraining the defendant in any action for alimony or upon the covenant for payment contained in a separation agreement from transferring or otherwise disposing of or encumbering his property, whether real or personal, pending the final disposition of such action save subject to any interest which the wife may subsequently acquire in the said property under any judgment of the Court.

Restraining order.

RULES OF LAW.

Rules of law.

8. In every civil cause or matter commenced in the Court, law and equity shall be administered by the Court according to the following rules:

Claim by plaintiff or petitioner upon an equitable or legal right.

(a) where a 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 the relief that would be given by the High Court of Justice in England in a suit or proceeding for the same or a like purpose;

Defence to claim for relief.

(b) where a 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 Court shall give 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 proceedings instituted in that Court for the same or a like purpose;

Claim by defendant against plaintiff or third party.

(c) the Court may grant to a defendant, in respect of 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 the defendant has properly claimed by his pleadings; 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 the 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 such notice shall thenceforth be deemed a party to the cause or matter with the same rights in respect of the defence against the claim as if he had been duly sued in the ordinary way by the defendant;

Recognition of equitable estates, etc.

(d) the Court 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 recognize and take notice of the same in any suit or proceeding duly instituted therein;

- (e) the Court in the exercise of its jurisdiction in every cause or matter pending before it has power to grant and shall grant either absolutely or on such reasonable terms and conditions as to it seems 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; Granting of remedies.
- (f) subject to appeal as in other cases, the Court shall have power to relieve against all penalties and forfeitures and in granting such relief to impose such terms as to costs, expenses, damages, compensation and all other matters as the Court sees fit; Relief against penalties and forfeitures.
- (g) no cause or proceeding at any time pending in the Court shall be restrained by prohibition or injunction; but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might have been obtained in England prior to the passing of *The Supreme Court of Judicature Act, 1873*, either unconditionally or on any terms or conditions, may be relied on by way of defence thereto; except that nothing in this Ordinance shall be construed as preventing the Court from directing a stay of proceedings in any cause or matter pending before it if it sees fit; and any person, whether a party or not to any such cause or matter, who would have been entitled in England, prior to the passing of *The Supreme Court of Judicature Act, 1873*, to apply to the Court to restrain the prosecution thereof, or who may be entitled to enforce by attachment or otherwise any judgment, decree, rule or order contrary to which all or any part of the proceedings in the cause or matter may have been taken may apply to the Court by motion in a summary way for a stay of proceedings in the cause or matter, either generally or so far as may be necessary for the purpose of justice; and the Court shall thereupon make such order as shall be just; No cause of proceeding restrained by prohibition or injunction.
- (h) when default is made in payment of money due under a mortgage, whether made before or after the commencement of this Ordinance, or in the observance of a covenant contained therein, and under the terms of the mortgage by reason of such default the payment of other portions of the principal money is accelerated and such portions become presently due and payable, the mortgagor may, notwithstanding any provisions to the contrary and at any time before sale or before the grant of a final order of foreclosure, perform such covenant or pay such arrears as are in default, with costs to be taxed and the mortgagor shall thereupon be Relief of mortgagor in default.

relieved from immediate payment of so much of the money secured by the mortgage as may not have become payable by lapse of time;

Relief of purchaser in default.

- (i) when default has occurred in making any payment due under an agreement for sale, whether made before or after the commencement of this Ordinance of land or in the observance of any covenant therein contained and under the terms of the agreement by reason of such default the payment of other portions of the money is accelerated and such portions become presently due and payable, the purchaser may, notwithstanding any provision to the contrary and at any time prior to final judgment in an action brought to enforce the rights of the vendor, perform such covenant or pay such arrears as are in default, with costs to be taxed, and the purchaser shall thereupon be relieved from immediate payment of so much of the purchase money as may not have become payable by lapse of time; and

Amendment of pleadings in certain cases.

- (j) where an action is brought to enforce any right, legal or equitable, the Court may permit the amendment of any pleading or other proceeding therein upon such terms as to costs or otherwise as it deems just notwithstanding that, between the time of the issue of the statement of claim and the application for amendment, the right of action would, but by reason of action brought, have been barred by the provisions of any statute or Ordinance, if such amendment does not involve a change of parties other than a change caused by the death of one of the parties.

Jurisdiction in lunacy.

9. The jurisdiction of the Court with respect to lunatics and their property and estates shall, subject to the rules of Court, include that which in England is conferred upon the Lord High Chancellor by a Commission from the Crown under the sign manual.

Rules of law on certain matters.

10. The law to be administered in the Territory as to the matters next hereinafter mentioned shall be as follows:

Express trusts.

- (a) 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 limitations Ordinance;

Equitable waste.

- (b) 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 expressly appears by the instrument creating such estate;

Merger.

- (c) 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;

- (d) 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 has 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; Suit by mortgagor for rents and profits.
- (e) where an assignment of a debt or other chose in action is made and 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 anyone claiming under him or of any other opposing or conflicting claims to such debt or chose in action, the debtor, trustee or such other person may Disputed assignment of a debt or other chose in action.
- (i) call upon the several disputing and claiming persons to interplead concerning the debt or chose in action; or
- (ii) pay the amount of the debt or chose in action into Court under and in conformity with the *Trustee Ordinance*;
- (f) stipulations in contracts as to time or otherwise that would not in England, prior to the passing of *The Supreme Court of Judicature Act, 1873*, have been deemed to be or to have become of the essence of such contracts in a court of equity shall receive in the Court the same construction and effect as they would have received in equity; Construction of time stipulations in contracts.
- (g) 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; Effect of part performance.
- (h) a mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the Court in all cases in which it appears to the Court to be just or convenient that such order should be made; and such order may be made either unconditionally or upon such terms and conditions as the Court 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, the injunction may be granted if the Court thinks fit whether the person against whom the injunction is sought is or is not in possession under any claim or title or otherwise, or, if out of possession, does or does not claim a right to do the act sought to Interlocutory mandamus or injunction.

- be restrained under any color of title, and whether the estates claimed by both or by either of the parties are legal or equitable;
- Damages in lieu of specific performance, etc. (i) where 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 may if it thinks fit award damages to the party injured either in addition to or in substitution for the injunction or specific performance, and the damages may be ascertained in such manner as the Court may direct, or the Court may grant such other relief as it may deem just;
- Orders of Court as against purchasers. (j) an order of the Court under the authority of an Ordinance, or otherwise 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;
- Infants. (k) in all questions relating to the custody and education of infants the rules of equity shall prevail;
- Rules of equity prevail. (l) whenever 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;
- Wages of minors. (m) minors may sue for wages in the same way as if of full age;
- Negligence of fellow workman no defence against employer. (n) it is not a good defence in law to any action against an employer, or the successor or legal representative of an employer, for damages for the injury or death of an employee of such employer, that the injury or death resulted from negligence of an employee engaged in a common employment with the injured employee, any contract or agreement to the contrary notwithstanding;
- Declaratory judgments or orders. (o) no action or proceeding is open to objection on the ground that a merely declaratory judgment or order is sought thereby, and the Court may make binding declarations of right whether any consequential relief is or can be claimed or not;
- Effect of giving time to a principal debtor. (p) the giving of time to a principal debtor, or the dealing with or altering the security held by a principal creditor, does not of itself discharge a surety or guarantor; in such cases a surety or guarantor, in so far only as he shows he was thereby prejudiced, is entitled to set up such giving of time or dealing with or alteration of the security as a defence; and
- Power of Court to order sale of real estate. (q) when in any cause or matter relating to real estate or any interest therein it appears necessary or expedient that the real estate or interest or any part thereof should be sold the Court may order the same to be sold, and any party bound by the order and in possession of the estate

or interest, or in receipt of the rents or profits thereof, shall deliver up such possession or receipt to the purchaser, or such other person as may be thereby directed.

INTEREST.

11. In addition to the cases in which interest is by law payable, Allowance of interest in special cases. the Court may in all cases where in the opinion of the Court the payment of a just debt has been improperly withheld, and it seems to the Court fair and equitable that the party in default should make compensation by the payment of interest, allow interest for such time and at such rate as the Court may think right.

12. (1) On the trial of an issue, or on an assessment of Interest on debts certain. damages upon a debt or sum certain,

- (a) payable by virtue of a written instrument at a time certain, interest may be allowed from the time when the debt or sum became payable; or
- (b) payable otherwise than by virtue of a written instrument at a time certain, interest may be allowed from the time when a demand of payment was made, in writing, informing the debtor that interest would be claimed from the date of the demand.

(2) In an action for the conversion of goods or for trespass Interest by way of damages in certain actions. *de bonis asportatis*, the jury, or the Court may give interest in the nature of damages over and above the value of the goods at the time of the conversion or seizure, and in actions on policies of insurance may give interest over and above the money recoverable thereon.

(3) Unless otherwise ordered by the Court, a verdict or Interest on judgments. judgment bears interest from the time of the rendering of the verdict or of giving the judgment, as the case may be, notwithstanding that the entry of judgment has been suspended by any proceeding in the action including an appeal.

TENDER OF AMENDS IN CASE OF TORTS.

13. A person who has committed a wrong giving a cause Tender in tort cases. of action for the recovery of damages to the person wronged may at any time before action tender amends, and the tender has the same effect as a tender in an action for the recovery of a debt.

RULES OF COURT.

14. Subject to this or any other Ordinance, the Rules of the Rules of Court. Supreme Court of British Columbia shall, *mutatis mutandis*, be followed in all causes, matters and proceedings, but the Commissioner may make rules of practice and procedure, including tariffs of fees and costs in civil matters and fees and expenses of witnesses and interpreters in criminal matters, adding to or deleting from those rules, or substituting other rules in their stead.

JUDICIAL DISTRICTS.

Judicial districts.

15. For the purpose of this Ordinance, the Commissioner may establish judicial districts in the Territory and may designate the place in each judicial district where the Clerk of the Court shall have his office.

CLERKS.

Clerk of the Court.

16. (1) There shall be a Clerk of the Court.

(2) If a deputy clerk is appointed, he shall have the same powers and duties as the Clerk.

Seal of office.

(3) The Clerk shall have a seal of office in such form as the Commissioner may prescribe, by which proceedings in the Court shall be certified and authenticated.

Duties.

17. The duties of the clerk shall be

Office hours.

(a) to attend at his office and keep it 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 it shall be closed at one o'clock in the afternoon;

Filing, issuing, taxing, etc.

(b) on application of any person by himself or his agent
 (i) to receive all complaints and other papers required to be filed in Court,
 (ii) to issue all statements of claim, warrants, precepts, writs of execution and other documents rendered necessary or requisite for the effectual disposition of such matters, and
 (iii) to tax costs, enter judgments and record all judgments and orders pronounced, given or made;

Accounting of moneys.

(c) to keep an account of all fines, fees and moneys payable or paid into Court and to enter all such amounts in proper books in which shall be entered regularly under separate headings all the proceedings taken in any action, 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 the public;

Attendance at trials.

(d) to attend all trials before the Court unless his attendance is dispensed with by the Court; and

Other duties.

(e) to do and perform all such other acts and duties as may be necessary for the administration of civil justice in the Territory.

Substitute.

18. In the absence of the Clerk a judge may appoint a suitable person to perform the duties prescribed in section 17.

Judge has same powers.

19. A judge has *ex officio* throughout the Territory all the powers of the Clerk of the Court.

20. All books, papers, documents and moneys in the possession of a Clerk by virtue of or appertaining to his office shall upon his resignation, removal or death immediately become the property of such person as a judge may appoint pending the appointment of a new Clerk of the Court.

Transfer of books, etc., after resignation, removal of death.

21. No 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.

Clerks not to practise as barristers or solicitors.

PUBLIC ADMINISTRATOR.

22. (1) The Commissioner may appoint a fit and proper person to be Public Administrator and Official Guardian under the name of Public Administrator.

Appointment of Public Administrator.

(2) Before entering upon his duties the Public Administrator shall take such oath of office as may be prescribed by the Commissioner.

Oath.

(3) The work and operation of the office of Public Administrator and his dealings and accounts in connection with estates and property coming into his hands by virtue of his office is subject to inspection, examination and audit by the Auditor General of Canada.

Office subject to inspection by Auditor General of Canada.

(4) The Public Administrator shall furnish security to the Commissioner in the penal sum of ten thousand dollars conditioned for the due performance of his duties, and he is not otherwise required to furnish security as an administrator unless a judge so directs, and such security may be furnished by bond or agreement of any guarantee company approved by the Commissioner.

Security to be furnished by Public Administrator.

23. When any person dies whether testate or intestate and his lands, personal estate and effects have not been taken possession of by his executors or next-of-kin, the Public Administrator shall when the facts are brought to his notice, forthwith take possession of the said lands, personal estate and effects and safely keep, preserve and protect them and pending the grant of probate to an executor or the grant of letters of administration to an administrator, as the case may be, the Public Administrator has all the powers, rights and duties of an executor or administrator.

Duty to protect assets of deceased persons.

24. (1) Where a person in the charge or care or upon the premises of another person dies, the other person shall forthwith communicate to the Public Administrator or the officer or constable commanding the post of the Royal Canadian Mounted Police nearest the place where the death occurred all of the facts within his knowledge, information or belief pertaining to

Person having care of deceased, etc., to report to Public Administrator or R.C.M.P.

- (a) the death,
- (b) the name, age and nationality of the deceased,
- (c) the place of residence and the domicile of the deceased,
- (d) whether or not the deceased left a will and, if so, where the same may be found,

- (e) the names and addresses of the executors, if any, and of the next-of-kin of the deceased, and
- (f) what person or persons are in charge of any real or personal property of the deceased.

Person having property of deceased to report to Public Administrator or R.C.M.P.

(2) Where there is no executor or next-of-kin competent and willing to take charge of the lands, personal estate and effects of a deceased, any person having custody of any moneys, goods, chattels, books, documents, papers or other effects belonging to the estate of the deceased shall forthwith deliver the same to the Public Administrator or the officer or constable mentioned in subsection (1) and advise the Public Administrator or such officer or constable of all facts within his knowledge, information or belief touching the property both real and personal and the liabilities of the deceased.

R.C.M.P. to transmit information and property to Public Administrator.

(3) Where an officer or constable is given information under subsection (1), he shall, as soon as possible, transmit the information to the Public Administrator, and where assets of the estate have been delivered to him under subsection (2), he shall also transmit these assets as soon as possible to the Public Administrator and whenever immediate transmission of the assets is practicable, he shall transmit forthwith a complete inventory with approximate valuation of the assets.

Public Administrator to administer estate when no application for probate.

25. In the absence of any application for probate of a will or letters of administration within one month after the death of any person leaving property within the Territory, the Public Administrator shall, when the facts are brought to his notice, enter upon the administration of the estate of the deceased.

Public Administrator to advertise describing estate, etc.

26. (1) Where the Public Administrator is the administrator of an estate, he shall without any order for that purpose advertise twice in a newspaper published weekly or semi-weekly describing the estate and requesting anyone who may have a claim against it to file his claim verified by a statutory declaration.

Distribution of estate among claimants of whom he has notice.

(2) After the expiration of three months from the time of the second advertisement, the Public Administrator shall proceed to distribute the estate having regard only to the claims of which he then has notice and he is not liable for any assets so distributed to any person of whose claim he has not notice at the time of the distribution.

Creditor may follow assets.

(3) Nothing in this section prejudices 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 all or part of such assets.

Application for direction.

27. (1) The Public Administrator, upon making a written statement verified on oath and without the institution of a suit,

- (a) shall, when any question arises as to
 - (i) the priority of claims as between creditors or classes of creditors,

- (ii) the incidence of succession duty,
 - (iii) the rights of beneficiaries as between themselves, or
 - (iv) the advisability of instituting or defending an action on behalf of the estate, and
- (b) may, where any other question arises respecting the administration of the estate of a testator or intestate, apply to a judge in chambers for direction.

(2) Notice of an application under subsection (1) shall be served upon such persons interested in the application as the judge before whom the application is made thinks expedient and if the Public Administrator bona fide acts upon the direction of the judge he is saved harmless from any action arising out of the matter unless he has been guilty of fraud, misrepresentation or wilful concealment in obtaining the direction.

28. When no other appointment has been made the Public Administrator shall be the guardian of the estate within the Territory of all infants who have no parent residing or living in the Territory.

29. The Public Administrator may summon before him at such time and place as he may appoint any person who, in his opinion, has knowledge of the estate and effects of any deceased person, and may examine such person upon oath touching his knowledge of the estate and effects.

30. Whenever the Public Administrator, with a view to passing his accounts in any estate, has taken out a summons calling upon creditors, next-of-kin and all persons interested in the estate, to attend upon the passing of accounts, he may serve the summons upon all such persons by giving notice thereof at least one month prior to the date fixed for passing the accounts in a newspaper published in the district where the deceased person resided or, if there is no such newspaper, in some other newspaper published in the Territory.

31. Any person who neglects to comply with section 24, or who does not appear to a summons, refuses to take an oath, or to be examined on oath in accordance with section 29 is liable upon summary conviction to a fine of not more than five hundred dollars and not less than fifty dollars.

32. The fees of the Public Administrator on all estates coming into his hands for administration shall be as follows:

- (a) a minimum charge of ten dollars on each estate;
- (b) upon an estate of an aggregate value of five thousand dollars or less, ten per cent of the value of the estate; and
- (c) upon an estate of an aggregate value of over five thousand dollars, ten per cent up to five thousand dollars and five per cent up to twenty-five thousand dollars and two and one-half per cent on the remainder.

JUSTICES OF THE PEACE.

Liability
after
resignation.

33. Notwithstanding the resignation or revocation of the appointment of a justice of the peace, he remains liable to transmit all fines and make all returns that he was liable to transmit or make at the time of such resignation or revocation and is subject to all penalties for failure to transmit such fines or make such returns as if he had continued to be a justice of the peace.

Application
of provisions
of *Criminal
Code* relating
to summary
convictions or
extraordinary
remedies.

34. Subject to the provisions of any other Ordinance, the provisions of the *Criminal Code* relating to summary convictions or extraordinary remedies apply to all proceedings before justices of the peace under or by virtue of any Ordinance of the Territory or by-laws of a municipality and to appeals from convictions or order made thereunder.

Disposition
of fines, etc.

35. (1) Every justice of the peace who receives the amount of any fine, penalty, forfeiture or other sum of money under an Ordinance shall forthwith after he has received the same transmit the amount received to the Clerk of the Court with a statement in Form A.

Returns.

(2) Every justice of the peace by or before whom, whether alone or with one or more other justice or justices, any matter of any nature whatsoever is commenced, tried, heard, revised or adjudicated upon shall in the months of January and July in each year and before the 15th day thereof make a return in writing signed by him to the clerk of the Court showing the result, disposition or action taken upon or in regard to any such matter so dealt with theretofore that has not been included in some previous return made by such justice to the clerk.

Return
when no
proceedings.

(3) When no proceedings whatever have been had or taken before any justice of the peace, he shall make a return to the Clerk of the Court so stating.

SHERIFF.

Sheriff.

36. (1) There shall be a sheriff.

(2) If a deputy sheriff is appointed he shall in the absence or during the illness of the Sheriff or whenever authorized so to do by the Sheriff, exercise and perform all the powers and duties of the Sheriff.

Office hours.

37. The Sheriff shall keep his office open between the hours of ten in the forenoon and four in the afternoon on all days except Sundays and holidays, and except Saturday when the same may be closed at one o'clock in the afternoon.

Fee book.

38. 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 Court may from time to time require.

39. The Sheriff shall, on or before the 15th day of January in each year, make up a statement in duplicate from the book referred to in section 38 and return the same to the Commissioner verified under oath and such statement shall set forth the total amount of fees that have been received during the twelve months ended on the 31st day of December next preceding. Annual statement.

40. The Sheriff shall keep in his office open to the inspection of any person a seal of office and the following books, namely: Seal of office and records.

- (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 was issued, the date of the receipt, the nature of the process, the names of the parties thereto, the barrister or 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; Process books.
- (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 barrister or solicitor by whom issued, the date of return and the nature of the return made thereto or what was done thereunder or therewith; and Execution books.
- (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. Cash book.

41. 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 Her Majesty and the same 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 a judge may appoint to receive the same. Property in Sheriff's books, etc.

42. Unless authorized by this Ordinance no person shall take, have or hold any books, accounts, records, papers, writs, warrants, processes, moneys or other matters or things referred to in section 41, and any person having or holding any of such matter shall forthwith on demand deliver over the same and every one of them to the person entitled thereto; and every No unauthorized holding of books, etc.

person who neglects or refuses so to do is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars.

Sale of lands where Sheriff dies.

43. In case of the death, resignation or removal of a 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 by the person who is lawfully executing the duties of the Sheriff at the time when the deed of conveyance is made.

Execution against lands after Sheriff goes out of office.

44. When the Sheriff goes out of office during the currency of any writ of execution against lands and before the sale of such lands, such writ shall be executed and the sale and transfer of the lands be made by his successor in office or by the person who is lawfully exercising the duties of the Sheriff.

Liability after forfeiture of office.

45. Notwithstanding that the Sheriff has forfeited his office and become liable to be removed therefrom, the liability of the Sheriff remains until a new Sheriff has been appointed and sworn into office.

Person levying cannot be purchaser.

46. No person shall directly or indirectly purchase any goods or chattels, lands or tenements by him exposed to sale under execution.

Damages for wilful misconduct.

47. When a person 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 the writ, warrant or process, he is answerable in damages to any party aggrieved by such misconduct or false return.

Duty of Sheriff's officer to return papers, etc.

48. A Sheriff's officer or clerk entrusted with the custody of any writ or process or of any book, paper or document belonging to the Sheriff or his office shall upon demand upon him by the Sheriff restore and return the writ, process, book, paper or document to the custody of the Sheriff; and in case of any neglect or refusal to return or restore the same the party so neglecting or refusing may be required by an order of the Court to return and restore the writ, process, book, paper or document to the Sheriff, and if he disobeys the order, he may be further proceeded against by attachment as in other cases of contumacy to orders or rules of court.

Recovery of possession of writs, etc.

49. When the Sheriff's officer has in his possession custody or control any writ of summons, *feri facias* or other writ or any bench warrant or process whatsoever and upon demand made by the Sheriff from whom the same was received or his successor in office or by any other party entitled to its possession neglects or refuses to deliver up the same, the Sheriff or the party entitled to its possession may proceed by summons and order before a judge to compel the production thereof; such 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.

50. The Sheriff while holding office shall not practise as a barrister or solicitor in the Territory or be a member of any firm of barristers or solicitors practising in the Territory. Sheriff cannot practise as barrister or solicitor.

SMALL DEBT OFFICIALS.

51. (1) Every person appointed as a Small Debt Official has jurisdiction in the Territory to try and adjudicate upon any claim for a debt, whether payable in money or otherwise, where the amount or balance claimed does not exceed two hundred dollars, but such jurisdiction does not extend to any case in which Her Majesty is a party or in which the title to land is involved. Jurisdiction of Small Debt Officials.

(2) No Small Debt Official shall try or adjudicate upon any claim unless the defendant or some one of the defendants resides or carries on business in the Territory. Defendant must reside in Territory.

(3) In the case of claims by or against co-partners in trade carrying on business under a firm name, it shall be sufficient to commence or defend the action in the firm name. Firm name may be used.

52. No Small Debt Official who is or has been interested in any way in the claim for which a summons is issued or a counterclaim made shall take part in the hearing of such claim. Official must have no interest.

53. Any person having a claim may make application in Form B to a Small Debt Official to issue a Notice of Claim and shall forthwith deposit such sum with the Small Debt Official as security for costs as the Small Debt Official considers necessary. Application and security.

54. (1) The Small Debt Official shall make out a notice of Claim in Form C and attach thereto a copy of the plaintiff's claim. Notice of claim.

(2) The Notice of Claim to which is attached a copy of the plaintiff's claim shall be served on the defendant by the plaintiff or his agent. Service.

(3) The Notice of Claim shall state the time that in the opinion of the Small Debt Official is fair and reasonable in which a defendant may enter his Dispute Note. Time for filing defence.

55. A defendant may enter a Dispute Note in Form D to a Notice of Claim served upon him or upon his agent. Dispute Note.

56. If the defendant does not enter a Dispute Note or does not appear in person before the Small Debt Official on the day set out in the Notice of Claim, the Small Debt Official may, upon proof of service of the Notice of Claim upon the defendant Default judgment.

or his agent, enter judgment by default against the defendant if the plaintiff proves his claim to the satisfaction of the Small Debt Official.

Hearing of claims.

57. If the defendant files a Dispute Note or appears in person to dispute the claim, the Small Debt Official shall hear the claim forthwith or set a date for hearing the dispute, whichever in his opinion is convenient for the parties, and shall, if he sets a date, notify both plaintiff and defendant of it.

Where defendant fails to appear at hearing.

58.(1) If the defendant fails to appear on the date set for the hearing of a claim, the Small Debt Official may in his discretion enter judgment by default against the defendant.

Where plaintiff fails to appear at hearing.

(2) If the plaintiff fails to appear on the date set for the hearing of a claim, the Small Debt Official may in his discretion dismiss the claim and assess costs of the action against the plaintiff.

Certificate of judgment.

59. Where judgment is given in favour of the plaintiff the Small Debt Official shall make out a Certificate of Judgment in Form E.

Payment of Judgment.

60. Payment of the amount adjudged owing by the defendant may be ordered forthwith or by instalments, in cash or in kind, and in any manner that the Small Debt Official may consider reasonable and just, and the Small Debt Official may examine the defendant on oath as to his means and effects.

Execution.

61. When the Small Debt Official deems it necessary to seize any part of the property of the defendant to enforce the judgment he may issue a writ of execution in Form F to any person whom the Small Debt Official considers fit and proper to execute the same, but the goods and chattels used by the defendant in obtaining his livelihood are exempt from seizure to the extent specified in the *Exemptions Ordinance*.

Sale of goods under seizure.

62. When a seizure is made under section 61 the Small Debt Official may sell the goods and chattels so seized after such advertising, by posting of notices or otherwise, as he considers necessary, and he shall apply the moneys realized from the sale first in payment of the costs of the action and secondly in payment of the debt owing to the plaintiff, and any moneys remaining shall be returned to the defendant.

Appeals.

63. (1) Either the defendant or the plaintiff may appeal to the Court from the judgment of a Small Debt Official by giving notice of appeal to the Small Debt Official and to the other party and by depositing with the Small Debt Official such sum as security for costs as the Small Debt Official may consider necessary.

(2) The Court shall hear an appeal made under subsection (1) on a day convenient to it and to the parties and the decision of the Court is final.

SCHEDULE.

FORM A.

TRANSMISSION OF PENALTY.

The Clerk of the Territorial Court of the Yukon Territory
Sir,

I enclose herewith the sum of \$ _____ being the
amount of the penalty collected on the day of
from _____ of _____ imposed by
at _____ on the _____ day of
on conviction for _____ contrary to the provisions
of section _____ of

Your obedient servant,

J.P.

FORM B.

SMALL DEBT APPLICATION.

Canada,
Yukon Territory,

BETWEEN:

..... Plaintiff
of

- and -

..... Defendant
of

Made this _____ day of _____ 19 _____,
before the undersigned, Small Debt Official, in which the
Plaintiff claims that the Defendant is indebted to him in the
sum of \$ _____.

(Quote particulars of claim or refer to them as attached.)

SWORN before me
at
in the Yukon Territory,
this _____ day of
19 _____

.....
Small Debt Official
(Signature of Plaintiff)

FORM C.

SMALL DEBT NOTICE OF CLAIM.

Canada,
Yukon Territory,

BETWEEN:

..... Plaintiff
of

– and –

..... Defendant
of

To the above named Defendant:

Take Notice that _____, the above named
Plaintiff, of _____, has entered a claim against
you for the sum of \$ _____.
A statement of his claim is annexed hereto.

And You Are Notified that if you dispute the said claim
you must either appear before me in person or submit your
grounds for dispute in writing on the form attached on or
before _____ and further take notice that if no
grounds for dispute are submitted by you or you fail to appear
before me in person by the date above quoted, then judgment
for the plaintiff's claim and costs may be entered against you
by default and without further notice to you.

.....
Small Debt Official

FORM D.

SMALL DEBT DISPUTE NOTE.

Canada,
Yukon Territory,

BETWEEN:

..... Plaintiff

of

- and -

Defendant

of

To the Small Debt Official at
Take Notice that I dispute the Plaintiff's claim for the sum
of \$, on the following grounds:

(Give grounds for disputing claim)

.....
Defendant

FORM E.

SMALL DEBT CERTIFICATE OF JUDGMENT.

Canada,
Yukon Territory,

BETWEEN:

..... Plaintiff

of

— and —

..... Defendant

of

To Whom It May Concern:

Take Notice that in a certain Claim under the provisions of the *Judicature Ordinance*, I have this day given judgment in favour of the plaintiff for the sum of \$ for debt and \$ for costs.

Dated at in the Yukon Territory this
 day of 19 .

.....
Small Debt Official

FORM F.

SMALL DEBT WRIT OF EXECUTION.

Canada,
Yukon Territory.

BETWEEN:

..... Plaintiff

of

- and -

..... Defendant

of

To

*(State name and occupation of person delegated to
execute this writ.)*

Whereupon I have this day issued a Certificate of Judgment
in favour of for the sum of
\$ for debt and \$ for costs
totalling \$

This Writ is issued to empower and command you to seize
the personal property, goods and chattels of
....., Defendant, for the total of the amounts
above quoted and to bring such personal property, goods and
chattels to me as soon as possible after execution of this Writ.

You are expressly prohibited from seizing the goods and
chattels of the defendant that are used by the defendant in
obtaining his livelihood to the extent specified in the *Exemptions
Ordinance*.

Given under my hand at in the Yukon
Territory, this day of, 19

.....
Small Debt Official

CHAPTER 61.

AN ORDINANCE RESPECTING JURORS AND JURIES.

SHORT TITLE.

Short Title. 1. This Ordinance may be cited as the *Jury Ordinance*.

INTERPRETATION.

Definitions. 2. In this Ordinance,
"Action." (a) "action" means a civil proceeding as defined in the *Judicature Ordinance*; and
"Clerk." (b) "Clerk" means the Clerk of the Court.

RIGHT TO JURY IN CIVIL MATTERS.

Right to jury. 3. (1) Where, in any action of libel, slander, false imprisonment, malicious prosecution, seduction or breach of promise of marriage, or in any action founded upon a tort or contract in which the amount claimed exceeds one thousand dollars, or in any action for the recovery of real property, either party to the action applies to the Court, not less than two weeks prior to the time fixed for the trial of the action before a jury, the action shall, subject to subsection (2) and to section 4, be tried before a jury, but in no other case shall an action be tried before a jury.

May dispense with jury. (2) Where, in any action of a class specified in subsection (1), application is made for the trial of that action before a jury and it appears to a judge, either before or after the commencement of the trial, that the trial will involve any prolonged examination of documents or accounts or any scientific investigation that, in the opinion of the judge, cannot conveniently be made by a jury, the judge may direct that the action be tried without a jury or that the jury be dismissed, in which case the action shall be tried or the trial continued, as the case may be, without a jury.

JURY COSTS.

Security for jury costs. 4. (1) Where, in accordance with subsection (1) of section 3, application is made for the trial of an action before a jury, the party making the application shall deposit with the Clerk such sum by way of security for payment of the cost of the jury as to the Clerk appears sufficient under the circumstances.

Payment of costs. (2) Upon the conclusion of the sittings at which the action is tried the party making the application shall pay to the Clerk any amount by which the cost of the jury exceeds the amount of the security deposited by him in accordance with subsection

(1), and is entitled to have returned to him any amount by which the amount of the security so deposited exceeds the cost of the jury.

(3) If the party making the application obtains judgment in his favour, he shall, unless the judge otherwise orders, be allowed and may tax against the unsuccessful party to the action the cost of the jury. Taxation
of costs.

- (4) In this section, "cost of the jury" means Definitions
of "cost of
jury".
- (a) the total cost of the jury for the sittings of the Court at which the action is tried, including the cost of summoning the panel, jurors' fees and allowances, and all other lawful expenses in connection therewith, as certified by the Clerk; or
- (b) in any case where a jury is used for the trial of more than one action or proceeding at the same sittings of the Court, a portion of the total cost specified in paragraph (a), the said portion to be determined at the conclusion of the sittings in accordance with the rules of Court, or, if there are no such rules applicable, in accordance with an order to be made by the presiding judge.

PERSONS QUALIFIED TO SERVE AS JURORS.

5. Subject to this Ordinance, every person who Persons
qualified.

(a) is twenty-one or more years of age,

(b) is a Canadian citizen or British subject, and

(c) is able to speak and understand the English language,

is qualified to serve as a juror in any action or proceeding that may be tried by a jury in the Territory.

6. No person is qualified to serve as a juror who Persons not
qualified.

(a) has been convicted of an offence for which he was sentenced to a term of imprisonment exceeding one year, not having been subsequently granted a free pardon, or

(b) is afflicted with blindness or deafness, or is a lunatic, idiot or imbecile, or possesses any other physical or mental infirmity incompatible with the discharge of the duties of a juror.

PERSONS EXEMPT FROM SERVICE.

7. The following persons are exempt from service as jurors: Persons
exempt.

(a) members of the Queen's Privy Council for Canada or of the Senate or House of Commons of Canada;

(b) the Commissioner and members of the Council of the Yukon Territory;

(c) members of the Royal Canadian Mounted Police Force;

(d) judges of any court of record, police magistrates, justices of the peace and coroners;

(e) practising barristers and solicitors;

(f) clergymen of any denomination;

- (g) salaried firemen and active members of the fire brigade of a municipality;
- (h) officers of the Court, including Sheriff's officers, constables and bailiffs;
- (i) telegraph, telephone and radio operators;
- (j) postmasters;
- (k) officers and men of the regular naval, army or air forces of Her Majesty in right of Canada;
- (l) physicians, surgeons, dental surgeons and druggists in active practice;
- (m) nurses in active practice; and
- (n) persons actually engaged in the operation of
 - (i) railway trains and steamships,
 - (ii) plants producing electricity for public consumption, and
 - (iii) water distribution systems distributing water for public consumption.

Persons excused.

8. No person is required to serve as a juror more than once in any two-year period, unless the service of that person as a juror is necessary by reason of there being an insufficient number of persons qualified to serve as jurors within a distance of twenty miles from the place of trial.

Women jurors.

9. No woman shall be empanelled as a juror for the trial of a criminal proceeding.

COMPILATION OF JURY LIST.

Jury list.

10. (1) The Sheriff shall, prior to the first day of November in each year or as nearly as possible thereafter, compile a list in Form A of persons who are qualified to serve as jurors and who are not, to his knowledge, exempt from service, for each place fixed for the sittings of the Court in the following year.

Contents of list.

(2) The list shall contain, if possible, not less than forty-eight names, and shall give the addresses and occupations of the persons whose names are listed.

Persons not to be entered on list.

(3) The name of any person whose place of dwelling is more than twenty miles from the place fixed for the sittings of the Court shall not be entered upon the list, unless the number of persons who live within a distance of twenty miles from the place so fixed and who are qualified to serve as jurors is, in the opinion of the Sheriff, insufficient, having regard to the provisions of subsection (2).

Access to voters lists, etc.

11. For the purpose of compiling the list referred to in section 10, the Sheriff shall have access to the voters lists, assessment rolls and other public documents under the control of any officer of a municipality situated within, or partly within, a distance of twenty miles from the place fixed for the sittings, and the said officer shall furnish to the Sheriff upon request any available information as to the qualifications and suitability of persons for service as jurors.

12. As soon as possible after the first day of November in each year, the Sheriff shall certify the lists prepared by him and shall forward them to the Clerk. Certification of lists.

13. (1) If, after the lists hereinbefore referred to have been forwarded to the Clerk, a place other than one for which a list has been prepared is fixed for the sittings of the Court, or if for any other reason a judge considers it necessary, the judge may order the Sheriff to prepare, certify and return to him a supplementary list; the order shall state the time within which the return is to be made, and may contain such other directions as to the judge seems necessary. Supplementary lists.

(2) Upon receipt by the Sheriff of the order referred to in subsection (1) the Sheriff shall proceed according to the tenor thereof. Duty of Sheriff.

(3) Each supplementary list shall be substantially in accordance with Form A, and shall be marked "Supplementary List". Form of supplementary list.

SELECTION OF JURY PANEL.

14. (1) Upon receipt of notice that a jury will be required for a sittings of the Court, the Clerk shall, within a reasonable time before the day fixed for the commencement of the sittings, certify over his hand the number of jurors that, in his opinion, and having regard to the provisions of section 9, will be required for the sittings and shall forthwith forward the certificate to a judge and apply to him for an appointment to select the panel. Certificate of Clerk.

(2) Upon receipt of the application for an appointment the judge shall appoint a time and place for the selection of the panel, and if unable to attend at the time and place appointed he shall appoint some other person to act in his behalf. Appointment to select panel.

(3) The Clerk shall notify the Sheriff in writing of the time and place fixed for the selection of the panel, at least twenty-four hours prior to the time so fixed. Notice to Sheriff.

(4) Prior to the time fixed for the selection of the panel, the Clerk shall write the name of each person named in the list or supplementary list returned to him by the Sheriff, together with the person's address and occupation, upon a card or piece of paper, each of uniform size, and shall place each card or piece of paper in a separate envelope and seal it, each such envelope being of uniform size and shape and without markings of any kind. Procedure prior to selecting panel.

(5) Where no civil proceeding is scheduled to be tried at the sittings the Clerk shall not, in complying with the requirements of subsection (4), include the name of any woman, notwithstanding that her name appears on the list or supplementary list. Criminal proceedings only.

(6) At the time appointed for the selection of the panel the judge or the person appointed to act in his behalf and the Sheriff shall attend at the place appointed, whereupon the Clerk shall cause all the envelopes containing the names of the persons Selection of panel.

named on the list to be placed in a suitable container and thoroughly mixed in the presence of the judge or his appointee and in the presence of the Sheriff, and the Sheriff shall draw from the container a number of envelopes corresponding to the number of jurors required, as certified by the Clerk; the envelopes so drawn shall be opened by the Sheriff and the names contained therein shall be placed on the panel list.

Second drawing when necessary.

(7) If, at the time the panel is selected or at any time thereafter, the Clerk is of the opinion that the number of jurors so selected will not be sufficient, by reason of the selection of names of persons who are exempt from service as jurors or are entitled to be excused therefrom, he shall so certify, and shall further certify to the additional number that, in his opinion is necessary, and shall in accordance with the requirements of this section make a second drawing and add the names contained in the envelopes so drawn to the panel list.

Third drawing.

(8) A third drawing or as many as are required may be made in accordance with the provisions of this section.

Performances of duties of Clerk or Sheriff in certain cases.

(9) Where the same person performs the duties of Sheriff and Clerk or where the Sheriff or Clerk is not available by reason of illness or other cause, the judge shall appoint a person employed in the office of the Sheriff or Clerk, or, if such person is not available, a magistrate or justice of the peace, to perform the duties of Sheriff or Clerk as the case may be.

Certification by judge.

(10) The judge or his appointee shall certify as to his attendance at the selection of the panel and as to the regularity of the proceedings thereat.

Custody of certificates.

(11) All certificates required in accordance with this section shall be retained in the custody of the Clerk.

Proceedings after selection of panel.

15. Upon completion of the panel list, the Clerk shall submit the same to the judge, who may remove from the list the names of any persons who, in his opinion, would suffer undue hardship or serious inconvenience were they to be called upon to serve as jurors, and immediately thereafter shall certify the list as revised by him and return the same to the Clerk, who shall forthwith issue to the Sheriff a precept, in Form B, requiring the Sheriff to summon the persons named on the panel list to attend the Court at the time and place fixed for the commencement of the sittings, and shall deliver the same to the Sheriff at least ten days prior to the time so fixed.

Summoning of jurors.

16. (1) Upon receipt of the precept referred to in section 15, the Sheriff shall summon each person named on the panel list by serving upon him or leaving with a responsible member of his household a written summons in Form C.

Hardship.

(2) When serving a summons upon any person the Sheriff shall ascertain or attempt to ascertain whether that person's service as a juror will inflict upon him undue hardship or serious

inconvenience, and if in the opinion of the Sheriff such hardship or inconvenience is likely to result he shall report the same to the Clerk.

(3) The Sheriff is not guilty of a breach of duty by reason only that he fails to serve with a summons any person whose name appears on the panel list, if his failure to serve that person is due to a cause over which he has no control. Failure of Sheriff to serve summons.

17. The Sheriff shall, on or before the commencement of the sittings of the Court, deliver to the Clerk the precept referred to in section 15, together with a return showing his action thereon and listing the names of persons requesting to be excused from service. Return by Sheriff.

SELECTION OF JURORS FROM THE PANEL.

18. The Sheriff shall write the name, address and occupation of each person who has been summoned by him and who is not excused from serving as a juror on a separate card or piece of paper, each of which shall be of uniform size, and shall place the cards in a suitable container and deliver it to the Clerk. Procedure prior to trial.

19. (1) Immediately prior to the commencement of each trial for which a jury is required, the Clerk shall, in open court, cause the container to be shaken and the cards or pieces of paper therein thoroughly mixed, and shall then draw out the cards or pieces of paper one at a time, shaking the container after each drawing, and shall continue to draw out such cards or pieces of paper so long as it is necessary to do so in order to obtain a complete jury. Selection of individual jurors.

(2) If, in selecting the jurors for the trial of any criminal proceeding, a card bearing the name of a woman is drawn, the card shall be returned to the container. Criminal proceedings.

(3) The cards selected bearing the names of persons subsequently sworn as jurors shall be kept apart until the verdict is given or the jury is dismissed or discharged and shall then be returned to the container, unless no other action or proceeding remains to be tried by a jury at the sittings of the Court. Names selected.

CHALLENGE IN CIVIL MATTERS.

20. (1) A party to a civil action may, at any time before a person whose name has been selected pursuant to section 19 is sworn, challenge that person for cause. Challenges for cause.

(2) Where a challenge is exercised pursuant to subsection (1), the judge may, in his discretion, allow the challenge or direct that the person so challenged be sworn. Idem.

(3) Each side prosecuting or defending an action may exercise not more than three peremptory challenges which, when exercised, may not be withdrawn. Peremptory challenges.

SWEARING OF JURORS.

Swearing of jurors.

21. Where a person whose name is selected pursuant to section 19 is not challenged or is challenged but the challenge is disallowed, as the case may be, the Clerk shall swear that person and when sworn that person shall be a juror for the trial of the action.

GENERAL.

Judge may excuse.

22. The judge may for a good cause excuse from service as a juror any person who has been summoned but has not been sworn.

Tales de circumstantibus.

23. Where at the trial of any action the number of jurors in attendance is less than the number required, or if so reduced for any reason that a full jury cannot be sworn, the judge may, upon application by any party to the action, direct the Sheriff to summon such other qualified persons as are needed and can be found and to add their names to the panel.

Jurors not needed.

24. If at any time during the sittings of the Court it appears to the judge that the services of any person as a juror will not be needed, he may order that person to be discharged.

INSPECTION BY JURY.

Inspection by jury.

25. Where, during the trial of an action before a jury, it appears to the judge that a view by the jury of any place or any real or personal property in question is necessary or desirable in order that the jury may better understand the evidence, the judge may, at any time before a verdict is returned, order such view by the jury, on such terms as to costs as to him seems just, and the order so made shall contain directions to the Sheriff as to the manner in which and the persons by whom the place or property in question shall be shown to the jury, and shall contain any other direction to the Sheriff that the judge sees fit to make.

VERDICT.

Verdict.

26. (1) The jury for the trial of an action shall consist of six persons, any five of whom may return a verdict or answer questions submitted to them by the judge.

Answer to question.

(2) Where more than one question is submitted to the jury in any action, it is not necessary for the same five jurors to agree upon each answer.

Special verdict.

27. Subject to subsection (1) of section 7 of the *Defamation Ordinance*, in the absence of any direction by the judge the jury may return a general or special verdict, but shall return a special verdict if the judge so directs and shall not return a general verdict if the judge directs them not to do so; the judge may direct the jury to answer any questions of fact

submitted by him, in which case the jury shall answer any such questions and the answers thereto shall constitute a special verdict.

28. Subject to section 20, failure to observe any direction in this Ordinance respecting the qualification, exception or excusal of jurors, the compilation and preparations of lists for the purpose of this Ordinance, the form of such lists or any other requirements with respect thereto, the summoning of jurors or the selection or formation of the panel is not a ground for impeaching the verdict or answers given by a jury in any action. Impeaching verdict.

ATTENDANCE OF JURORS.

29. If during the trial of an action a member of the jury becomes ill, the judge may, in his discretion, direct that the trial shall proceed without him and the verdict of the remaining five jurors, if unanimous, shall be valid. Illness of juror.

30. (1) No jury shall be kept without meat, drink or other reasonable comfort while it is considering its verdict. Necessities of jury.

(2) Where, during the trial of an action, the judge directs that the jury shall not be allowed to separate, the sheriff shall provide such food and lodgings as he considers proper, the cost thereof as certified by him to be included as part of the costs of the jury. Food and lodging costs.

31. Where a person who is summoned to appear for service as a juror fails to obey the summons or fails to answer to his or her name when called by the Clerk, the judge may impose a fine not less than twenty-five dollars and not exceeding two hundred dollars. Failure to obey summons.

32. Every person shall, in respect of the trial of any action or proceeding in which he serves or has served as a juror, well and truly keep secret the Queen's counsel, his own and that of his fellow jurors, and any juror who divulges any such secret is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding two months, or to both fine and imprisonment. Breach of secrecy by juror.

REGULATIONS.

33. The Commissioner may make regulations respecting the fees and allowances payable to jurors, and in the absence of such regulations the fees and allowances payable are those specified in the Rules of Court. Jurors' fees and allowances.

FORM A.
(Section 10)

FORM OF LIST OF JURORS TO BE COMPILED
BY SHERIFFS.

In the Territorial Court
of the Yukon Territory.

List of persons liable to be returned for service as jurors
for the twelve months commencing January 1, 19 , for
sittings of the Court at

Name in full	Residence	Occupation
--------------	-----------	------------

I hereby certify that the foregoing list of persons was
selected by me as returnable for jury service at the
..... sittings of the Court at for
the twelve months commencing January 1st, 19

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

.....
Sheriff

FORM B.
(Section 15)

PRECEPT TO BE ISSUED TO SHERIFF TO
SUMMON JURY PANEL.

In the Territorial Court of
the Yukon Territory.

The Jury Ordinance.

To the Sheriff of

You are hereby required to summon the persons named in
the annexed list to attend for jury service for sittings of the
above Court to be held at in
the Yukon Territory, commencing at the hour of ten o'clock
in the forenoon ofday, the day of
..... 19....., and on or before such time to return
this precept with your actions hereunder endorsed hereon.

Given under my hand and the seal of the said Court at
in the Yukon Territory this
day of 19.....

*Clerk of the Territorial Court
of the Yukon Territory.*

Names of Persons on Panel to be Summoned

Name in full	Residence	Occupation
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FORM C.
(Section 16)

SUMMONS TO JURORS.

Sheriff's Office
(Place and date)

Sir:

You are hereby required to attend Her Majesty's Territorial Court at in the Yukon Territory on day, the day of 19....., at the hour of ten o'clock in the forenoon and following days, for jury service.

If you request to be excused, any application for exemption from service must be made in Court upon oath or affidavit at the above mentioned time and failure to attend at the above mentioned time will render you liable to a fine of two hundred dollars.

.....
Sheriff

To.....

of.....

CHAPTER 62.

AN ORDINANCE TO REGULATE CERTAIN MATTERS RELATING TO LABOUR.

SHORT TITLE.

1. This Ordinance may be cited as the Labour Provisions Short Title Ordinance.

INTERPRETATION.

2. In this Ordinance, Definitions.
- (a) "day" means any period of twenty-four consecutive hours; "Day."
 - (b) "employee" means any person who is in receipt of or "Employee." entitled to any remuneration for labour or services performed for another;
 - (c) "employer" means any person, firm or corporation em- "Employer." ploying one or more employees, and includes every agent, manager, representative, contractor, subcontractor or principal and every other person who
 - (i) has control or direction of one or more employees, or
 - (ii) is responsible, directly or indirectly, in whole or in part, for the payment of wages to, or the receipt of wages by, one or more employees;
 - (d) "public work" includes any work or building under the "Public work." control of the Commissioner;
 - (e) "shop" means a place or establishment where wholesale "Shop." or retail trade is carried on or where services are dispensed to the public for profit; and
 - (f) "week" means the period between midnight on Saturday "Week." and midnight on the immediately following Saturday.

HOURS OF LABOUR.

3. (1) Subject to this Ordinance, no employer shall require Hours of work. or permit an employee to work
- (a) in any day for more than eight hours, or
 - (b) in any week for more than
 - (i) forty-four hours in the case of an employee employed in a shop, and
 - (ii) forty-eight hours in the case of any other employee.
- (2) This Ordinance does not apply to
- (a) an employee who is a member of the family of his employer;
 - (b) a person employed for the purpose of searching for minerals;

- (c) a travelling salesman who, in the course of his duties, regularly travels to places at least ten miles distant from his place of residence;
- (d) a person whose principal duties are solely of a supervisory or managerial character; or
- (e) a person who performs only custodial or maintenance duties and who does not actively work more than one-half of the time during which he is on duty.

(3) Notwithstanding subsection (1), an employer may require or permit an employee, other than an employee engaged in mining operations underground in a shaft or tunnel, to work or to be at his disposal during any day or week for more hours than are provided for in that subsection if he pays to such employee during the hours in excess of those provided for in that subsection at the rate of not less than one and one-half times the regular rate of wages at which the employee is employed.

(4) Notwithstanding anything in this section, with the consent of representatives elected by employees who work in shifts in mining operations, an employer engaged in mining operations may, in order to facilitate the arrangement or rotation of shifts, require or permit any such employees to work or to be at his disposal for more than eight hours in any day or forty-eight hours in any week without paying such employee at the rate provided by subsection (3) unless the average number of hours worked by any such employee over a period of four weeks exceeds eight hours per day or forty-eight hours per week.

(5) Subsection (1) applies to employees engaged on public works of the Territory unless the Commissioner otherwise prescribes, and the Commissioner may also prescribe that subsection (3) applies to any such employees.

(6) No payment shall be made out of public funds of the Territory for work done in violation of this Ordinance, and the Commissioner may declare void any contract relating to a public work in respect of which this Ordinance is violated.

MONTHLY PAY DAY.

Pay days.

4. (1) Any company engaged in mining operations shall pay to its employees within ten days after the expiration of each period of employment all wages earned during such period of employment.

(2) The period of employment referred to in subsection (1) shall not be longer than one calendar month.

(3) When an employee described in subsection (1) is discharged from or ceases his employment other than at the ordinary or regular time of the termination of his employment, the company shall forthwith upon such discharge or cessation of employment pay to the employee all wages then owing to him.

WAGES.

5. An employer who employs an employee in a shop shall pay such employee not less than the wages that are generally accepted as current for persons employed in the district in the same character or class of work. ^{Wages.}

6. In all mining camps in the Territory where an employer employs more than three employees at one time, the employer shall furnish to such employees, in addition to their wages, such board and lodgings as may be determined between the employer and representatives elected by the employees. ^{Mining camps.}

7. An employer who holds a contract for the performance of a public work of the Territory shall pay his employees who are engaged on or in connection with such public work not less than the current per diem wages paid by the Territory for similar work in the district. ^{Public works.}

8. (1) No action shall be brought by an employee against an employer either before or after the termination of his services unless the action is commenced within twelve months after the date upon which the cause of action first arose. ^{Limitation of action.}

(2) The right to recover under this Ordinance applies only to the wages of an employee during the period of six months preceding the termination of his services or the taking of action by him pursuant to this Ordinance, whichever first occurs.

RECORDS.

9. (1) Every employer shall keep in his principal place of business in the Territory a record of the hours worked each day by, and the wages paid to each of his employees. ^{Records of hours and wages.}

(2) On demand of the Commissioner or a person authorized by him, an employer shall produce for inspection the record mentioned in subsection (1).

OFFENCE AND PENALTY.

10. An employer or any one acting on behalf of an employer who violates any provision of this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars, and in default of payment to imprisonment for a term not exceeding three months, and he is guilty of a separate offence for each employee affected by the violation. ^{Offences.}

CHAPTER 63.

AN ORDINANCE RESPECTING
LANDLORDS AND TENANTS.

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as the *Landlord and Tenant Ordinance*.

INTERPRETATION.

Definitions. **2.** In this Ordinance,
 "Crops." (a) "crops" means the products of the soil, and includes all sorts of grain, grass, hay, hops, fruits, vegetables and other products of the soil;
 "Land." (b) "land" includes land of any tenure, and mines and minerals, whether or not held apart from the surface, buildings or parts of buildings, whether the division is horizontal, vertical or made in any other way, also a rent charged upon or payable in respect of any land, and an easement, right, privilege or benefit in, over or derived from land, but not an undivided share in land;
 "Landlord." (c) "landlord" includes every lessor, owner or person giving or permitting the occupation of land and their respective successors in title; and
 "Mines and minerals." (d) "mines and minerals" include any strata or seam of minerals or substances in or under any land and powers of working and getting the same, but not an undivided share thereof.

PART I.

COVENANTS AND CONDITIONS.

COVENANTS RUNNING WITH THE LAND AND THE REVERSION.

Rent, etc., annexed to reversionary estate. **3.** (1) Rent reserved by a lease, and the benefit of every covenant or provision therein contained, relating to the leased premises and on the tenant's part to be observed or performed, and every condition of re-entry and other condition therein contained, is annexed and incident to and goes with the reversionary estate in the land, or in any part thereof, immediately expectant on the term granted by the lease, notwithstanding severance of that reversionary estate.
 Recovery by person entitled to income. (2) Any rent, covenant or provision is capable of being recovered, received, enforced and taken advantage of, by the person from time to time entitled, subject to the term, to the income of the whole or any part, as the case may require, of the land leased.

(3) Where a person becomes entitled by conveyance or otherwise, he may recover, receive, enforce or take advantage of the rent, covenant or provision notwithstanding that he becomes so entitled after the condition of re-entry or forfeiture has become enforceable, but this subsection does not render enforceable any condition of re-entry or other condition waived or released before a person becomes so entitled.

Recovery by person entitled by conveyance.

(4) This section applies to leases made before or after the 20th day of November, 1954, but does not affect the operation of

Application.

(a) any severance of the reversionary estate, or

(b) any acquisition by conveyance or otherwise of the right to receive or enforce any rent, covenant or provision effected before the 20th day of November, 1954.

4. (1) The obligation under a condition or of a covenant entered into by a landlord relating to his leased premises shall, if and as far as the landlord had power to bind the reversionary estate immediately expectant on the term granted by the lease, be annexed and incident to and shall go with that reversionary estate, or the several parts thereof, notwithstanding severance of that reversionary estate, and may be taken advantage of and enforced by the person in whom the term is for the time being vested by conveyance, devolution in law or otherwise; and, if and as far as the landlord has power to bind the person from time to time entitled to that reversionary estate, the obligation may be taken advantage of and enforced against any person so entitled.

Covenants of landlord annexed to reversionary estate.

Application.

(2) This section applies to leases made before or after the 20th day of November 1954, whether the severance of the reversionary estate was effected before or after such date.

(3) This section takes effect without prejudice to any liability affecting a covenantor or his estate.

APPORTIONMENT OF CONDITION OF RE-ENTRY.

5. Notwithstanding the severance by conveyance, surrender or otherwise, of the reversionary estate in any land comprised in a lease, and notwithstanding the avoidance or cesser in any other manner of the term granted by a lease as to part only of the land comprised therein, every condition or right of re-entry, and every other condition contained in the lease, shall be apportioned, and shall remain annexed to the severed parts of the reversionary estate as severed, and shall be in force with respect to the term whereon each severed part is reversionary, or the term in any land which has not been surrendered or as to which the term has not been avoided or has not otherwise ceased, in like manner as if the land comprised in each severed part, or the land as to which the term remains subsisting, as the case may be, had alone originally been comprised in the lease.

Condition of re-entry where land severed.

MERGER, ETC., OF REVERSIONS.

Merger of reversion.

6. Where a reversion expectant on a lease of land is surrendered or merged the estate or interest which, as against the tenant for the time being, confers the next vested right to the land shall be deemed the reversion for the purpose of preserving the same incidents and obligations as would have affected the original reversion if there had been no surrender or merger thereof.

WASTE BY TENANTS.

Waste.

7. (1) Subject to the express terms of any lease, or of any valid and subsisting covenant, agreement or stipulation affecting the tenancy,

Tenant for years and tenant for life.

(a) every tenant for years and every tenant for life is liable to his landlord and to every other person for the time being having a reversionary interest in the leased premises for voluntary waste and for permissive waste in respect of the premises to the extent by which the interest of the landlord and other persons, if any, having a reversionary interest in the premises is detrimentally affected thereby; and

Tenant at will.

(b) every tenant at will is liable to his landlord and every other person having a reversionary interest in the leased premises for voluntary waste in respect of the premises to the extent by which the interest of the landlord and other persons, if any, having a reversionary interest in the premises is detrimentally affected thereby.

Remedies.

(2) Every landlord and every person having a reversionary interest in any leased premises may in respect of any waste by a tenant in respect of the premises in an action brought in any court obtain damages or an injunction, or both.

DEFECTS IN LEASE MADE UNDER POWERS OF LEASING.

Defective lease to take effect as contract for grant of lease.

8. (1) Where in the intended exercise of any power of leasing whether conferred by a statute, Ordinance or by any other instrument, a lease is granted, which by reason of any failure to comply with the terms of the power is invalid, the lease, if it was made in good faith and the lessee has entered thereunder, shall

(a) as against the person entitled after the determination of the interest of the grantor to the reversion, or

(b) as against any other person, who, subject to any lease properly granted under the power, would have been entitled to the land comprised in the lease,

take effect as a contract for the grant, at the request of the lessee, of a valid lease under the power, of like effect as the invalid lease, subject to such variations as may be necessary in order to comply with the terms of the powers; but a lessee under an invalid lease is not, by virtue of any such implied contract, entitled to obtain a variation of the lease if the other persons who would have been bound by the contract are willing and able to confirm the lease without variation.

(2) Where a lease granted in the intended exercise of a power of leasing conferred by a statute, Ordinance or other instrument is invalid by reason of the grantor not having power to grant the lease at the date thereof, but the grantor's interest in the land comprised therein continues after the time when he might, in the exercise of the power, have properly granted a lease in the like terms, the lease takes effect as a valid lease in like manner as if it had been granted at that date.

Continuance of grantor's interest.

(3) Where during the continuance of the possession taken under an invalid lease the person for the time being entitled, subject to such possession, to the land comprised therein or to the rents and profits thereof, is able to confirm the lease without variation, the lessee, or other person who would have been bound by the lease had it been valid, is, at the request of the person so able to confirm the lease, bound to accept a confirmation thereof, and thereupon the lease has effect and is deemed to have had effect as a valid lease from the grant thereof.

Confirmation during possession.

(4) Confirmation under subsection (3) may be by a memorandum in writing signed by or on behalf of the persons respectively confirming and accepting the confirmation of the lease.

Memorandum.

(5) Where a receipt or a memorandum in writing confirming the invalid lease is, upon or before the acceptance of rent thereunder, signed by or on behalf of the person accepting the rent, that acceptance is, as against that person, deemed to be a confirmation of the lease.

Effect of receipt for rent.

(6) This section does not affect prejudicially

Remedies preserved.

(a) any right of action or other right or remedy to which, but for this section, the lessee named in an invalid lease would or might have been entitled under any covenant on the part of the grantor for title or quiet enjoyment contained therein or implied thereby; or

(b) any right of re-entry or other right or remedy to which, but for this section, the grantor or other person for the time being entitled to the reversion expectant on the termination of the lease, would or might have been entitled by reason of any breach of the covenants, conditions or provisions contained in the lease and binding on the lessee.

(7) Where a valid power of leasing is vested in or may be exercised by a person who grants a lease that, by reason of the determination of the interest of the grantor or otherwise cannot have effect and continuance according to the terms thereof independently of the power, the lease shall for the purposes of this section be deemed to have been granted in the intended exercise of the power although the power is not referred to in the lease.

Power of leasing to be deemed.

(8) This section takes effect without prejudice to the provision of this Ordinance for the grant of leases in the name and on behalf of the estate owner of the land affected.

Leases in name of estate owner not prejudiced.

IMPLIED POWERS OF LESSOR.

Implied powers of lessor.

9. In every lease, unless a different intention appears therein, there shall be implied powers in the lessor

Entry and view.

- (a) that, by himself or his agents, he may enter upon the demised land and view the state of repair thereof, and may serve upon the lessee, or leave at his last or usual place of abode, or upon the demised land, a notice in writing of any defect, requiring him within a reasonable time, to be therein mentioned, to repair the same, in so far as the tenant is bound so to do; and
- (b) that in case the rent or any part thereof is in arrears for the space of two calendar months, or in case default is made in the fulfilment of any covenant in such lease on the part of the lessee, whether express or implied, and is continued for the space of two calendar months, or in case the repairs required by such notice as aforesaid are not completed within the time therein specified, the lessor may enter upon and take possession of the demised land.

Re-entry on bawdy house conviction.

10. In every lease whenever made there is implied an agreement that if the tenant or any other person is convicted of keeping a common bawdy house, within the meaning of the *Criminal Code*, on the demised premises, or any part thereof, the landlord may at any time thereafter, into the demised premises, or any part thereof, re-enter and the same have again, re-possess and enjoy as of his former estate.

LICENCES TO TENANTS.

Effect of licence.

11. (1) Where a licence is granted to a tenant to do any act, the licence, unless otherwise expressed, extends only

- (a) to the permission actually given,
- (b) to the specific breach of any provision or covenant referred to, or
- (c) to any other matter specifically authorized to be done, and the licence does not prevent any proceeding for any subsequent breach unless otherwise specified in the licence.

Remedies preserved.

- (2) Notwithstanding any licence,
- (a) all rights under covenants and powers of re-entry contained in the lease remain in full force and are available as against any subsequent breach of covenant, condition or other matter not specifically authorized or waived, in the same manner as if no licence had been granted; and
- (b) the condition or right of entry remains in force in all respects as if the licence had not been granted, save in respect of the particular matter authorized to be done.

Re-entry where co-lessees.

(3) Where in any lease there is power or condition of re-entry on the tenant assigning, subletting or doing any other specified act without a licence, and a licence is granted

- (a) to any one of two or more tenants to do any act, or to deal with his equitable share or interest, or
 - (b) to any tenant, or to any one of two or more tenants to assign or underlet part only of the property, or to do any act in respect of part only of the property,
- the licence does not operate to extinguish the right of entry in case of any breach of covenant or condition by the co-lessees of the other shares or interests in the property, or by the tenant or tenants of the rest of the property, as the case may be, in respect of such shares or interest or remaining property, but the right of entry remains in force in respect of the shares, interests or property not subject to the licence.

(4) Subsection (3) does not authorize the grant after the 20th day of November, 1954, of a licence to create an undivided share in a legal estate. Cannot create undivided share in legal estate.

LICENCES TO ASSIGN, SUBLET, ETC.

12. (1) In every lease containing a covenant, condition or agreement against assigning, subletting or parting with the possession, or disposing of the land leased without licence or consent, such covenant, condition or agreement shall, unless the lease contains an express provision to the contrary, be deemed to be subject Licence to sublet, etc.

- (a) to a proviso to the effect that such licence or consent shall not be unreasonably withheld; and
- (b) to a proviso to the effect that no fine or sum of money in the nature of a fine shall be payable for or in respect of such licence or consent, but this proviso does not preclude the right to require the payment of a reasonable sum in respect of any legal or other expense incurred in relation to such licence or consent.

(2) Where the landlord refuses or neglects to give a licence or consent to assign or sublet, a judge, upon the application of the tenant or assignee or subtenant, may make an order determining whether or not such licence or consent is unreasonably withheld, and where it is so withheld, permitting the assignment or sublease to be made, and such order shall be the equivalent of the licence or consent of the landlord within the meaning of any covenant or condition requiring the same, and such assignment or sublease shall not be a breach thereof. Court may order licence.

NOTICE OF PROCEEDINGS.

13. A tenant to whom there is delivered any process of a court for the recovery of premises demised to or held by him, or to whose knowledge any such process comes, shall forthwith give notice thereof to his landlord or his agent, and if he fails so to do, he shall be answerable for all damages sustained by the landlord by reason of the failure to give the notice. Tenant to notify landlord of process for recovery of premises.

Landlord to notify all claimants in action for re-entry or forfeiture.

14. Where a landlord is proceeding by action to enforce a right of re-entry or forfeiture under any covenant, proviso or stipulation in a lease, every person claiming any right, title or interest in the demised premises under the lease, if it be known to the landlord that he claims such right or interest or if the instrument under which he claims is registered in the Land Titles Office shall be made a party to the action.

Effect of waiver.

15. Where the actual waiver by a lessor or the persons deriving title under him of the benefit of any covenant or condition in any lease is proved to have taken place in any particular instance, such waiver shall not, unless a contrary intention appears, be deemed to extend to any instance, or to any breach of covenant or condition save that to which such waiver specially relates, nor operate as a general waiver of the benefit of any such covenant or condition.

IMPLIED COVENANTS.

Covenants to pay taxes.

16. In every lease, unless a contrary intention appears therein, there shall be implied covenants by the lessee

- (a) that he will pay the rent thereby reserved at the times therein mentioned, and all rates and taxes which may be payable in respect of the demised land during the continuance of the lease;
- (b) that he will, at all times during the continuance of the lease, keep and, at the termination thereof, yield up the demised land in good and tenantable repair, accidents and damage to buildings from fire, storm and tempest or other casualty and reasonable wear and tear excepted.

NOTICE TO TERMINATE TENANCIES.

Periods of notice.

17. (1) Subject to any express agreement to the contrary, sufficient notice to quit shall be deemed to have been given where there is given,

- (a) in the case of a weekly tenancy, a week's notice ending with the week;
- (b) in the case of a monthly tenancy, a month's notice ending with the month; and
- (c) in the case of a tenancy from year to year, three months' notice ending, in the case of a tenancy originally from year to year, with an anniversary of the last day of the first year thereof, and in the case of all other tenancies from year to year, with an anniversary of the last day of the original tenancy.

Overholding tenant where express tenure.

(2) Where a tenant, upon the determination of his lease, whether created by writing or by parol, remains in possession with the consent, express or implied, of the landlord, he is deemed to be holding subject to the terms of the lease, so far as they are applicable.

(3) Where the tenancy created by the lease was neither a weekly nor monthly tenancy nor a tenancy from year to year, the overholding tenant is deemed to be holding as a tenant from year to year. Overholding tenant where no express tenure.

18. Where any rent is payable or reserved by virtue of any deed, transfer or other assurance, or by will, and there exists no express right of distress for the recovery thereof, the person entitled to receive the rent has the same right of distress for the recovery thereof as if the same were rent reserved upon lease. Right of distress for rent deemed.

DISTRESS FOR RENT.

19. Upon the determination of any lease the person entitled as landlord to receive any rent made payable thereby may at any time

- (a) within six months next after the determination of the lease,
 - (b) within such six months during the continuance of the landlord's interest, and
 - (c) within such six months during the possession of the tenant from whom the rent became due,
- distrain for any rent due and in arrears in the same manner as he might have done if the lease were not determined.

20. A person entitled to any rent or land for the life of another may recover by action or distress the rent due and owing at the time of the death of the person for whose life such rent or land depended as he might have done if the person by whose death the estate in such rent or land determined had continued in life. Where rent for the life of another.

21. (1) No person shall take under distress more goods than are reasonably sufficient to satisfy the rent in arrear and the costs of the distress. Goods shall not exceed rent and costs.

(2) Where chattels are distrained for rent due, the person making the distress is not liable to any action for excessive distress, if within seven days after the making of the distress he abandons the excess and thereafter holds under the distress no more chattels than are reasonably necessary to satisfy the rent due with the costs of the distress. Restoration of chattels.

22. No distress for rent shall be made at any time in the interval between five o'clock in the afternoon and eight o'clock in the following morning. Time.

PROPERTY LIABLE TO DISTRESS.

23. Subject to this Ordinance, goods or chattels that are not at the time of the distress upon the premises in respect of which the rent distrained for is due shall not be distrained for rent. Goods not on premises.

Exemptions.

24. The following goods and chattels are not liable to seizure by a distress by a landlord for rent, namely:

- (a) the beds, bedding and bedsteads, including perambulators or cradles, in ordinary use by the debtor and his family;
- (b) the necessary and ordinary wearing apparel of the debtor and his family;
- (c) one cooking stove with pipes and furnishings, one other heating stove with pipes, two towels, one wash-basin, one kitchen table, one tea kettle, one teapot, one saucepan, one frying pan and for each member of the family the following, namely: one chair, one cup and saucer, one plate, one knife, one fork and one spoon;
- (d) all necessary fuel, meat, fish, flour and vegetables for the ordinary consumption of the debtor and his family for thirty days;
- (e) the tools, agricultural implements and necessaries used by the debtor in the practice of his trade, profession or occupation to the value of six hundred dollars; and
- (f) one axe and one saw.

**Horses,
cattle, etc.**

25. The landlord may take under a distress for rent any horses, cattle, sheep, swine, poultry, fowl, livestock and other domestic animals which are grazing, pasturing or feeding upon any highway or road allowance or upon any way belonging or appertaining to the premises in respect of which the rent distrained for is payable.

**Goods
fraudulently
removed.**

26. Where a tenant of land under any kind of tenancy under which rent is payable, fraudulently or clandestinely removes or causes to be removed from the land so held by him at a time when there are any arrears of rent payable in respect thereof that are recoverable by distress any goods or chattels liable to such distress with intent to prevent the landlord from distraining the same for arrears of rent so payable, the landlord or any person by him duly authorized may, within thirty days next after such removal, take and seize as a distress for such arrears any goods and chattels so removed, wherever the same are found, except any such goods and chattels which have been sold or mortgaged for valuable consideration before the seizure to a person not having notice of the fraudulent or clandestine removal, and may sell or otherwise dispose of the goods and chattels so taken in such manner as if the same had actually been distrained by the landlord for arrears of rent upon the premises from which the same had been so removed.

**Execution
of warrant.**

27. (1) Every person lawfully charged with the duty of executing a warrant of distress for rent who has reason to believe that any goods or chattels have been fraudulently or clandestinely removed for the purpose of preventing the landlord from distraining the same, and that the said goods are in any building, yard, enclosure or place in such circumstances as to prevent them from being taken or seized as a distress for

arrears of rent, may at any time between eight o'clock in the morning and five o'clock in the afternoon enter into and upon the building, yard, enclosure or place and every part thereof for the purpose of searching for any goods and chattels so removed and seize any such goods and chattels there found for arrears of rent as he might have done if they were in an open field or place upon the premises from which they were removed, and for that purpose may obtain entry upon and access to the premises by breaking or removing any doors or any locks or other fastenings whereby such entry and access is hindered.

(2) Where a person encounters any resistance in doing any of the acts and things that he is authorized to do by subsection (1), he may call upon any peace officer to assist him in overcoming that resistance, and such person in the presence of a peace officer and the peace officer may use such force as is reasonably necessary for the purpose of overcoming that resistance. Resistance.

28. Every tenant who fraudulently or clandestinely removes any goods and chattels for the purpose of preventing the landlord from distraining the same for arrears of rent, and every person who wilfully and knowingly aids or assists him in so doing or in concealing any goods or chattels so removed, is liable to the landlord for double value of the said goods, which amount is recoverable by action in any court. Double value where goods fraudulently removed.

29. No goods and chattels may be taken under a distress for rent excepting the goods and chattels of the tenant and Property subject to distress.

- (a) goods and chattels that are claimed by a person other than the tenant
 - (i) by virtue of any execution against the tenant,
 - (ii) by virtue of any purchase, gift, transfer or assignment from the tenant whether absolute or in trust or by way of mortgage or otherwise, and
 - (iii) being the wife, husband, daughter, son, daughter-in-law or son-in-law of the tenant or by any other relative of the tenant who lives upon the premises in respect of which the rent distrained for is payable as a member of the household of the tenant;
- (b) the interest of the tenant in any goods and chattels under a contract for the purchase thereof or under a contract whereby the tenant may become the owner thereof upon the performance of any condition; and
- (c) goods and chattels that have been exchanged between the tenant and another person, or that have been borrowed by the one from the other, for the purpose of defeating the claim of or the right of distress by the landlord.

IMPOUNDING, APPRAISEMENT AND SALE.

Impounding. **30.** (1) Any goods or chattels taken in distress for rent may be impounded or otherwise secured either upon the premises chargeable with the rent or some part thereof, or in some other suitable and convenient place situate within ten miles of the premises chargeable with the rent and the same may be appraised, sold and disposed of upon the premises in which they are so impounded or secured.

Buyer's right of access. (2) Any person may come and go, to and from the place at which any distress for rent is so impounded and secured, to view, appraise and buy and to carry off or remove the same on account of the purchaser thereof.

Appraisal. **31.** (1) Where any goods or chattels are distrained for rent and the tenant does not replevy the same within five days next after notice in writing of the distress, setting out the cause of the taking, has been posted upon a conspicuous place on the premises in respect of which the rent is payable and, where the distress is impounded elsewhere, at the place of impoundment, then after the expiration of the said five days, the person distraining shall cause the goods and chattels so distrained to be appraised by two appraisers.

Oath of appraiser. (2) Before making any appraisement the appraisers shall each be sworn to appraise the goods taken in distress truly, according to the best of their understanding, and a memorandum of the said oath shall be endorsed on the inventory.

Sale. **32.** After the appraisement has been made the person distraining may sell the goods and chattels distrained for the best price that can be got for the same towards satisfaction of the rent for which the same were distrained and of the costs of such distress, appraisement and sale, and shall hold the overplus, if any, for use of the person lawfully entitled thereto and pay the same over to him on demand.

SET-OFF AGAINST RENT.

Debt due to tenant by landlord. **33.** (1) A tenant may set-off against rent a debt due to him by the landlord, in which case he shall give notice in writing of the claim of set-off in Form A, which notice may be given before or after seizure.

Distress of balance. (2) Upon the giving of a notice under subsection (1) the landlord may distrain or proceed with the distress, as the case may be, for the balance of the rent due after deducting the amount of the debt mentioned in the notice that is due and owing by the landlord to the tenant.

Service of notice. (3) The notice mentioned in subsection (1) may be served either personally upon the landlord or upon any other person authorized to receive rent on his behalf or by leaving it with a grown-up person in and apparently residing on the premises occupied by the landlord.

(4) No notice given under this section is rendered invalid for any want of form.

DISTRAINABLE GOODS TAKEN IN EXECUTION.

34. (1) Goods or chattels lying or being in or upon any land or premises leased for life or lives, or term of years, at will, or otherwise are not liable to be taken by virtue of any execution on any pretence whatsoever, unless the party at whose suit the execution is sued out before the removal of such goods or chattels from the land or premises by virtue of such execution pays to the landlord or his bailiff all money due for rent of the land or premises at the time of the taking of such goods or chattels by virtue of such execution if the arrears of rent do not amount to more than one year's rent.

Where arrears less than one year's.

(2) Where arrears of rent exceed one year's rent the party at whose suit such execution is sued out, on paying the landlord or his bailiff one year's rent, may proceed to execute his judgment.

Where arrears exceed one year's rent.

(3) The sheriff or other officer shall levy and pay to the execution creditor as well the money paid for rent under subsection (2) as the execution money.

Payment to execution creditor.

35. Where a distress is made for any kind of rent due, and any irregularity is afterwards done by the person distraining, or by his agent, or if there has been an omission to make the appraisalment under oath, the distress itself is not on that account deemed to be unlawful, nor is the person making it on that account deemed a trespasser *ab initio*, but the person aggrieved by such irregularity may recover by action full satisfaction for the special damage sustained thereby.

Effect.

36. (1) Subject to section 21, a distrainer who makes an excessive distress, or makes a distress wrongfully, is liable in damages to the owner of the goods or chattels distrained.

Liability of distrainer.

(2) Where a distress and sale are made for rent pretended to be in arrears and due when, in truth, no rent is in arrears or due to the person distraining, or to the person in whose name or right such distress is made, the owner of the goods or chattels distrained and sold, his executors or administrators may, by action to be brought against the person so distraining, recover full satisfaction for the damage sustained by the distress and sale.

Recovery of damages.

RIGHTS OF LANDLORD ON TENANT'S BANKRUPTCY.

37. (1) Where an assignment for the general benefit of creditors, or where an order for the winding-up of an incorporated company, or where a receiving order in bankruptcy or authorized assignment is made against or by a tenant, the right of the landlord to distrain or realize his rent by distress ceases from and after the date of the assignment or order and the assignee, trustee or liquidator may take immediate possession of the property of the tenant; but in the distribution of the property of the tenant the assignee, trustee or liquidator shall pay to the landlord, in priority to all other debts, an amount not exceeding the value of the distrainable assets and restricted

Priority of claim for rent.

to the arrears of rent due during the period of three months next preceding and the costs of distress, if any, and the rent for the three months following the date of the assignment or order, and from thence so long as the assignee, trustee or liquidator retains possession of the premises, but any payment to be made to the landlord in respect of accelerated rent shall be credited against the amount payable by the assignee, trustee or liquidator for the period of his occupation.

Powers of assignee, trustee or liquidator.

(2) Notwithstanding any provision, stipulation or agreement in any lease or agreement or the legal effect thereof, where an assignment for the general benefit of creditors, or where an order for the winding-up of an incorporated company, or where a receiving order in bankruptcy or authorized assignment has been made against or by a tenant, the assignee, trustee or liquidator may at any time within three months after the date of the assignment or order for the purposes of the trust estate and before he has given notice of intention to surrender possession or disclaim, by notice in writing elect to retain the leased premises for the whole or any portion of the unexpired term and any renewal thereof, upon the terms of the lease and subject to the payment of the rent as provided by such lease or agreement, and he may upon payment to the landlord of all arrears of rent, assign the lease with rights of renewal, if any, to any person who will covenant to observe and perform its terms and agree to conduct upon the demised premises a trade or business that is not reasonably of a more objectionable or hazardous nature than that which was thereon conducted by the debtor, and who shall on application of the assignee, trustee or liquidator be approved by a judge as a person fit and proper to be put in possession of the leased premises.

Notice to surrender possession.

38. (1) The assignee, trustee or liquidator shall have the right at any time before electing by notice in writing to the landlord under section 37 to surrender possession or disclaim any such lease, and his entry into possession of the leased premises and their occupation by him, while required for the purpose of the trust estate, shall be deemed not to be evidence of an intention on his part to elect to retain possession pursuant to this section.

Under-lease.

(2) Where the assignor or person against whom a receiving order in bankruptcy or a winding-up order has been made, being a lessee, has, before the making of the assignment or order demised by way of under-lease, approved or consented to in writing by the landlord, any premises and the assignee, trustee or liquidator surrenders, disclaims or elects to assign the lease the under-lessee shall, if he so elects in writing within three months of the assignment or order stand in the same position with the landlord as though he were a direct lessee from the landlord but subject, except as to rental payable, to the same liabilities and obligations as the assignor, bankrupt or insolvent was subject to under the lease at the date of the assignment or order, but the under-lessee shall in such event covenant to pay to the landlord a rental not less than that payable by the

under-lessee to the debtor, and if such last mentioned rental was greater than that payable by the debtor to the landlord the under-lessee shall covenant to pay to the landlord the like greater rental.

(3) Any dispute arising under this section shall be disposed ^{Dispute.} upon summary application by a judge.

ATTORNMENT.

39. (1) An attornment of a tenant of any land to a stranger ^{To stranger.} claiming title to the estate of his landlord is null and void, and the possession of his landlord is deemed not to be changed, altered or affected by the attornment, but nothing in this section vacates or affects an attornment made

(a) pursuant to and in consequence of a judgment or order of a judge; or

(b) with the privity and consent of the landlord.

(2) Nothing in this section shall alter, prejudice or affect ^{Rights of vendor, etc.} any rights that vendor, mortgagee or incumbrance on the 20th day of November, 1954, has under any law or Ordinance.

40. (1) A grant or conveyance of any rent or of the reversion ^{Grants.} or remainder of any land is good and effectual without any attornment of the tenant of the land out of which such rent issues, or of the particular tenant upon whose particular estate any such reversion or remainder is expectant or depending.

(2) A tenant is not prejudiced or damaged by the payment of ^{Notice of grant.} rent to any grantor or by breach of any condition for non-payment of rent before notice to him of such grant by the grantee.

RENEWAL OF LEASES.

41. (1) Where a lease is duly surrendered in order to be renewed, and a new lease is made and executed by the chief ^{No surrender of under-leases.} landlord, the new lease is, without a surrender of all or any of the under-leases, as good and valid as if all the under-leases derived thereout had been likewise surrendered at or before the time of taking of the new lease.

(2) A person in whom any estate for life or lives, or for years, ^{Rights of under-lessees and chief landlord.} is from time to time vested by virtue of a new lease, is entitled to the rents, covenants and duties, and has like remedy for recovery thereof, and the under-lessees shall hold and enjoy the land in the respective under-leases comprised as if the original lease had been kept on foot and continued, and the chief landlord has and is entitled to the same remedy by distress or entry in and upon the land comprised in any under-lease for the rents and duties reserved by the new lease, so far as the same do not exceed the rents and duties reserved in the lease out of which such sub-lease was derived, as he would have had if the respective under-leases had been renewed under the new principal lease.

Renewal by
Court order.

42. (1) Where a person who, in pursuance of any covenant or agreement in writing, if within the Territory and amenable to legal process, might be compelled to execute any lease by way of renewal, is not within the Territory or is not amenable to legal process, a judge upon the application of any person entitled to such renewal, whether such person is or is not under any disability, may direct such person as he thinks proper to appoint for that purpose to accept a surrender of the subsisting lease, and to make and execute a new lease in the name of the person who ought to have renewed the same.

Validity.

(2) A new lease executed by the person appointed under subsection (1) is as valid as if the person in whose name the lease was made was alive and not under any disability and had himself executed it.

Action.

(3) A judge may direct an action to be brought to establish the right of the person seeking renewal under this section, but he may not make the order for such new leases unless by the judgment to be made in such action, or until after it has been entered.

Payment and
performance
of covenants
on renewal.

(4) A renewed lease shall not be executed by virtue of this section in pursuance of any covenant or agreement, unless the sum of money, if any, that ought to be paid on such renewal and the things, if any, that ought to be performed in pursuance of such covenant or agreement by the tenant are first paid and performed, and counterparts of every such renewed lease shall be duly executed by the tenant.

Payment
into Court.

(5) All sums of money that are had, received or paid for or on account of, the renewal of any lease by any person out of the Territory or not amenable to legal process after a deduction of all necessary incidental charges and expenses, shall be paid to such person or in such manner or into Court to such account and be applied and disposed of as a judge directs.

Costs.

(6) The judge may order the costs and expenses of and relating to the application, orders, directions, conveyances and transfers, or any of them, to be paid and raised out of or from the land, or the rents in respect of which the same are respectively made, in such manner as he deems proper.

PART II.

OVERHOLDING TENANTS.

LIABILITY OF TENANTS OVERHOLDING.

After notice
by landlord.

43. Where a tenant or other person who is in possession of any land by, from or under or by collusion with such tenant wilfully holds over the land or any part thereof after the determination of the term, if notice in writing requiring delivery of the possession thereof is given by his landlord or the person to whom the remainder or reversion of such land belongs or

his agent thereunto lawfully authorized, the tenant or other person so holding over shall, for and during the time he so holds over or keeps the person entitled out of possession, pay to such person or his assigns at the rate of double the yearly value of the land so detained for so long as the same is detained, to be recovered by action before a judge, against the recovering of which penalty there is no relief.

44. Where a tenant gives notice of his intention to quit the premises by him holden at a time mentioned in the notice, and does not then deliver up the possession of the premises the tenant shall from thenceforward pay to the landlord double the rent or sum that he should otherwise have paid, to be levied, sued for and recovered at the same times and in the same manner as the single rent or sum before the giving of such notice could be levied, sued for or recovered, and such double rent or sum shall continue to be while such tenant continues in possession. After notice.

PROCEEDINGS AGAINST OVERHOLDING TENANTS.

45. In sections 45 to 51, "tenant" includes every lessee, occupant, subtenant and their assigns and legal representatives. Definition of "tenant".

46. (1) When a tenant, upon the determination of his lease or right of occupation, whether created by writing or by parol, wrongfully refuses or neglects upon demand made in writing to go out of possession of the land demised to him or which he has been permitted to occupy, the landlord may apply, upon affidavit, to a judge, to make the inquiry provided for in sections 45 to 52. Application by landlord.

- (2) The landlord shall Affidavit.
- (a) set forth on an affidavit the terms of the demise or right of occupation, if verbal;
 - (b) annex a copy of the instrument creating or containing the lease or right of occupation, if in writing, or if for any cause a copy cannot be so annexed, make a statement setting forth the terms of the demise or occupation and the reason why such copy cannot be annexed;
 - (c) annex a copy of the demand;
 - (d) state the refusal of the tenant to go out of possession, and the reasons given for such refusal, if any were given; and
 - (e) add such explanation in regard to the ground of such refusal as the truth of the case may require.

(3) The judge shall, in writing, appoint a time and place at which he will inquire and determine whether the tenant holds possession against the right of the landlord, and whether the tenant, having no right to continue in possession, wrongfully refuses to go out of possession. Appointment of hearing.

Service on
tenant.

(4) A copy of the appointment of the judge and of the affidavit upon which it was obtained, and copies of the documents to be used upon the application other than of the instrument creating or containing the lease or right of occupation, shall be served upon the tenant or left at his place of abode at least three days before the day appointed, if the place appointed is not more than twenty miles from the tenant's place of abode, and one day in addition to every twenty miles above the first twenty, reckoning any broken number above the first twenty as twenty miles.

Postponement
of hearing.

47. The judge may, upon an application being made to him under section 46, or at any time thereafter pending the proceedings, having regard to the convenience of the parties, the costs of the proceedings and other considerations, and subject to such conditions as may to him seem just, direct that the case stand over to be heard and disposed of.

Application
of *Judicature*
Ordinance.

48. Except as otherwise varied by this Part, the provisions of the *Judicature Ordinance* apply to applications made and proceedings had under this Part.

Style of
cause.

49. The proceedings under this Part shall be styled: "In the matter of _____, landlord, against _____, tenant".

Failure to
appear.

50. (1) Where, at the time and place appointed the tenant fails to appear, the judge, where it appears to him that the tenant wrongfully holds against the right of the landlord, may order a writ of possession in Form B, directed to the sheriff, commanding him forthwith to place the landlord in possession of the land.

Summary
hearing.

(2) Where the tenant appears the judge shall, in a summary manner, hear the parties and their witnesses and examine into the matter and may take evidence orally or by affidavit as he thinks fit, and if it appears to the judge that the tenant wrongfully holds against the right of the landlord he may order the issue of a writ of possession in Form B in the Schedule.

Costs.

(3) Upon an application under section 46 the judge may by order award costs according to the tariff of costs from time to time in force under the *Judicature Ordinance*, or may order payment of a lump sum by way of costs.

Order for
costs.

(4) An order for the payment of costs by the judge may be filed in the office of the Clerk of the Court and shall thereupon become a judgment of the Court.

Where
proceedings
improperly
taken.

(5) No order under subsection (4) shall be made if it appears to the judge that, in the circumstances of the case, the right to possession should not be determined by proceedings under this Part and in such case the taking of proceedings under this Part does not affect or detract from any other remedy which a landlord may have against his tenant.

51. The judge has the same power to amend or excuse ^{Irregularities.} irregularities in the proceedings as he has in an action.

52. The decision of the judge respecting the order granting ^{Decision.} or refusing a writ of possession is final.

53. Nothing in this Part shall require a landlord to proceed ^{Action by landlord.} under this Part instead of by bringing an action.

PART III.

SUMMARY PROCEEDINGS FOR NON-PAYMENT OF RENT.

54. (1) Where a tenant fails to pay his rent within seven days ^{Application by affidavit.} of the time agreed on, and wrongfully refuses or neglects upon demand made in writing, to pay the rent or deliver up the premises demised, which demand shall be served upon the tenant or upon some grown-up person upon the premises, or if the premises be vacant, be affixed to the dwelling or other building or otherwise posted up upon the premises, the landlord or his agent may file with the Clerk of the Court an affidavit setting forth the terms of the lease or occupancy, the amount of rent in arrears and the time for which it is so in arrears, producing the demand made for the payment or rent or delivery of the possession and stating the refusal of the tenant to pay the rent or to deliver up possession, and the answer of said tenant, if any answer were made, and that the tenant has no right of set-off or reason for withholding possession.

(2) Upon filing the documents mentioned in subsection (1) ^{Summons.} the Clerk shall cause to be issued a summons in Form C, calling upon the tenant, three days after service, to show cause why an order should not be made for delivering up possession of the premises to the landlord, and the summons shall be served in the same manner as the demand.

(3) Upon the return of the summons mentioned in subsection ^{Hearing.} (2) a judge shall hear the evidence adduced upon oath, either orally or by affidavit as he may deem proper, and make such order, either to confirm the tenant in possession or to deliver up possession to the landlord, as the facts of the case may warrant, and such order for delivery of possession may be in Form D.

(4) Where the order mentioned in subsection (3) recites that ^{Ejection.} the tenant shall deliver up possession and he refuses, the sheriff or any of his officers shall, with such assistance as he may require, forthwith proceed under the order to eject and remove the tenant together with all goods and chattels that he may have on or about the premises, and make the rent in arrears and place the landlord in possession of the premises.

- Stay of proceedings. (5) Where any tenant before the execution of the order mentioned in subsection (3) pays the rent in arrears and all costs, the proceedings shall be stayed and the tenant may continue in possession as of his former tenancy.
- Entry of premises. (6) Where the premises in question are vacant, or the tenant is not found in possession, or if in possession he refuses on demand made in the presence of a witness to admit the sheriff or any of his officers, the latter, after a reasonable time has been allowed to the tenant or person in possession to comply with the demand for admittance, may force open any outer door in order to gain an entrance, and may also force any inner door for the purpose of ejecting the tenant or occupant and giving proper possession of the premises to the landlord or his agent.
- Costs. 55. (1) The judge may by order award costs according to the tariff of costs from time to time in force under the *Judicature Ordinance*, or may order payment of a lump sum by way of costs.
- Costs added to rent. (2) Where the landlord is awarded costs against the tenant, the costs so awarded may be added to the cost of the levy for rent, if such levy is or is to be made.
- Order for costs. (3) An order for the payment of costs by the judge may be filed in the office of the Clerk of the Court and shall thereupon become a judgment of the Court.
- No appeal. 56. No appeal lies from the order of a judge made under section 54.
- Definitions. 57. In this section and in sections 58 and 59,
- "Lease." (a) "lease" means every agreement in writing, and every parol agreement whereby one person as landlord confers upon another person as tenant the right to occupy land, and every sublease, and every agreement for a sublease and every assurance whereby any rent is secured by condition;
- "Mining lease." (b) "mining lease" means a lease, grant or licence for mining purposes, including the searching for, workings, getting, making merchantable, smelting or otherwise converting or working for the purposes of any manufacture, carrying away or disposing of mines or minerals, and substances in, on or under the land, obtainable by underground or by surface working or purposes connected therewith;
- "Sublease." (c) "sublease" includes an agreement for a sublease where the sublessee has become entitled to have his sublease granted;
- "Subtenant." (d) "subtenant" includes any person deriving title under a sublease; and
- "Tenant." (e) "tenant" includes every lessee, occupant, subtenant and their assigns and legal representatives.

58. (1) A right of re-entry or forfeiture under any proviso or stipulation in a lease for a breach of any covenant or condition in the lease other than a proviso in respect of the payment of rent, is not enforceable, in any case in which the breach is capable of remedy or of being compensated by money payment, unless and until

Right of re-entry or forfeiture.

(a) the landlord serves on the tenant a notice specifying the particular breach, and requiring the tenant to remedy or to make compensation in money for the breach, and

Notice by landlord.

(b) the tenant fails, within a reasonable time after the service of the notice, to remedy the breach, or to make compensation in money to the satisfaction of the landlord for the breach.

Failure to compensate.

(2) Where a landlord is proceeding by action or otherwise to enforce any right of re-entry or forfeiture, whether for non-payment of rent or for other cause, the tenant may in the landlord's action, if any, or if there is no such action pending, then in an action brought by himself, apply to a judge for relief, and the judge may grant such relief as having regard to the proceedings and conduct of the parties under the foregoing provisions of this section and to all the other circumstances the judge thinks fit, and on such terms as to payment of rent, costs, expenses, damages, compensation, penalty or otherwise, including the granting of an injunction to restrain any like breach in the future as the judge may deem just.

Relief of tenant.

(3) This section applies whether the proviso or stipulation under which the right of re-entry or forfeiture accrues is inserted in the lease or is implied therein.

Implied and express proviso.

(4) For the purposes of this section a lease limited to continue as long as the tenant abstains from committing a breach of covenant is and takes effect as a lease to continue for any longer term for which it could subsist, but determinable by a proviso for re-entry on such a breach.

Term of lease.

(5) Where an action is brought to enforce a right of re-entry or forfeiture for non-payment of rent and the tenant, at any time before judgment, pays into Court all the rent in arrears and the costs of the action, the cause of action shall be at an end.

Payment into Court.

(6) Where relief is granted under this section the tenant shall hold and enjoy the demised premises according to the lease thereof made without any new lease.

Grant of relief.

(7) Where the right of re-entry or forfeiture is in respect of a breach of a covenant or condition to insure, relief shall not be granted if at the time of the application for relief there is not a policy of insurance in force in conformity with the covenant or condition to insure except in addition to any other terms which the judge may impose, upon the term that the insurance is effected.

Covenant to insure.

(8) This section applies to leases made either before or after the commencement of this Ordinance and notwithstanding any stipulation to the contrary.

Application.

- Exemptions. (9) This section does not extend
- Covenant to sublease. (a) to a covenant or condition against the assigning, under-letting, parting with the possession or disposing of the land leased;
- Covenant in mining lease to inspect. (b) in the case of a mining lease, to a covenant or condition for allowing the landlord to have access to or inspect books, accounts, records, weighing machines or other things, or to enter or inspect the mine or the working thereof; or
- Condition re bankruptcy and execution. (c) to a condition for forfeiture on the bankruptcy of the tenant or on the taking in execution of the lessee's interest if contained in
- (i) a lease of agriculture or pastoral land,
 - (ii) a mining lease,
 - (iii) a lease of a house let as a dwelling-house with the use of any furniture, books, works of art or other chattels not being of the nature of fixtures, or
 - (iv) a lease of land with respect to which the personal qualifications of the tenant are of importance for the preservation of the value or character of the property, or on the ground of neighbourhood to the landlord, or to any person holding under him.

Service of notice. (10) Where the whereabouts of the tenant cannot be ascertained after reasonable enquiry or if the tenant is evading service, the notice referred to in subsection (1) may be served on the tenant by leaving the same at the place of residence of the tenant with any adult person for the time being in charge thereof, and if the premises are unoccupied, the notice may be served by posting up the same in a conspicuous manner upon some part of the demised premises.

Application by subtenant. **59.** Where a landlord is proceeding by action or otherwise to enforce a right of re-entry or forfeiture under any covenant, proviso or stipulation in a lease or for non-payment of rent, a judge, on application by any person claiming as subtenant any estate or interest in the property comprised in the lease or any part thereof, either in the landlord's action, if any, or in any action brought or summary application made to the judge by such person for that purpose, may make an order vesting for the whole term of the lease or any less term the property comprised in the lease, or any part thereof, in any person entitled as subtenant to any estate or interest in such property upon such conditions, as to execution of any deed or other document, payment of rent, costs, expenses, damages, compensation, giving security or otherwise, as the judge in the circumstances of each case thinks fit, but in no case is the subtenant entitled to require a lease to be granted to him for any longer term than he had under his original sublease.

SCHEDULE.

FORM A.

NOTICE OF SET-OFF.

Take notice that under the *Landlord and Tenant Ordinance* I wish to set-off against rent due by me to you the debt which you owe to me on your promissory note for..... dated (or as the case may be)..... Dated this day of (tenant).

FORM B.

WRIT OF POSSESSION.

Canada, Elizabeth the Second, by the Grace of God of
 To Wit: the United Kingdom, Canada and Her other
 Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

(L.S.)

To the sheriff (or bailiff) of _____ Greeting.

Whereas
 Judge of the Territorial Court of the Yukon Territory by his order, dated the _____ day of _____ 19____, made in pursuance of the *Landlord and Tenant Ordinance*, on the complaint of _____ against _____ adjudged that _____ was entitled to the possession of _____ with the appurtenances, in your bailiwick, and ordered that a writ should be issued by our said Judge accordingly, and also ordered and directed that the said _____ should pay the costs of the proceedings under the said Ordinance, which by our said Judge have been taxed at the sum of _____ dollars;

Therefore, we command you that without delay you cause the said _____ to have possession of the said lands and premises, with the appurtenances; and we also command you that of the goods and chattels of the said _____ in your bailiwick, you cause to be made the sum of _____ dollars, being the said costs

so taxed by our said Judge as aforesaid, and have that money before our said Judge immediately after the execution hereof, to be rendered to the said

And in what manner you shall have executed this writ, make appear to our said Judge immediately after the execution hereof; and have there then this writ.

Witness, etc.

(Signed)
(Clerk of the Court)

FORM C.

SUMMONS FOR EVICTION.

In the matter of _____ landlord,
and _____
tenant,

and the *Landlord and Tenant Ordinance*.

To the above named

You are hereby summoned to appear before

Judge, at his chambers in the _____,
on the third day after service of a copy hereof upon you, or as provided by the *Landlord and Tenant Ordinance* in that behalf, at the hour of _____ o'clock in the _____ noon, to show cause why an order should not be made for the delivery up to the said _____ as landlord, of the premises mentioned in his demand, that is to say _____; and, further to show cause why an order should not at the same time be made for payment by you of the rent alleged to be in arrears for said premises to said landlord, to be made or levied by distress or otherwise, and also as to the costs of these proceedings.

In default of you so appearing, the said landlord may proceed to obtain such order against you as to the

Judge it may seem proper to grant.

Dated at _____, this _____ day of

A.D. 19 _____.

By the Court,

(Signed)
(Clerk of the Court)

FORM D.

ORDER FOR POSSESSION.

In the matter of
and

landlord,

tenant,

and the *Landlord and Tenant Ordinance*.

Upon reading the notice of demand in this case, the affidavit of service thereof, the affidavit of proof of the terms of the demise, of the summons issued herein by me and the affidavit of service thereof on the said tenant, and no cause being shown by said tenant upon the return of said summons (or, and the said tenant appearing but failing to disprove the allegations of said landlord, as the case may be), I do order that the said tenant do, upon the production to him of this Order, forthwith deliver up possession of the premises in question, namely (), to the said landlord, or his proper agent or attorney, of whose authority the possession of this warrant shall be sufficient proof; and in case of refusal by said tenant so to deliver up possession, or of said tenant being absent or said premises vacant, I do hereby, in accordance with the provisions of the Ordinances in that behalf, authorized

with such assistance as he may require, forthwith to proceed to eject and remove the said tenant, together with his goods and chattels, if any, from and out of the said premises, and whether said tenant be found in possession thereof or said premises be vacant, put the landlord in possession, that the said landlord take and hold possession thereof freed from said demise; and I do further order that the said

do make the rent in arrears for said premises, amounting to the sum of dollars to the landlord, as his costs of this proceeding, to be paid by said tenant or, in default of payment, to be proceeded for and recovered as allowed by law.

Dated at this day of

A.D. 19 .

(Signed)

Judge.

CHAPTER 64.

AN ORDINANCE RESPECTING
THE LEGAL PROFESSION.

- Short Title. **1.** This Ordinance may be cited as the *Legal Profession Ordinance*.
- Definitions. **2.** In this Ordinance,
- “Annual practice certificate.” (a) “annual practice certificate” means a valid and subsisting certificate issued under the provisions of section 8;
- “Annual non-practice certificate.” (b) “annual non-practice certificate” means a valid and subsisting certificate issued under the provisions of section 9;
- “Barrister and solicitor.” (c) “barrister and solicitor” means a barrister and solicitor whose name is written on the roll;
- “Certificate year.” (d) “certificate year” means the period from the first day of April in any year to the thirty-first day of March in the next year;
- “Legal Adviser.” (e) “Legal Adviser” means the person who holds the office of Legal Adviser to the Council of the Yukon Territory;
- “Registration certificate.” (f) “registration certificate” means a valid and subsisting certificate issued under the provisions of section 5;
- “Roll.” (g) “Roll” means the Barristers and Solicitors Roll referred to in section 3; and
- “Secretary.” (h) “Secretary” means the Territorial Secretary of the Yukon Territory.

Barristers and Solicitors Roll.

3. (1) The Secretary shall keep the Barristers and Solicitors Roll for the Yukon Territory which shall be the Roll prepared and kept on the 11th day of May, 1950, under the provisions of *The Legal Profession Ordinance*, being Chapter 50 of the Consolidated Ordinances of the Yukon Territory, 1914, with such additions and alterations as are from time to time made thereto under the provisions of this Ordinance.

(2) Upon the production to the Secretary of a registration certificate issued by the Court and of a receipt from the Territorial Treasurer for the payment required by section 6, the Secretary shall cause the name of the person designated in such certificate to be entered on the Roll with the date of such entry.

(3) The Secretary also shall cause the name of the person who from time to time holds the office of Legal Adviser to be entered on the Roll with the date of such person's appointment to that office.

(4) Where any name is improperly omitted from or inserted on the Roll, or where a mistake occurs in any name on the Roll, the Court may, upon notice being given to the person whose name is improperly omitted, inserted or written on the Roll, order

the Secretary to add, strike off or correct such name in the manner the Court directs and the Secretary shall comply with such order and shall note on the Roll opposite the name affected the date of and authority for such change.

(5) The Secretary shall keep the Roll in his office.

(6) Upon payment of a fee of fifty cents any person may inspect the Roll at any time during the hours when the office of the Secretary is open to the public.

(7) The Clerk of the Court shall keep in his office at Whitehorse, in the Yukon Territory, a copy of the Roll containing the additions, alterations and changes made therein from time to time and such copy shall be open for inspection by any person during the hours when the Clerk's office is open to the public.

(8) Production of a certificate of the Secretary shall be sufficient proof of enrolment as a barrister and solicitor.

4. In addition to the persons enrolled as barristers and solicitors on the 11th day of May, 1950, the following persons, subject to their compliance with the provisions of this Ordinance, shall be entitled to be named on the Roll:

Persons entitled to be named on Roll.

(a) a person who

- (i) has been duly called to the bar of a province of Canada or has been admitted to practise as an attorney, advocate, barrister or solicitor in any of Her Majesty's Superior Courts therein,
- (ii) produces evidence satisfactory to the Court of the call or admission referred to in subparagraph (i),
- (iii) produces testimonials satisfactory to the Court of good character and of good standing in the Law Society of the province of which he is an attorney, advocate, barrister or solicitor, and
- (iv) is a British subject of the age of twenty-one years and upwards; and

(b) a person who

- (i) is a graduate of a recognized law school in Canada approved by the Commissioner,
- (ii) has completed twelve months' service under articles to a barrister and solicitor actively practising within the Territory,
- (iii) is a British Subject and of the age of twenty-one years and upwards, and
- (iv) produces testimonials of good character satisfactory to the Court.

5. (1) A person who is qualified to be named on the Roll under section 4, and who is an applicant for a registration certificate, shall publish in the *Yukon Gazette* for two consecutive weeks a notice which states

Publication in *Yukon Gazette*.

- (a) the name and residence of the person seeking enrolment;
- (b) the qualification upon which he relies; and
- (c) the time and place at which he will make application.

(2) A person who produces to the Court evidence that he has satisfied the provisions of section 4 and has published the notice required by subsection (1), shall be entitled to a registration certificate from the Court stating that he is entitled to be enrolled as a barrister and solicitor in the Territory.

(3) A registration certificate shall be in Form A in the Schedule and shall be signed by the Clerk of the Court and sealed with the seal of the Court.

Enrolment fee. 6. A person who is granted a registration certificate shall forthwith pay to the Territorial Treasurer an enrolment fee in the sum of two hundred dollars.

Qualification by article 14 of the Ordinance. 7. Notwithstanding anything in this Ordinance, any person who before the 11th day of May, 1950, has filed articles of clerkship with the Secretary under section 14 of *The Legal Profession Ordinance*, Chapter 50 of the Consolidated Ordinances of the Yukon Territory, 1914, and who pursuant to the provisions of said articles and said Ordinance qualifies for and receives, within the five years next after the 11th day of May, 1950, a certificate from the Court that he is entitled to be enrolled as a barrister and solicitor, shall, upon the presentation of such certificate and of the receipt for the payment required by section 6 to the Secretary, be entitled to have his name written on the Roll.

Annual practice fee and certificate. 8. (1) Subject to sections 9 and 12 and to subsection (4) of this section, every person whose name appears on the Roll shall pay to the Territorial Treasurer on or before the thirty-first day of March in each year an annual practice fee in the sum of thirty dollars.

(2) Upon receipt of the annual practice fee the Territorial Treasurer shall issue to the barrister and solicitor who pays the same an annual practice certificate in the Form B in the Schedule.

(3) An annual practice certificate shall expire on the thirty-first day of March next following the day upon which it was issued.

(4) Where application for enrollment is made by the holder of a registration certificate under section 4 or section 7, he shall pay to the Territorial Treasurer his first annual practice fee at the same time he pays the fee required by section 6.

Annual non-practice fee and certificate. 9. (1) Where a barrister and solicitor does not intend to practise as a barrister and solicitor at any time during any certificate year, he may

(a) file with the Territorial Treasurer a statutory declaration stating that he does not intend to practise as a barrister and solicitor at any time or times within the specified certificate year; and

(b) pay to the Territorial Treasurer a non-practice fee in the sum of five dollars.

(2) Upon receipt of such declaration and fee the Territorial Treasurer shall issue to the barrister and solicitor an annual non-practice certificate in the Form C in the Schedule for the certificate year therein specified.

10. (1) A barrister and solicitor, who has not paid his annual fee for any year or years since his enrolment and who wishes to resume practise as a barrister and solicitor in the Territory, may

Procedure and fees to resume practice.

- (a) file with the Territorial Treasurer a statutory declaration stating that he has not at any time or times when he was not the holder of an annual practice certificate or of an annual certificate issued under the provisions of *The Legal Profession Ordinance*, Chapter 50 of the Consolidated Ordinances of the Yukon Territory, 1914, practised as a barrister and solicitor in the Territory and his reasons for not so practising;
- (b) pay to the Territorial Treasurer a sum equal to five dollars for every year in which since his enrolment he has not held such an annual practice certificate or such an annual certificate; and
- (c) pay to the Territorial Treasurer the full annual practice fee for the then current certificate year.

(2) Upon receipt of the declaration and the full amount of the sums mentioned in subsection (1), the Territorial Treasurer shall issue to the barrister and solicitor an annual practice certificate for the then current certificate year.

11. (1) 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 and solicitor in good standing and shall in open Court take an oath administered by the Clerk of the Court in the following form:

Oath of barrister and solicitor.

OATH OF A BARRISTER AND SOLICITOR

"I,do swear that I am a Canadian citizen by birth (or by naturalization) and that I am of the full age of twenty-one years. So help me God";

(2) The Clerk of the Court 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 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. The Queen's interests and your fellow subjects you shall uphold and maintain according to the constitution and laws of this Territory."

To which the barrister shall answer

“All this I swear to observe and perform to the best of my knowledge and ability. So help me God.”

“I,, 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.”

Legal Adviser deemed qualified to practise.

12. The Legal Adviser shall be deemed a duly qualified barrister and solicitor practising in the Territory.

13. No person is entitled to recover a fee, reward or remuneration for professional services rendered as a barrister and solicitor unless at the time the services are rendered he holds an annual practice certificate.

Offences and penalties.

14. (1) Any person, not being the holder of an annual practice certificate who, within the Territory

- (a) publicly or privately for hire, gain or hope of reward practises as a barrister or solicitor;
- (b) appends to his name the title of barrister or solicitor or any word used in substitution for or in abbreviation thereof;
- (c) holds himself out in any way to be duly qualified to practise as a barrister or solicitor;
- (d) assumes any title or description implying or designed to lead the public to believe that he is duly qualified to practise as a barrister or solicitor;
- (e) holds himself out as a partner or agent of any barrister or solicitor; or
- (f) participates in the profits as profits of the office or any business of any barrister or solicitor carried on or transacted as the practice of such barrister or solicitor;

is guilty of an offence and liable upon summary conviction to a fine of one hundred dollars for the first offence and two hundred dollars for each subsequent offence.

(2) Any person who assists any person to contravene any provision of this section or of section 13 is guilty of an offence and liable upon summary conviction to a fine of one hundred dollars for the first offence and two hundred dollars for each subsequent offence and if a barrister and solicitor, shall be struck off the Roll and disqualified from practising as a barrister and solicitor.

(3) Any person who contravenes any provision of this section is guilty of contempt of Court and may be so dealt with by the Court.

(4) 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 by the person paying the same.

(5) Nothing in this section shall be deemed to prevent any person acting on his own behalf in any action, cause, suit or matter.

15. In the case of an offence under this Ordinance punishable upon summary conviction, the complaint shall be made or the information laid within one year from the time when the matter of the complaint or information arises.

Time limit for prosecution.

16. All barristers and solicitors shall be officers of the Court and other civil courts of the Territory and the Court or any judge thereof shall possess and exercise the same powers and jurisdiction over and in respect of such barristers and solicitors as on the 26th day of March, 1915, was possessed by the Supreme Court of Judicature in England over and in respect of solicitors of the said last mentioned Court.

17. (1) 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 any 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 duly qualified.

Barristers and solicitors not to be agents or partners of unqualified persons.

(2) 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 Territory.

18. (1) The Legal Adviser shall enquire into and thoroughly investigate any complaint made to the Legal Adviser by any person against any barrister and solicitor for any cause whatsoever, or against any person for any violation of any of the provisions of this Ordinance.

Investigation and action of Legal Adviser.

(2) The Legal Adviser to whom such complaint is made, if the same is well founded, shall take proceedings for disciplining or otherwise punishing such barrister and solicitor or other person in the manner provided therefor in this Ordinance.

19. (1) If upon application by any person concerned, supported by affidavit, made to the Court, it appears prima facie that a barrister and solicitor has been guilty of

Notice and penalty.

- (a) professional misconduct or conduct unbecoming a barrister and solicitor;
- (b) such misconduct as would in England be sufficient to bring a solicitor under the punitive powers of the Supreme Court of Judicature; or
- (c) a breach of any 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 charges and at the time and place appointed by such notice shall hear the complainant and the barrister and solicitor and any evidence adduced by them or either of them.

(2) If the Court finds the complaint well founded it shall direct that the name of such barrister and solicitor be struck off the Roll or shall suspend him from practising for such period as may be considered proper or make such other order as is just.

Notice may be given to Legal Adviser.

20. (1) The Court may order that notice of any application made under section 19 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 and the person or persons so notified may appear in person or by barrister and solicitor on such application.

(2) The conduct of an application made under section 19 may be entrusted by the Court to the Legal Adviser.

Name suppressed.

21. In any application made to the Court under the provisions of sections 14, 17 and 18, 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.

Certificate to Secretary where name struck off Roll.

22. Whenever any barrister and solicitor is struck off the Roll or suspended from practising the Clerk of the Court shall certify the same under his hand and seal of the Court to the Secretary who shall file such certificate and shall make a note opposite the name of the person on the Roll of his having been struck off the same or suspended, and in the case of suspension of the time of such suspension.

Application and procedure to restore name.

23. (1) The Court may, on application made for that purpose, and when in the opinion of the Court the subsequent conduct of the barrister and solicitor and 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 Secretary, who shall file such certificate and make a note opposite the name of such person on the Roll of his having been restored thereto.

(2) Notice of such application shall be given to the Secretary, the Legal Adviser and such other person or persons as the Court or a judge upon *ex parte* application directs and the persons so notified may appear in person or by barrister and solicitor and oppose or consent to the application.

(3) Before being entitled to be restored to the Roll under this section the person whose name is sought to be restored

shall pay all arrears of fees due by him to the Territorial Treasurer including the fees for the period which has elapsed since he was struck off the Roll.

24. Whenever a person being an articulated clerk is found by the Court or a judge, after due enquiry, to have been, either before or after the coming into force of this Ordinance, guilty of professional misconduct or conduct unbecoming an articulated clerk or of having contravened any of the provisions of this Ordinance or any of the provisions of *The Legal Profession Ordinance*, Chapter 50 of the Consolidated Ordinances of the Yukon Territory, 1914, it shall be lawful for the Court or judge to strike the name of such clerk from the Roll of Articled Clerks.

Misconduct
of articulated
clerks.

25. The Legal Adviser may institute or authorize the institution of any proceedings under this Ordinance for any breach of its provisions.

Legal
Adviser's
power to
institute
proceedings.

SCHEDULE.

FORM A.

REGISTRATION CERTIFICATE.

(Section 5)

To All To Whom These Presents Shall Come or Whom
The Same May In Anywise Concern

Greeting:

Know Ye that, of.....,
in the, Barrister-at-law and
member of the Bar of, has qualified
to be named on the Barristers and Solicitors Roll for the Yukon
Territory pursuant to the *Legal Profession Ordinance*, and that,
pursuant to and under the authority of the said Ordinance, the
saidis entitled to be enrolled
as a Barrister and Solicitor in the Yukon Territory.

Given under my hand and the Seal of the Territorial Court of
the Yukon Territory, at the City of Whitehorse, in the Yukon
Territory, thisday of
19.....

.....
Clerk of the Court.

(SEAL)

FORM B.

ANNUAL PRACTICE CERTIFICATE.

(Section 8)

No.

Yukon Territory.

This is to certify that of the of in the Yukon Territory, a duly enrolled Barrister and Solicitor of the Yukon Territory has paid a fee of \$30.00 as provided for by the Legal Profession Ordinance for a practising Barrister and Solicitor and is entitled to all the rights and privileges of a Barrister and Solicitor and to practise as a Barrister and Solicitor in the Yukon Territory for one year commencing on the first day of April, 19...., and ending on the thirty-first day of March, 19.... Dated at Whitehorse in the Yukon Territory, the day of, 19....

.....
Territorial Treasurer.

(SEAL)

FORM C.

ANNUAL NON-PRACTICE CERTIFICATE.

(Section 9)

Yukon Territory.

No.

This is to certify that of the of in the a duly enrolled Barrister and Solicitor of the Yukon Territory, has paid a fee of \$5.00 as provided for by the Legal Profession Ordinance for a non-practising Barrister and Solicitor and is entitled to all the rights and privileges of a Barrister and Solicitor of the Yukon Territory other than the right to practise law in the said Territory for one year commencing on the first day of April, 19...., and ending on the thirty-first day of March, 19....

Dated at Whitehorse in the Yukon Territory, the day of, 19....

.....
Territorial Treasurer.

(SEAL)

CHAPTER 65.

**AN ORDINANCE RESPECTING THE
LEGITIMATION OF CHILDREN.**

- Short Title. **1.** This Ordinance may be cited as the *Legitimation Ordinance*.
- Legitimation by subsequent marriage. **2.** (1) Where the parents of a child born out of lawful wedlock marry or have married one another after the birth of the child, whether the intermarriage takes place before or after the 29th day of March, 1954, the child shall, if living at the time of the intermarriage, be deemed for all purposes to be legitimate from the time of birth.
- Does not affect vested rights. (2) Nothing in this section affects any right, title or interest in or to property where the right, title or interest was vested in any person prior to the intermarriage.

CHAPTER 66.

AN ORDINANCE RESPECTING THE
LIMITATION OF ACTIONS.

SHORT TITLE.

1. This Ordinance may be cited as the *Limitation of Actions* Short Title.
Ordinance.

INTERPRETATION.

2. In this Ordinance, Definitions.
- (a) "action" means any civil proceeding; "Action."
 - (b) "assurance" means any transfer, deed or instrument, other than a will, by which land may be conveyed or transferred; "Assurance."
 - (c) "disability" means disability arising from infancy or unsoundness of mind; "Disability."
 - (d) "heirs" includes the persons entitled beneficially to the real estate of a deceased intestate; "Heirs."
 - (e) "land" includes all corporeal hereditaments, and any share or any freehold or leasehold estate or any interest in any of them; "Land."
 - (f) "mortgage" includes charge, "mortgagor" includes chargor, and "mortgagee" includes chargee; "Mortgage," "Mortgagor," "Mortgagee."
 - (g) "proceedings" includes action, entry, taking of possession, distress and sale proceedings under an order of a court or under a power of sale contained in a mortgage or conferred by Ordinance; "Proceedings."
 - (h) "rent" means a rent service or rent reserved upon a demise; and "Rent."
 - (i) "rent charge" includes all annuities and periodical sums of money charged upon or payable out of land. "Rent charge."

PART I.

LIMITATION PERIODS.

3. (1) The following actions shall be commenced within and not after the times respectively hereinafter mentioned: Periods of limitations.

- (a) actions for penalties imposed by any Ordinance brought by an informer suing for himself alone or for Her Majesty as well as for himself, or by any person authorized to sue for the same, not being the person aggrieved, within one year after the cause of action arose; Penal actions.

- Actions for penalties.** (b) actions for penalties, damages or sums of money in the nature of penalties given by any Ordinance to Her Majesty or the person aggrieved, or partly to one and partly to the other, within two years after the cause of action arose;
- Defamation.** (c) actions of defamation, whether libel or slander, within two years of the publication of the libel or the speaking of the slanderous words, or where special damage is the gist of the action, within two years after the occurrence of such damage;
- Trespass to person.** (d) actions for trespass to the person, assault, battery, wounding or other injury to the person, whether arising from an unlawful act or from negligence, or for false imprisonment, or for malicious prosecution or for seduction within two years after the cause of action arose;
- Trespass to property.** (e) actions for trespass or injury to real property or chattels, whether direct or indirect, and whether arising from an unlawful act or from negligence, or for the taking away, conversion or detention of chattels, within six years after the cause of action arose;
- Actions for money.** (f) actions for the recovery of money, except in respect of a debt charged upon land, whether recoverable as a debt or damages or otherwise, and whether on a recognizance, bond, covenant or other specialty or on a simple contract, express or implied, and actions for an account or for not accounting, within six years after the cause of action arose;
- Fraudulent misrepresentation.** (g) actions grounded on fraudulent misrepresentation, within six years from the discovery of the fraud;
- Mistake.** (h) actions grounded on accident, mistake or other equitable ground of relief not hereinbefore specially dealt with, within six years from the discovery of the cause of action;
- Judgments.** (i) actions on a judgment or order for the payment of money, within ten years after the cause of action thereon arose; and
- Other actions.** (j) any other action not in this Ordinance or any other Ordinance specially provided for, within six years after the cause of action arose.
- Exception.** (2) Nothing in this section extends to any action where the time for bringing the action is by an Ordinance specially limited.
- Concealed fraud.** 4. When the existence of a cause of action has been concealed by the fraud of the person setting up this Part or Part II as a defence, the cause of action shall be deemed to have arisen when the fraud was first known or discovered.
- Item in account.** 5. No claim in respect of an item in an account which arose more than six years before the commencement of the action is enforceable by action by reason only of some other claim in respect of another item in the same account having arisen within six years next before the commencement of the action.

DISABILITIES.

6. Where a person entitled to bring any action mentioned in paragraphs (c) to (i) inclusive of subsection (1) of section 3 is under disability at the time the cause of action arises, he may bring the action within the time limited by this Ordinance with respect to such action or at any time within two years after he first ceased to be under disability. Person under disability.

ACKNOWLEDGMENTS AND PART PAYMENT.

7. (1) Whenever any person who is, or would have been but for the effluxion of time, liable to an action for the recovery of money as a debt, or his agent in that behalf Subsequent acts.

(a) conditionally or unconditionally promises his credit or the agent of the creditor in writing signed by the debtor or his agent to pay the debt, Promises to pay.

(b) gives a written acknowledgment of the debt signed by the debtor or his agent to his creditor or the agent of the creditor, or Acknowledgments.

(c) makes a part payment on account of the principal debt or interest thereon, to his creditor or the agent of the creditor, Part payments.

an action to recover any such debt may be brought within six years from the date of the promise, acknowledgment or part payment, as the case may be, notwithstanding that the action would otherwise be barred under this Ordinance.

(2) A written acknowledgment of a debt or a part payment on account of the principal debt or interest thereon has full effect whether or not a promise to pay can be implied therefrom and whether or not it is accompanied by a refusal to pay. Effect of written acknowledgment.

8. Where there are two or more joint debtors, joint contractors, joint obligors or joint covenantors, or executors or administrators of any debtor, contractor, obligor or covenantor, no such joint debtor, joint contractor, joint obligor or joint covenantor, or executor or administrator shall lose the benefit of this Ordinance so as to be chargeable in respect or by reason only of any written acknowledgement or promise made and signed, or by reason of any payment of any principal or interest made, by any other or others of them. Joint contractors and covenantors.

9. In actions commenced against two or more such joint debtors, joint contractors, joint obligors or joint covenantors, or executors or administrators, if it appears at the trial or otherwise that the plaintiff, though barred by this Ordinance, as to one or more of such joint debtors, joint contractors, joint obligors or joint covenantors, or executors or administrators, is nevertheless entitled to recover against any other or others of the defendants by virtue of a new acknowledgment, promise or payment, judgment shall be given for the plaintiff as to the defendant or defendants against whom he is entitled to recover, and for the other defendant or defendants against the plaintiff. Recovery against those acknowledging.

Endorsements of payments insufficient.

10. No endorsement or memorandum of any payment written or made upon any promissory note, bill of exchange or other writing, by or on behalf of the person to whom the payment has been made, shall be deemed sufficient proof of the payment, so as to take the case out of the operation of this Ordinance.

Part applies to counter-claims.

11. This Part applies to any claim of the nature mentioned in this Part alleged by way of counterclaim or set-off on the part of any defendant.

PART II.

CHARGES ON LAND, LEGACIES, ETC.

Recovery of money charged on land.

12. (1) No proceedings shall be taken to recover any rent charge or any sum of money secured by any mortgage or otherwise charged upon or payable out of any land or rent charge or to recover any legacy, whether it is or is not charged upon land, or to recover the personal estate or any share of the personal estate of any person dying intestate and possessed by his personal representative, but within ten years next after a present right to recover the same accrued to some person capable of giving a discharge therefor, or a release thereof, unless prior to the expiry of such ten years some part of the rent charge, sum of money, legacy or estate or share or some interest thereon has been paid by a person bound or entitled to make a payment thereof or his agent in that behalf to a person entitled to receive the same or his agent, or some acknowledgment in writing of the right to such rent charge, sum of money, legacy, estate or share signed by any person so bound or entitled or his agent in that behalf has been given to a person entitled to receive the same or his agent, and in such case no action shall be brought but within ten years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one was made or given.

Reversion not in possession.

(2) In the case of a reversionary interest in land, no right to recover the sum of money charged thereon shall be deemed to accrue until the interest has fallen into possession.

Recovery of money payable on agreement of sale.

13. No proceedings shall be taken to recover any sum of money payable under an agreement for the sale of land but within ten years after a present right to recover the same accrued to some person entitled to receive the same, or capable of giving a release thereof, unless prior to the expiry of such ten years some part of the sum of money, or some interest thereon, has been paid by a person bound or entitled to make a payment thereof, or his agent in that behalf, to a person entitled to receive the same or his agent, or some acknowledgment in writing of the right to receive such sum of money signed by the person so bound or entitled, or his agent in that behalf,

has been given to a person entitled to receive the same or his agent, and in case no action shall be brought but within ten years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one was made or given.

14. (1) No arrears of rent, or of interest in respect of any sum of money to which section 12 or 13 applies or any damages in respect of such arrears shall be recovered by any proceedings, but within six years, next after a present right to recover the same accrued to some person capable of giving a discharge therefor or a release thereof unless, prior to the expiry of such six years, some part of the arrears has been paid by a person bound or entitled to make a payment thereof or his agent in that behalf to a person entitled to receive the same or his agent or some acknowledgment in writing of the right to the arrears signed by a person so bound or entitled or his agent in that behalf has been given to a person entitled to receive the arrears or his agent, and in such case no proceeding shall be taken but within six years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one was made or given.

Recovery of rent and interest charged on land.

(2) Subsection (1) does not apply to an action for redemption or similar proceedings brought by a mortgagor or by any person claiming under him.

Except redemption.

15. Where any prior mortgagee has been in possession of any land within one year next before an action is brought by any person entitled to a subsequent mortgage on the same land, the person entitled to the subsequent mortgage may recover in such action the arrears of interest which have become due during the whole time the prior mortgagee was in such possession or receipt, although that time may have exceeded such term of six years.

Recovery of prior mortgagee in possession.

16. (1) No action shall be brought to recover any sum of money or legacy charged upon or payable out of any land or rent charged, though secured by an express trust, or to recover any arrears of rent or of interest in respect of any sum of money or legacy so charged or payable or so secured, or any damages in respect of such arrears, except within the time which the same would be recoverable if there were not any such trust.

Recovery of sums secured by express trust.

(2) Subsection (1) does not operate so as to affect any claim of a *cestui que trust* against his trustee for property held on an express trust.

Saving.

PART III.

LAND.

RIGHT TO TAKE PROCEEDINGS.

Part subject to Land Titles Act.

17. This Part is subject to the provisions of the *Land Titles Act*.

Recovery of land.

18. No person shall take proceedings to recover any land but within ten years next after the time at which the right to do so first accrued to some person through whom he claims, hereinafter called "predecessor" or if such right did not accrue to a predecessor then within ten years next after the time at which such right first accrued to the person taking the proceedings, hereinafter called "claimant".

SPECIAL CASES.

Right accrues on dispossession.

19. Where the claimant or a predecessor has in respect of the estate or interest claimed been in possession of the land or in receipt of the profits thereof and has while entitled thereto been dispossessed or has been dispossessed or has discontinued such possession or receipt, the right to take proceedings to recover the land shall be deemed to have first accrued at the time of such dispossession or discontinuance of possession or at the last time at which any such profits were so received.

Right accrues on death of predecessor.

20. Where the claimant claims the estate or interest of a deceased predecessor who was in possession of the land or in receipt of the profit thereof in respect of the same estate or interest at the time of his death and was the last person entitled to such estate or interest who was in possession or receipt, the right to take proceedings to recover the land shall be deemed to have first accrued at the time of the death of the predecessor.

Right accrues according to assurance.

21. Where the claimant claims in respect of an estate or interest in possession, granted, appointed, or otherwise assured to him or a predecessor by a person being in respect of the same estate or interest in the possession of the land or in receipt of the profits thereof and no person entitled under the assurance has been in possession or receipt, the right to take proceedings to recover the land shall be deemed to have first accrued at the time at which the claimant or his predecessor became entitled to such possession or receipt by virtue of the assurance.

Right accrues on forfeiture.

22. Where the claimant or the predecessor becomes entitled by reason of forfeiture or breach of condition, then the right to take proceedings to recover the land shall be deemed to have first accrued whenever the forfeiture was incurred or the condition was broken.

FUTURE ESTATES.

23. Where the estate or interest claimed has been an estate or interest in reversion or remainder or other future estate or interest, including therein an executory devise and no person has obtained the possession of the land or is in receipt of the profits thereof in respect of the estate or interest, the right to take proceedings to recover the land shall be deemed to have first accrued at the time at which the estate or interest became an estate or interest in possession, by the determination of any estate or estates in respect of which the land has been held or the profits thereof have been received notwithstanding the claimant or the predecessor has at any time previously to the creation of the estate or estates that has determined been in the possession of the land or in receipt of the profits thereof.

When right
accrues as
to future
estate.

24. Where the person last entitled to any particular estate on which any future estate or interest was expectant was not in possession of the land or in receipt of the profits thereof at the time when his interest determined, no proceedings to recover the land shall be taken by any person becoming entitled in possession to a future estate or interest but within ten years next after the time when the right to take proceedings first accrued to the person whose interest has so determined, or within five years next after the time when the estate of the person becoming entitled in possession has become vested in possession, whichever of these two periods is the longer.

Further as
to future
estate.

25. Where the right to take proceedings to recover the land has been barred no proceedings shall be taken by any person afterwards claiming to be entitled to the same land in respect of any subsequent estate or interest under any will or assurance executed or taking effect after the time when a right to take proceedings first accrued to the owner of the particular estate whose interest has so determined.

Proceedings
barred,
proceedings
for
subsequent
interest
also barred.

26. When the right of any person to take proceedings to recover any land to which he may have been entitled for an estate or interest in possession entitling him to take proceedings has been barred by the determination of the period which is applicable, and such person has at any time during the said period been entitled to any other estate, interest, right or possibility in reversion, remainder or otherwise in or to the same land no proceedings shall be taken by him or any person claiming through him to recover the land in respect of such other estate, interest, right or possibility, unless in the meantime the land has been recovered by some person entitled to an estate, interest or right which has been limited or taken effect after or in defeasance of the estate or interest in possession.

Estate in
possession
barred,
future estate
also barred.

Where right of forfeiture not claimed.

27. When the right to take proceedings to recover any land first accrued to a claimant or a predecessor by reason of any forfeiture or breach of condition, in respect of an estate or interest in reversion or remainder and the land has not been recovered by virtue of such right, the right to take proceedings shall be deemed to have first accrued at the time when the estate or interest became an estate or interest in possession.

LANDLORD AND TENANT.

Rent wrongfully received right accrues on receipt.

28. Where a person is in possession of land, or in receipt of the profits thereof by virtue of a lease in writing, by which a rent amounting to the yearly sum or value of four dollars or upwards is reserved, and the rent reserved by the lease has been received by some person wrongfully claiming to be entitled to the land in reversion immediately expectant on the determination of the lease, and no payment in respect of the rent reserved by the lease has afterwards been made to the person rightfully entitled thereto, the right of the claimant or his predecessor to take proceedings to recover the land after the determination of the lease shall be deemed to have first accrued at the time at which the rent reserved by the lease was first so received by the person wrongfully claiming as aforesaid and no such right shall be deemed to have first accrued upon the determination of the lease to the person rightfully entitled.

Right accrues end of first year.

29. Where a person is in possession of land or in receipt of the profits thereof as a tenant from year to year, or other period, without a lease in writing, the right of the claimant or his predecessor to take proceedings to recover the land shall be deemed to have first accrued at the determination of the first of such years or other periods, or at the last time, prior to his right to take proceedings being barred under any other provisions of this Ordinance, when any rent payable in respect of such tenancy was received by the claimant or his predecessor or the agent of either whichever last happens.

Right accrues tenancy at will.

30. (1) Where any person is in possession of any land or in receipt of the profits thereof as tenant at will, the right of the claimant or his predecessor to take proceedings to recover the land shall be deemed to have first accrued either at the determination of the tenancy or at the expiration of one year next after its commencement, at which time, if the tenant was then in possession, the tenancy shall be deemed to have been determined.

Exception.

(2) No mortgagor or *cestui que trust* under an express trust shall be deemed to be a tenant at will to his mortgagee or trustee within the meaning of this section.

Time not to run while fraud concealed.

31. (1) In every case of concealed fraud by the person setting up this Part as a defence, or by some other person through whom such first mentioned person claims, the right of any person to bring an action for the recovery of land of which he or

any person through whom he claims may have been deprived by such fraud shall be deemed to have first accrued at and not before the time at which such fraud was or with reasonable diligence might have been first known or discovered.

(2) Nothing in subsection (1) enables an owner of land to bring an action for the recovery of such land, or for setting aside a conveyance thereof, on account of fraud against a purchaser in good faith for valuable consideration, who has not assisted in the commission of such fraud, and who, at the time that he made the purchase, did not know, and had no reason to believe, that any such fraud had been committed. Saving purchaser.

32. When an acknowledgment in writing of the title of a person entitled to any land signed by the person in possession of the land or in receipt of the profits thereof or his agent in that behalf has been given to him or his agent prior to his right to take proceedings to recover the land having been barred under the provisions of this Ordinance, then the possession or receipt of or by the person by whom the acknowledgment was given shall be deemed, according to the meaning of this Ordinance, to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment was given at the time of giving the same, and the right of the last mentioned person, or of any person claiming through him, to take proceedings shall be deemed to have first accrued at and not before the time at which the acknowledgment, or at the last of the acknowledgments, if more than one, was given. Acknowledgment equivalent to possession.

PART IV.

MORTGAGES OF REAL AND PERSONAL PROPERTY.

REDEMPTION.

33. (1) When a mortgagee or a person claiming through a mortgagee has obtained the possession of any property real or personal comprised in a mortgage or is in receipt of the profits of any land therein comprised the mortgagor or any person claiming through him shall not bring any action to redeem the mortgage but within ten years next after the time at which the mortgagee or a person claiming through the mortgagee obtained such possession or first received any such profits unless prior to the expiry of such ten years an acknowledgment in writing of the title of the mortgagor or of his right to redeem is given to the mortgagor or some person claiming his estate or interest or to the agent of such mortgagor or person signed by the mortgagee or the person claiming through him or the agent in that behalf of either of them; in that case, the action shall not be brought but within ten years next after the time at which the acknowledgment or the last of the acknowledgments, if more than one, was given. Where mortgagee in possession barred.

More than one mortgagor.

(2) Where there is more than one mortgagor or more than one person claiming through the mortgagor or mortgagors the acknowledgment, if given to any of the mortgagors or persons or his or their agent, shall be as effectual as if the same had been given to all the mortgagors or persons.

Acknowledgments to one where more than one mortgagee.

(3) Where there is more than one mortgagee or more than one person claiming the estate or interest of the mortgagee or mortgagees, an acknowledgment signed by one or more of such mortgagees or person or his or their agent in that behalf shall be effectual only as against the party or parties signing as aforesaid, and the person or persons claiming any part of the mortgage money or property by, through or under him or them, and any person or persons entitled to any estate or estates, interest or interests, to take effect after or in defeasance of his or their estate or estates, interest or interests and shall not operate to give to the mortgagor or mortgagors a right to redeem the mortgage as against the person or persons entitled to any undivided or divided part of the money or property.

Where property divided.

(4) Where such of the mortgagees or persons mentioned in this section as have given such acknowledgment are entitled to a divided part of the property comprised in the mortgage or some estate or interest therein, and not to any ascertained part of the mortgage money, the mortgagor or mortgagors are entitled to redeem the same divided part of the property on payment with interest of the part of the mortgage money which bears the same proportion to the whole of the mortgage money as the value of the divided part of the property bears to the value of the whole of the property comprised in the mortgage.

FORECLOSURE OR SALE.

Foreclosure or sale.

34. No mortgagee or person claiming through a mortgagee shall take proceedings for foreclosure or sale under a mortgage of real or personal property or to recover the property mortgaged but within ten years next after the right to take the proceedings first accrued to the mortgagee, or if the right did not accrue to the mortgagee, then within ten years after the right first accrued to a person claiming through the mortgagee.

Payment or acknowledgment by person bound or entitled.

35. When any person bound or entitled to make payment of the principal money or interest secured by a mortgage of property real or personal or his agent in that behalf, at any time prior to the expiry of ten years from the accrual of the right to take proceedings for foreclosure or sale or to take proceedings to recover the property, pays any part of such money or interest to a person entitled to receive the same, or his agent, the right to take proceedings shall be deemed to have first accrued at and not before the time at which the payment of the last of the payments, if more than one, was made, or if any acknowledgment of the nature described in section 32 was given at any time prior to the expiry of ten years from the accrual of the

right to take proceedings, then at the time at which the acknowledgment or the last of the acknowledgments, if more than one, was given.

PART V.

AGREEMENTS FOR THE SALE OF LAND.

36. (1) No purchaser of land, or any person claiming through him, shall bring any action in respect of the agreement for the sale thereof but within ten years after the right to bring the action first accrued to the purchaser, or if the right did not accrue to the purchaser, then within ten years after the right first accrued to a person claiming through the purchaser. Purchaser of land.

(2) When any person bound or entitled to make payment of the purchase money, or his agent in that behalf, at any time prior to the expiry of ten years from the accrual of the right to bring the action pays any part of the money payable under the agreement of sale to a person entitled to receive the same or his agent, or if any acknowledgment in writing of the right of the purchaser or person claiming through him to the land, or to make such payments, was given prior to the expiry of such ten years to the purchaser or person claiming through him, or to the agent of such purchaser or person, signed by the vendor or the person claiming through him or the agent in that behalf of either of them, then the right to take proceedings shall be deemed to have first accrued at the time at which the payment or the last of the payments, if more than one, was made, or the time at which the acknowledgment or the last of the acknowledgments, if more than one, was given. Purchaser's rights accrue.

37. No vendor of land or person claiming through him shall take proceedings for cancellation, determination or rescission of the agreement for the sale of the land, or for foreclosure or sale thereunder or to recover the land, but within ten years after the right to take the proceedings first accrued to the vendor, or if the right did not accrue to the vendor, then within ten years after the right first accrued to a person claiming through the vendor. Vendor of land.

38. When any person bound or entitled to make payment of the purchase money or his agent in that behalf, at any time prior to the expiry of ten years from the accrual of the right to take proceedings mentioned in section 37, pays any part of the money payable under the agreement of sale to a person entitled to receive the same, or his agent, or if, at any time prior to the expiry of such ten years, any acknowledgment in writing of the right of the vendor or person claiming through him to the land or to receive the payment, was given to the vendor or person claiming through him, or to the agent of such vendor or person, signed by the purchaser or the person claiming through Vendor's rights accrue.

him or the agent in that behalf of either of them, then the right to take proceedings shall be deemed to have first accrued at, and not before, the time at which the payment or last of the payments, if more than one, was made, or the time at which the acknowledgment, or last of the acknowledgments, if more than one was given.

PART VI.

CONDITIONAL SALES OF GOODS.

- Definitions. **39.** In this Part,
- "Buyer." (a) "buyer" means the person who buys or hires goods by a conditional sale;
- "Conditional sale." (b) "conditional sale" means
- (i) any contract for the sale of goods under which possession is or is to be delivered to the buyer and the property in the goods is to vest in him at a subsequent time upon payment of the whole or part of the price or the performance of any other condition; or
- (ii) any contract for the hiring of goods by which it is agreed that the hirer shall become, or have the option of becoming, the owner of the goods upon full compliance with the terms of the contract;
- "Goods." (c) "goods" means all chattels personal other than things in action or money, and includes emblements, 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; and
- "Seller." (d) "seller" means the person who sells or lets to hire goods by a conditional sale.
- Seller's rights. **40.** No seller shall take proceedings for the sale of or to recover any goods the subject of a conditional sale but within ten years after the right to take the proceedings first accrued to the seller or, if the right did not accrue to the seller, then within ten years after the right first accrued to a person claiming through him.
- When rights accrue. **41.** When any person bound or entitled to make payment of the price, or his agent in that behalf, at any time prior to the expiry of ten years from the accrual of the right to take the proceedings pays any part of the price or interest to a person entitled to receive the same, or his agent, or if at any time prior to the expiry of such ten years, any acknowledgment in writing of the right of the seller or person claiming through him to the goods or to receive the payment was given to the seller or person claiming through him, or the agent in that behalf of either of them, then the right to take proceedings shall be deemed to

have first accrued at and not before the time at which the payment or last of the payments, if more than one, was made, or the time at which the acknowledgment or last of the acknowledgments, if more than one was given.

PART VII.

GENERAL.

42. (1) No person shall be deemed to have been in possession of land, within the meaning of this Ordinance, merely by reason of having made an entry thereon. Entry not possession.

(2) No continual or other claim upon or near any land shall preserve any right of making an entry or distress or bringing an action. Claim not to preserve right.

(3) The receipt of the rent payable by a tenant at will, tenant from year to year or other lessee, shall as against such lessee or any person claiming under him, subject to the lease, be deemed to be the receipt of the profits of the land for the purposes of this Ordinance. Receipt of rent. Receipt of profits.

43. At the determination of the period limited by this Ordinance, to any person for taking proceedings to recover any land, rent charge or money charged on land, the right and title of such person to the land, or rent charge or the recovery of the money out of the land shall be extinguished. Expiry of right of action terminates title.

44. For the purpose of Parts II, III and IV, an administrator claiming the estate or interest of the deceased person of whose property he has been appointed administrator, shall be deemed to claim as if there had been no interval of time between the death of such deceased person and the grant of the letters of administration. Administration deemed claimant from death of deceased.

45. (1) When at the time at which the right to take any proceedings referred to in Part II, III or IV first accrued to any person who was under disability, such person or a person claiming through him may, notwithstanding anything in this Ordinance, take proceedings at anytime within six years after the person to whom the right first accrued first ceased to be under disability or died, whichever event first happened, except that if he died without ceasing to be under disability, no further time to take proceedings shall be allowed by reason of the disability of any other person. Persons under disability.

(2) Notwithstanding anything in this section, no proceedings shall be taken by a person under disability at the time the right to do so first accrued to him or by any person claiming through him, but within thirty years next after that time. Ultimate limit.

Return to Territory.

46. In respect of a cause of action as to which the time for taking proceedings is limited by this Ordinance other than those mentioned in paragraphs (a) and (b) of subsection (1) of section 3, if a person is out of the Territory at the time a cause of action against him arises within the Territory, the person entitled to the action may bring the same within two years after the return of the first mentioned person to the Territory or within the time otherwise limited by this Ordinance for bringing the action.

Joint debtors within Territory not affected.

47. (1) Where a person has a cause of action against joint debtors, joint contractors, joint obligors or joint covenantors, he shall not be entitled to any time within which to commence such action against such of them as were within the Territory at the time the cause of action accrued by reason only that one or more of them was at such time out of the Territory.

Joint debtors outside Territory not released by action.

(2) A person having such cause of action is not barred from commencing an action against a joint debtor, joint contractor, joint obligor or joint covenantor who was out of the Territory at the time the cause of action accrued, after his return to the Territory by reason only that judgment has been already recovered against such of the joint debtors, joint contractors, joint obligors or joint covenantors as were at such time within the Territory.

Application of Ordinance.

48. This Ordinance applies to all causes of action whether the same arose before or after the coming into force of this Ordinance, but no action shall be barred merely by its operation until the expiry of six months from the 20th day of November, 1954; but all actions that would have been barred by effluxion of time during such six months under the provisions of the law existing immediately prior to the 20th day of November, 1954, shall be barred as if such law were still existing.

No right to use of light by prescription.

49. No right to the access and use of light or any other easement, right in gross or profit *a prendre* shall be acquired by any person by prescription and no such right shall be deemed to have been so acquired prior to the 20th day of November, 1954.

Refusing relief in acquiescence.

50. Nothing in this Ordinance shall be construed to interfere with any rule of equity in refusing relief on the ground of acquiescence, or otherwise, to any person whose right to bring an action is not barred by virtue of this Ordinance.

CHAPTER 67.

AN ORDINANCE TO PROVIDE FOR GOVERNMENT
CONTROL AND SALE OF ALCOHOLIC
LIQUORS.

SHORT TITLE.

1. This Ordinance may be cited as the *Liquor Ordinance*. Short Title.

INTERPRETATION.

2. (1) In this Ordinance, Definitions.
- (a) "beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt, hops or any similar product in drinkable water; "Beer."
- (b) "club" means any benevolent or fraternal order or society or branch thereof and any association of individuals for purposes of mutual entertainment and convenience incorporated by or under the laws of Canada or any provincial or territorial laws, and includes a branch of the Canadian Legion of the British Empire Service League, and the premises used or occupied by any such club; "Club."
- (c) "club member" means an adult person who is fully accredited as a member of a club and maintains his membership therein in the manner provided by the by-laws of such club; "Club member."
- (d) "cocktail lounge" means a room in licensed premises equipped with such facilities as are approved by the Commissioner for the sale of liquor, fruit juices and soft drinks, separately or in combination; "Cocktail lounge."
- (e) "election" means any election of a member of the House of Commons of Canada, the Council of the Yukon Territory or the council of a municipality; "Election."
- (f) "hotel" means any place where the public, for a consideration, may obtain sleeping accommodation, with or without meals; "Hotel."
- (g) "inspector" means a person appointed as an inspector under this Ordinance; "Inspector."
- (h) "interdicted person" means a person to whom the sale of liquor is prohibited by order under this Ordinance; "Interdicted person."
- (i) "licence" means a subsisting licence granted under this Ordinance; "Licence."
- (j) "licensed premises" means the premises in respect of which a licence has been granted and includes any building or other place belonging or appertaining to such premises; "Licensed premises."

- "Licensee." (k) "licensee" means any person named as a licensee in a licence;
- "Liquor." (l) "liquor" includes alcohol, alcoholic, spirituous, vinous, fermented malt or other intoxicating liquor, or a combination or mixture thereof, or a mixed drink part of which is fermented, spirituous, vinous, or otherwise intoxicating and any other drink, drinkable liquid, preparation or mixture that is capable of human consumption and is intoxicating;
- "Liquor store." (m) "liquor store" means a government liquor store established under this Ordinance;
- "Municipality." (n) "municipality" means a municipality as defined by the *Municipal Ordinance*;
- "Package." (o) "package" means any container, bottle, vessel or other receptacle used for holding liquor;
- "Prescribed." (p) "prescribed" means prescribed by regulation of the Commissioner under this Ordinance;
- "Public place." (q) "public place" includes
 (i) a place or building to which the public has or is permitted to have access,
 (ii) a place of public resort, and
 (iii) any conveyance in a public place;
- "Sell." (r) "sell" includes exchange, barter or traffic and the selling, supplying or distribution by any means of liquor by any partnership, or by any society, association or club, whether incorporated or unincorporated, to any member of such partnership, society, association or club;
- "Spirits." (s) "spirits" means any beverage that contains alcohol obtained by distillation, mixed with drinkable water and other substances in solution, and includes brandy, rum, whiskey, gin and vodka;
- "Superintendent." (t) "Superintendent" means the Superintendent of Liquor Control appointed under this Ordinance;
- "Tavern." (u) "tavern" means a specified room or rooms in an hotel where beer only may be sold and consumed;
- "Vehicle." (v) "vehicle" means any means of transportation by land, water or air, and includes any motor car, automobile, truck, tractor, aeroplane, vessel, boat, launch, canoe or any other thing made use of in any way for such transportation;
- "Vendor." (w) "vendor" means a person appointed as a vendor under this Ordinance; and
- "Wine." (x) "wine" means any liquor obtained by the fermentation of the natural sugar contents of fruit, including grapes, apples, berries or any other agricultural product containing sugar including honey and milk.

(2) For the purpose of paragraph (1) of subsection (1), any liquor that contains more than two and one-half per cent by volume at 60 degrees Fahrenheit of absolute alcohol shall be deemed to be intoxicating. Alcohol content.

POWERS OF COMMISSIONER.

3. The Commissioner may Powers of Commissioner.

- (a) establish, maintain and provide for the construction, acquisition or leasing of premises for liquor stores and warehouses;
- (b) fix the prices at which the various classes, varieties and brands of liquor may be sold at liquor stores; and
- (c) prescribe the nature of seals to be used on containers of liquor other than beer, purchased and kept for sale under this Ordinance.

4. (1) The Commissioner may appoint Appointment.

- (a) a Superintendent of Liquor Control;
- (b) such vendors as are necessary for the sale of liquor at liquor stores;
- (c) such inspectors as are necessary for the enforcement of the provisions of this Ordinance; and
- (d) such other persons as he deems necessary for the administration of this Ordinance.

(2) The Commissioner may prescribe the duties of the persons appointed under subsection (1) and fix their remuneration. Duties and remuneration.

POWERS OF SUPERINTENDENT.

5. The Commissioner or the Superintendent with the approval of the Commissioner may Powers of Superintendent.

- (a) determine the nature, form and capacity of the containers to be used for containing liquor kept for sale and sold under this Ordinance;
- (b) determine the classes, varieties and brands of liquor to be kept for sale in liquor stores;
- (c) purchase, have in his possession and under his control for sale and sell liquor in the manner set forth in this Ordinance;
- (d) control the possession, sale, consumption, transportation and delivery of liquor in accordance with the provisions of this Ordinance;
- (e) provide for the keeping in and delivery of liquor to or from any liquor store or warehouse established under this Ordinance; and procuring of all furniture, fixtures and supplies;
- (f) subject to this Ordinance, prescribe the days and hours at which any liquor store shall be kept open for the sale of liquor; and

- (g) issue and distribute price lists showing the price fixed by the Commissioner to be paid for each class, variety or brand of liquor kept for sale in liquor stores.

DUTIES OF VENDOR.

Duties of vendor.

6. (1) The sale of liquor at each liquor store shall be conducted by an employee to be called the vendor.

(2) The vendor, under the supervision of the Superintendent, is responsible for the proper observance of this Ordinance and the regulations in so far as they relate to the conduct of the liquor store and the sale of liquor thereat.

Sale and delivery of liquor at liquor stores.

7. (1) All liquor shall be sold and delivered in sealed packages in the manner prescribed by the regulations, and any package that is not so sealed shall, in any prosecution for a violation of this Ordinance, be deemed, prima facie, to have been opened since it was purchased from a vendor.

Bottled beer.

(2) Every bottle of beer shall be sealed with a cap on which shall be stamped or printed the name of the manufacturer of the beer or some trade mark, trade name or other distinguishing mark, design or colour by which the beer is known and recognized.

Persons entitled to purchase liquor at liquor stores.

8. (1) Every person except

- (a) a person under the age of twenty-one years;
- (b) an interdicted person; and
- (c) a person under the apparent influence of liquor;

is entitled to purchase liquor from a liquor store or from a licensee and to possess and use the same in accordance with this Ordinance and the regulations.

(2) Notwithstanding subsection (1), no person who is an Indian as defined in the *Indian Act* is entitled to purchase liquor from a liquor store.

(3) A vendor may sell to any person such liquor as that person is entitled to purchase under this Ordinance and the regulations.

(4) A vendor may accept from a person entitled to purchase liquor who is a resident outside the boundaries of a municipality, a written order for the purchase of such liquor as that person is entitled to purchase under this Ordinance and the regulations, without requiring the personal appearance of that person; but the order shall be accompanied by evidence establishing the identity of such person to the satisfaction of the vendor and payment in the form of cash, certified cheque, money order or postal note of such amount as will cover the cost of liquor ordered together with the express or postal delivery charges of the shipment, and the vendor may make delivery of such liquor at the sole risk of the purchaser to the person presenting the order or in a prepaid package consigned to the purchaser at the address set out in his order, or to the nearest postal or express office.

9. Except as otherwise provided in this Ordinance, no sale or delivery of any liquor shall be made on or from the premises of any liquor store, nor shall any liquor store be open for the sale of liquor Periods during which liquor may be sold at liquor stores.

- (a) during a longer period than nine hours in any twenty-four hours or after the hour of seven o'clock in the afternoon of any day;
- (b) on Sunday or any legal holiday;
- (c) on any day on which polling takes place at any election or plebiscite held in the electoral district in which the liquor store is situated; or
- (d) during such other periods or on such other days as the regulations may provide.

10. No vendor and no person acting as the clerk or servant or in any capacity for any vendor, shall sell liquor in any place or at any time except as authorized by this Ordinance and the regulations. Prohibition.

BANQUET PERMITS.

11. (1) In this section, the word "banquet" includes dinner or luncheon. "Banquet" defined.

(2) Upon receipt by a vendor of an application in prescribed form and the fee set out in the Schedule by Banquet permits.

- (a) any person in charge of a banquet, or
- (b) an officer acting on behalf of any corporation or recognized society, association, club or other duly constituted organization, whether incorporated or not,

the vendor may, subject to such regulations as may be made by the Commissioner in that behalf, grant a permit in prescribed form to purchase liquor from a liquor store and serve and sell such liquor at the banquet mentioned in the permit.

(3) Any application made under subsection (2) shall be signed by the applicant.

(4) A vendor may refuse to issue a banquet permit to any applicant where he considers it in the public interest to do so but shall report the circumstances to the Superintendent whenever he refuses to issue a permit.

(5) The place where the banquet is to be held shall be sufficient to accommodate the number of guests mentioned in the application for a permit.

(6) No banquet permit shall be issued for the holding of a banquet in a cocktail lounge or a tavern.

(7) The quantity and kinds of liquor to be purchased and served under a banquet permit shall not exceed eight ounces of spirits, one pint of wine or six pints of beer for each person attending the banquet.

(8) The holder of a banquet permit shall be responsible for the lawful use of such permit.

(9) The holder of a banquet permit shall, upon the request of any peace officer or inspector, admit such peace officer or inspector to the hall or room where the banquet is being held for the purpose of inspecting the same and otherwise carrying out his duties.

(10) A banquet permit issued under this section shall be retained in the room where the banquet is held and shall be available to any peace officer or inspector wishing to examine it.

(11) No person shall be violent, quarrelsome, riotous or disorderly at a banquet.

(12) No banquet at which liquor is served shall be held in any room in which meals are being served to the public at the same time that the banquet is being held.

(13) Every person who makes an application for a permit under this section on behalf of any fictitious organization or who makes application for any purpose contrary to this section, or uses any fictitious name in making application, is guilty of an offence.

(14) Every holder of a permit granted under this section who uses it or permits it to be used in any manner contrary to this section is guilty of an offence.

LICENCES.

Licences.

12. (1) Subject to this Ordinance, the Commissioner may grant to any person

- (a) a beer licence in respect of a tavern, club or canteen; and
- (b) a liquor licence in respect of a cocktail lounge, club, steamship or canteen.

(2) Every licence granted under subsection (1) shall be in prescribed form and shall be signed by the Commissioner.

Possession of liquor by holder.

13. The holder of a licence granted under this Ordinance may possess, use and sell beer or liquor, as the case may be, in accordance with this Ordinance, the regulations and the terms and conditions of the licence.

Tenure of licences.

14. (1) Subject to subsection (2), every licence expires at midnight on the 31st day of March next following the day on which the licence comes into force.

(2) A licence that contains an express provision respecting its expiry shall expire in accordance with such provision.

(3) No licence is transferable.

(4) A licensee may voluntarily surrender his licence for cancellation.

Suspension or cancellation of licences.

15. (1) The Commissioner may suspend or cancel any licence granted under this Ordinance.

(2) Where a licence is suspended or cancelled under subsection (1), all rights and privileges of the person named in the licence conferred by or under this Ordinance are suspended or determined, as the case may be.

(3) Unless the order of suspension otherwise provides, every suspension of a licence by the Commissioner shall be for an indefinite period of time and may be terminated only by further order of the Commissioner.

(4) On receipt of a notice of suspension or cancellation of his licence, the holder of the licence, shall, if so required by the notice, deliver to the Commissioner all liquor in his possession or under his control.

(5) Where liquor is delivered by the holder of a licence pursuant to subsection (4), the Commissioner may, in his discretion, purchase the liquor at a price to be fixed by him if the liquor was lawfully in the possession of the licensee prior to the cancellation or suspension of his licence under this Ordinance.

(6) Where a person to whom a notice under subsection (4) is given fails to deliver up the liquor then in his possession, the Commissioner or person authorized by him may seize the liquor and dispose of it as the Commissioner directs.

(7) Except as otherwise provided in this Ordinance, any person whose licence has been cancelled or suspended, may, at any time within one month after the cancellation or suspension, apply to the Commissioner for reconsideration of his case, which application shall be heard and determined by the Commissioner in public session.

(8) Where a hearing is held pursuant to subsection (7) and it is determined by the Commissioner to reinstate a cancelled licence, the Commissioner may issue to the applicant a new licence whether or not the formalities required by this Ordinance to be observed by any applicant for a licence have been observed by such applicant.

16. (1) Every licence for the sale of liquor shall be held to be a licence only to the person therein named and for the premises therein mentioned, and is valid only as long as the person continues to be the true owner or lessee of the business there carried on. Validity of licences.

(2) Where a licensee dies or sells or otherwise assigns his business or becomes dispossessed of it by bankruptcy or by operation of law, then, subject to subsections (3) and (4), the licence *ipso facto* becomes void and shall be forfeited to the Commissioner.

(3) The Commissioner may, in a case to which subsection (2) applies and if it seems to him proper, grant an interim licence in respect of such premises to any person who appears to be entitled to the benefit thereof, as personal representative of the deceased licensee or as an assignee or a trustee in bankruptcy or otherwise by operation of law; but the interim licence shall not extend beyond the period of two months from the Interim licences.

happening of the event from which the forfeiture of the licence would result, and the person to whom it is granted has all the privileges and is subject to all the liabilities of a licensee under the Ordinance.

(4) Subject to subsection (5), a person who is granted an interim licence pursuant to subsection (3) may, within a period of two months, apply to the Commissioner for a licence in respect of the premises; and the like proceedings shall be had and taken for the hearing and consideration of the application by the Commissioner as are provided in this Ordinance in the case of an application for a licence for the first time.

(5) When a licence becomes void through the death of the licensee, the Commissioner, pending the consideration of the application for the new licence, may issue to the personal representative of the deceased licensee an interim licence for such period additional to the two months provided in subsection (3) as the Commissioner may in writing permit.

Where licensee a corporation.

17. Where any licence under this Ordinance is issued to a corporation anything required by this Ordinance to be done by any person as licensee, whether before or after the granting of a licence, may be done in the name of the corporation, by the officer or agent of the corporation in charge of the particular premises for which the licence is to be or has been granted.

Public servants.

18. No licence shall be granted to or for the benefit of a person who is appointed under section 4 and no licence shall be granted in respect of any premises the owner or part owner of which, or of any interest therein, is such an appointee; and every inspector who knowingly recommends the issue, or is a party to the issue, of a licence in any such case is guilty of an offence.

PRELIMINARIES TO GRANTING OF LICENCES.

Conditions precedent to granting of licences.

19. (1) No beer or liquor licence in respect of a tavern, cocktail lounge or club shall be granted to any person unless

- (a) he is, in the opinion of the Commissioner, a fit person to keep and operate the kind of premises in respect of which a licence is sought;
- (b) he is the true owner, or a lessee having a written lease for not less than one year, of the business carried on by him in the premises;
- (c) the premises in respect of which he applies for a licence conform to the requirements of the Ordinance relating thereto, are so constructed as to be sanitary and otherwise suitable for the carrying on of the business in a reputable way and have been inspected and approved as such by an inspector; and
- (d) subject to subsection (2), public notice of the making of an application has been given by the applicant by publication for three successive weeks in the *Yukon Gazette*

in the prescribed form at or about the time of the making of the application but prior to the hearing of the application.

(2) Where application is made for renewal of a licence, it is not necessary for the applicant to give notice of his application by publication in the *Yukon Gazette*. Renewal of licences.

20. (1) Every applicant for a licence in respect of a tavern, cocktail lounge or club shall make his application to the Commissioner on the prescribed form and shall provide Application for licence.

- (a) an affidavit in the prescribed form;
- (b) a detailed sketch of the premises showing the rooms, services, buildings, construction material and other pertinent information;
- (c) such other requirements as the Commissioner may prescribe; and
- (d) the fee set out in the Schedule hereto.

(2) For the purpose of considering an application for a licence under subsection (1), the Commissioner may cause an inspection to be made of the premises and any other investigation the Commissioner thinks necessary.

21. (1) Where an objection to the issuance of a licence is stated in the manner hereinafter provided the Commissioner may set a date for the hearing of the application for the licence. Hearing of application.

(2) Upon the hearing of an application for a licence no objection to the granting of such licence shall be heard unless

- (a) the objection and reasons therefor are stated in writing signed by the person objecting;
- (b) the objection and reasons therefor are deposited with the Commissioner; and
- (c) a copy of such objections and reasons therefor are served upon the applicant at least seven clear days before the date of the hearing.

(3) At the time and place so fixed for the hearing, the Commissioner may conduct the hearing in such manner as he deems fit and for that purpose may subpoena, call and pay witnesses and take evidence on oath.

(4) The hearing of an application for a licence shall be open to the public.

(5) Every applicant shall be personally present at the hearing of his application, unless he is absent for a reason satisfactory to the Commissioner.

22. (1) On every application for a licence, and whether any objection has been filed or not and whether a formal hearing has been necessary or not, the Commissioner shall satisfy himself that there has been compliance with the requirements of this Ordinance preliminary to the granting of a licence. Issue of licences.

(2) Where the requirements of this Ordinance have been complied with, but not otherwise, the Commissioner shall proceed to consider the application and the objections thereto, if any, and all matters concerning it, and to ascertain whether all the requirements of this Ordinance have been complied with, and to take notice of any defect therein, whether objection respecting it is filed or not, and whether any person has raised it or not, and to take evidence of witnesses on oath in respect thereof if he deems the evidence necessary or proper.

(3) Upon receipt of the fee set forth in the Schedule and upon being satisfied that all the requirements of this Ordinance have been complied with and that the premises are suitable and in accordance with this Ordinance to become a licensed premises and that the applicant is a fit and proper person to be licensed, the Commissioner may grant the licence for which application has been made.

(4) Notwithstanding anything herein, the Commissioner may grant an interim licence pending the completion of his requirements respecting alterations in an hotel, or during his final consideration for an application for a licence by any person for the first time, but the term of the licence shall not exceed sixty days.

Serving of
beer with
meals.

23. (1) Where a restaurant is maintained under the same roof in licensed premises situate beyond the boundaries of any municipality, the Commissioner may, upon application therefor, give permission to the licensee and the licensee may serve not more than two bottles of beer in the restaurant with dinner to any person consuming such dinner between the hours of eleven o'clock in the forenoon and twelve o'clock midnight except on the days set out in paragraph (b) of subsection (2) of section 31.

(2) An application for permission to serve beer with meals shall be in writing signed by the licensee and accompanied by the fee therefor set out in the Schedule and, if granted, an endorsement to this effect shall be made upon the licence.

Cocktail
lounge liquor
licences.

24. No liquor licence in respect of a cocktail lounge shall be granted except to an hotel that has at least fifteen rooms that are furnished and maintained as sleeping quarters for the accommodation of the travelling public in a manner approved by the Commissioner and that is deemed by the Commissioner to be otherwise adequately equipped for such accommodation.

Tavern beer
licences.

25. (1) No beer licence in respect of a tavern shall be granted except to an hotel that has both before and after licensing not less than five bedrooms in a municipality or settlement having a population of less than five hundred persons, and ten bedrooms in a municipality or settlement having a population of more than five hundred persons.

(2) Subject to subsection (1), the Commissioner may grant a licence in respect of a tavern having two rooms, one of which shall be for the exclusive use of ladies and ladies accompanied by male escorts.

26. No liquor licence shall be granted in respect of a steamship operating in the Territory unless it has, in the opinion of the Commissioner, adequate cabin and dining room accommodation for not less than twenty-five passengers.

Steamship
liquor
licences.

27. (1) No licence shall be granted in respect of an hotel where the applicant for a licence in respect of the hotel is under an agreement with a manufacturer or his agent to sell or promote the sale of liquor of the manufacturer.

Agreements
and
arrangements.

(2) The discovery of the existence and observance of an agreement or arrangement, written or oral, whereby a licensee is required or is under compulsion to sell liquor made by any manufacturer, renders the licence of the licensee concerned liable to suspension or cancellation by the Commissioner.

(3) There shall be maintained upon every licensed premises an adequate stock of liquor, when available, of the brands and types and in the form or containers which are commonly in demand in the locale where the premises are situate.

CLUBS.

28. (1) No licence shall be granted under this Ordinance to a club

Club
licences.

- (a) that is a proprietary club or operated for pecuniary gain;
- (b) unless the club premises are constructed, equipped, conducted, managed and operated to the satisfaction of the Commissioner and in accordance with the Ordinance and regulations;
- (c) unless the club has a permanent local membership of not less than thirty members; or
- (d) unless the application for the licence is approved by two-thirds of the club members who are present at a general or special meeting called to consider the application and it is further certified that not less than fifty per cent of the club members attended such meeting.

(2) No person shall sell liquor to any person in a club licensed under this Ordinance unless the purchaser is of the full age of twenty-one years and the liquor is of a kind that is authorized to be sold under a club licence held by the club.

(3) A member of a club may purchase liquor for consumption on the club premises for guests of the member who are of the full age of twenty-one years and not otherwise disqualified under this Ordinance from purchasing and consuming liquor.

(4) Every club licensee shall post and keep posted in a prominent position on the club premises its licence and the names and addresses of the members of the club.

(5) Every club licensee shall keep a visitors' register in which shall be entered the name and address of each guest on the club premises, the name of the member by whom the guest was introduced and the time and date of admission.

Unauthorized
persons.

29. (1) No person not a member or employee of the club or a guest of a member whose name as a guest is registered in the visitors' register of the club shall be permitted to be or remain in any part of the club in which liquor is being sold, served or consumed.

(2) The failure of any person, being in any room in which liquor is had, kept or consumed in licensed club premises, to produce to an inspector or peace officer in the premises evidence that he is a member of the club, or that he is otherwise lawfully present, shall be admissible in any prosecution or proceedings under this Ordinance against the club or person as evidence that the person was not then a member of such club.

(3) No liquor shall be sold, served or consumed on the premises of any club or other organization, whether incorporated or not, unless such club or organization is the holder of a licence or banquet permit issued under this Ordinance.

CANTEENS AND MESSES.

Canteen
licences.

30. (1) Upon application therefor made to the Commissioner in the prescribed form and upon payment of the fee set forth in the Schedule hereto, a beer or liquor licence may, subject to this Ordinance, be granted by the Commissioner to officers commanding units of the Active or Reserve Forces of Canada in the Territory.

(2) Upon application therefor in the prescribed form by the proper authority and upon payment of the fee set forth in the Schedule hereto, a beer licence in respect of a canteen may, subject to this Ordinance, be granted to

- (a) a mining, construction or other corporation, or
- (b) a department of the Government of Canada.

(3) A licence issued under subsections (1) and (2) shall designate the canteen premises in respect of which the licence was granted and no liquor shall be sold or consumed under the authority of the licence at a place other than such premises and no liquor shall be sold or consumed in such premises except on the days and within the hours during which it is not forbidden to sell liquor.

SALE OF LIQUOR IN LICENSED PREMISES.

Hours of
sale, etc.

31. (1) Subject to subsection (2), licensed premises shall not be open for the sale of liquor except during the following hours:

- (a) cocktail lounges and taverns shall be open weekly from Monday to Saturday inclusive, from the hours of 9:00 o'clock in the forenoon to 6:30 o'clock in the afternoon, and from 7:30 o'clock in the afternoon to 12:00 o'clock midnight;
- (b) clubs having a liquor licence or beer licence may be open weekly from Monday to Saturday inclusive, from the hours of 12:00 o'clock noon to 12:00 o'clock midnight; and

- (c) canteens may be open in compliance with the hours endorsed on the licence.
- (2) No liquor shall be sold or served in licensed premises
- (a) during hours other than the hours set out in subsection (1);
- (b) on Good Friday, Christmas Day or at any hours when polling takes place for any election or plebescite held in the electoral district in which the licensed premises are situate; or
- (c) during such other periods and on such other days as the Commissioner may order.

(3) Except during the hours mentioned in paragraph (a) of subsection (1) and for a period of thirty minutes thereafter, the licensee of a cocktail lounge or tavern shall ensure that such cocktail lounge or tavern is closed to and cleared of all persons except the licensee, his wife or any employee of the licensee; but nothing herein prevents a peace officer or an inspector from entering any cocktail lounge or tavern in the performance of his duties.

(4) A cocktail lounge shall remain lighted until all persons other than those authorized by subsection (3) to remain have left the premises.

(5) Notwithstanding paragraph (a) of subsection (1), no steamship in respect of which a liquor licence has been granted shall be open for the sale of liquor unless the steamship is under way and on a trip, the main purpose of which is transporting passengers from one point to another and only for such hours as the master of the steamship may permit between nine o'clock in the forenoon and twelve o'clock midnight of each day.

32. (1) No liquor may be kept for sale, sold or served in any licensed premises, except such liquor as may be prescribed in the licence. Prohibition.

(2) The Commissioner shall in every licence granted specify the part of the establishment to which the sale, serving and consumption of liquor is restricted and confined. Premises to which sale confined.

33. No person who is not entitled to purchase liquor from a liquor store shall enter or be found in any cocktail lounge. Persons prohibited from entering cocktail lounges.

34. (1) No liquor shall be sold or served in or at any licensed premises to any person who is under the age of twenty-one years. Sale of liquor to minors.

(2) No person under the age of twenty-one years shall have, purchase or consume liquor in any licensed premises.

(3) No person under the age of twenty-one years shall enter or be found upon any part of any licensed premises except a restaurant where liquor is sold or kept for sale.

(4) No liquor shall be sold to a person who is apparently under the age of twenty-one years, and in any prosecution for a violation of this subsection the justice shall determine from the appearance of any such person and other relevant circumstances whether he is apparently under the age of twenty-one years.

(5) Before serving in licensed premises any person who appears to be under twenty-one years of age, a licensee, his servant or agent may demand evidence that the person being served is twenty-one years of age, and if the person refuses to furnish the evidence he shall not be served, and on demand of the licensee, his servant or agent, he shall leave the licensed premises and if he fails to do so, he is guilty of an offence against this Ordinance and may be ejected from the licensed premises.

Sale of liquor to interdicted persons.

35. (1) No person shall sell or serve liquor to any person in or at any licensed premises, knowing or having reason to believe such person to be an interdicted person.

(2) No interdicted person shall have, purchase or consume liquor in any licensed premises.

(3) No interdicted person shall enter or be found upon any part of any licensed premises except a restaurant where liquor is sold or kept for sale.

Sale of liquor to intoxicated persons.

36. No person shall sell liquor on or at any licensed premises to or for any person who is apparently in an intoxicated condition.

Conduct of licensed premises.

37. (1) No licensee of or person employed in any licensed premises shall permit

- (a) any gambling, drunkenness or riotous, quarrelsome, violent or disorderly conduct to take place therein, or
- (b) any slot machine or any device used for gambling to be placed, kept or maintained therein.

(2) No licensee of a tavern or cocktail lounge shall permit any performance, show, dance or other form of entertainment in his tavern or cocktail lounge, except music provided free of charge and under the control of the licensee.

- (3) The licensee of a tavern or cocktail lounge
 - (a) shall have available at all times an adequate supply of fresh water for drinking and an assortment of soft drinks, fruit juices and vegetable juices, and
 - (b) may have available sandwiches and other light food refreshments.

Sale of liquor in licensed premises.

38. No liquor may be sold or served to any person or consumed by him in any licensed premises, except as authorized by this Ordinance and the regulations.

39. No person licensed to sell wine or spirits shall have upon that part of the licensed premises where liquor is permitted to be sold any wine or spirits unless the package containing the wine or spirits has been stamped with the words "for public sale" by a vendor.

Stamping of packages for public sale.

40. Every licensee shall post and keep posted his licence in a prominent position in a part of his licensed premises where liquor is permitted to be sold and shall post in the licensed premises or at the entrance thereto such extracts from this Ordinance, signs and notices as the Commissioner may require or permit but shall not post any other signs or notices.

Signs and public notices.

41. A licensee of a tavern or a cocktail lounge may sell, during the periods when liquor is permitted to be sold, beer for consumption off the premises to any person entitled to purchase liquor at a liquor store.

Sale of beer for consumption off premises.

42. (1) Except as provided in section 41, liquor purchased from any licensee shall not be consumed elsewhere than in that part of the licensed premises where liquor is permitted to be sold.

Consumption of liquor off premises.

(2) Proof of the removal of any liquor from that part of the licensed premises where liquor is permitted to be sold is prima facie proof of the sale of liquor by the licensee contrary to this Ordinance.

CONVICTIONS.

43. (1) Where a licensee is convicted of a first offence against the provisions of this Ordinance in or in respect of his licensed premises, the Commissioner may in his discretion suspend or cancel his licence.

Suspension or cancellation upon conviction.

(2) Where a licensee is convicted of two successive offences against the provisions of this Ordinance in or in respect of his licensed premises, the Commissioner may suspend his licence for not more than three months, or may cancel such licence.

(3) Where a licensee is convicted of three successive offences against the provisions of this Ordinance in or in respect of his licensed premises, the licence may thereupon be cancelled and the person convicted disqualified from again obtaining any licence under this Ordinance.

(4) Where the licensee is convicted of two or more offences occurring at the same time and in relation to the same person or persons such convictions shall be deemed to be one conviction for the purposes of this section.

(5) Notwithstanding subsections (1), (2) and (3), where the licensee has not been convicted for a period of five years from the date of his last conviction any subsequent conviction shall be deemed to be a first conviction for the purposes of this section.

PROHIBITIONS AND PENALTIES.

Sale of liquor
contrary to
Ordinance.

44. Except as authorized by this Ordinance, no person shall, within the Territory, by himself, his clerk, servant or agent, expose or keep for sale, or directly or indirectly or upon any pretense, or upon any device, sell or offer to sell, liquor or, in consideration for the purchase or transfer of any property or for any other consideration, or at any time of the transfer of any property, give liquor to any other person.

Unlawful
possession
of liquor.

45. Except as authorized by this Ordinance, no person within the Territory, by himself or his clerk, servant or agent shall

- (a) have or keep or give liquor purchased from a liquor store in a place other than the residence in which he resides or in a motor vehicle in the manner authorized by section 48, or
- (b) have or keep liquor not purchased from a liquor store.

Sale by
authorized
persons.

46. No person authorized by this Ordinance to sell liquor shall sell liquor in any other place or at any other time or in any other quantities or otherwise than as authorized by this Ordinance.

Sale or
delivery of
liquor for
resale.

47. (1) Except as authorized by this Ordinance, no person shall by himself or his partner, servant, clerk, agent or otherwise, sell or deliver any liquor to any person who buys liquor for the purpose of reselling it.

(2) No person shall take or carry, or employ or suffer any other person to take or carry, any liquor out of any premises where the liquor is lawfully kept for sale for the purpose of being sold in the Territory by any person not authorized by this Ordinance to sell liquor.

(3) Except as authorized by this Ordinance, no person shall by himself, his clerk, employee, servant or agent, send or cause to be sent or bring or carry, or cause to be brought or carried any package containing liquor from any person or place in the Territory to

- (a) any person who may not lawfully purchase and consume liquor, or
- (b) any place where liquor may not be lawfully kept.

Transportation
of liquor in
motor vehicles.

48. No person shall transport or carry liquor in a motor vehicle unless

- (a) the package containing the liquor has not been opened since it was purchased; or
- (b) if the package containing the liquor has been opened since it was purchased, it is
 - (i) in the trunk or space of the vehicle designated or designed for the carriage of baggage and parcels; or

(ii) in some other receptacle on the exterior of the vehicle;
and not, in any case, in that part of the vehicle intended for the accommodation of the driver and other persons being carried therein.

49. (1) No person shall purchase liquor from a person who is not authorized under this Ordinance to sell such liquor. Unlawful purchase of liquor.

(2) No person who purchases liquor shall drink liquor or cause anyone to drink or allow liquor to be drunk upon the premises where it is purchased except in the case of liquor lawfully purchased for consumption in premises wherein the consumption of liquor is permitted.

(3) No person shall use or consume liquor purchased from any person within the Territory unless it is lawfully purchased and lawfully received from some person authorized under this Ordinance to sell such liquor.

(4) Subsection (3) does not apply to a person who within a private dwelling house innocently uses or consumes liquor not so purchased.

50. (1) No person shall consume liquor in a public place. Consumption of liquor in public place.

(2) Subsection (1) does not apply to the consumption of liquor lawfully purchased under a banquet permit authorizing its use for consumption in a public place, or to the lawful consumption of liquor in licensed premises.

(3) No person shall be in an intoxicated condition in a public place.

(4) The possession by a person in a restaurant of liquor in any container other than a package on which the seal is unbroken or other than a beer bottle from which the cap has not been removed is prima facie proof that such person is consuming liquor in such restaurant.

51. (1) No person shall give or supply liquor to a person under the age of twenty-one years. Supplying of liquor to minors, interdicted persons.

(2) Subsection (1) does not apply to the supplying of liquor to a person under the age of twenty-one years by a parent or guardian in a private dwelling house for consumption therein for beverage or medicinal purposes, or to any such person by his physician or dentist for medicinal purposes or under prescription.

(3) No person shall give or supply or assist directly or indirectly in giving or supplying liquor for or to any person who has been interdicted, but this subsection does not apply to a physician or dentist who administers liquor for medicinal purposes or to a person who innocently gives liquor to such a person within a private dwelling house.

(4) Except as authorized by this Ordinance, no person who
 (a) is under the age of twenty-one years, or
 (b) is an interdicted person,
 shall purchase, have in possession or consume any liquor.

Possession
of liquor in
hotel room.

52. No person shall have or keep liquor in a room in an hotel unless he is a bona fide guest of the hotel and is duly registered in the office of the hotel as the occupant of that room.

Public
servants.

53. (1) No person appointed under the provisions of section 4 shall be directly or indirectly interested or engaged in any other business or undertaking, dealing in liquor, whether as owner, part owner, partner, member of syndicate, agent or employee, and whether for his own benefit or in a fiduciary capacity for any other person.

(2) No such appointee shall solicit or receive, directly or indirectly, any commission, remuneration or gift from any person or corporation that has sold, sells or offers for sale liquor to, or purchased from, a liquor store pursuant to this Ordinance.

(3) No person selling or offering for sale liquor to, or purchasing liquor from, a liquor store, shall either directly or indirectly offer to pay any commission, profit or remuneration, or make any gift to any such appointee or to anyone on behalf of any such appointee.

Obstruction
of inspectors.

54. No person shall obstruct an inspector in the execution of his duties under this Ordinance, or refuse to comply with an order of an inspector to aid him in the execution of his duties.

Unlawful
soliciting
and display.

55. Except as permitted by this Ordinance or the regulations, no person within the Territory shall

(a) exhibit or display or permit to be exhibited or displayed without the approval of the Commissioner any sign or poster containing the words "bar", "barroom", "saloon", "tavern", "cocktail lounge", "beer", "spirits" or "liquors" or words of like import; or

(b) exhibit or display or permit to be exhibited or displayed any advertisement or notice of or concerning liquor by an electric or illuminated sign, contrivance or device, or on any hoarding, signboard, billboard or other place in public view or by any of the means aforesaid, advertise any liquor.

INTERDICTION.

Interdiction
orders.

56. (1) Where it appears to the satisfaction of a justice that any person who resides or sojourns in the Territory, by excessive drinking of liquor, misspends, wastes or lessens his estate, injures his health, or interrupts the peace and happiness of his family, the justice may make an order of interdiction prohibiting the sale of liquor to such person; and the justice shall cause the order to be forthwith filed with the Commissioner.

(2) A justice acting under subsection (1) has the power to compel the attendance of witnesses, the production of documents or other evidence and to take such other steps as he deems necessary for a full and proper hearing, and he may punish anyone for contempt of court who refuses to obey any order, summons or direction under this section.

(3) Upon receipt of the order of interdiction under subsection (1), the Commissioner shall forthwith notify the interdicted person and all vendors and licensees of the order of interdiction so made and filed, prohibiting the sale of liquor to the interdicted person; and such notice may be given by sending it by registered mail to the last known address of the interdicted person and to said vendors and licensees.

57. Upon order of interdiction being made, the interdicted person shall forthwith deliver to the Commissioner all liquor then in his possession or under his control, to be purchased by the Territory in its discretion at a price to be fixed by the Commissioner, if lawfully in the possession of the interdicted person; and if the person receiving the notice does not deliver up the liquor then in his possession, the Commissioner or person authorized by him may seize the said liquor and dispose of it as the Commissioner directs. Delivery up of liquor in possession.

58. Every person against whom an order of interdiction has been made who keeps or has any liquor in his possession or under his control is guilty of an offence against this Ordinance and, on convicting him thereof, and in addition to any other penalty that he may impose hereunder, the justice making the conviction may, in and by the conviction, declare the liquor and all packages in which the liquor is contained to be forfeited to the Territory to be disposed of as the Commissioner shall direct. Idem.

59. (1) Upon an application to a judge, police magistrate or the justice who made the order of interdiction by an interdicted person who satisfies the judge, police magistrate or justice Setting aside of order.

(a) that the circumstances of the case did not warrant the making of an order of interdiction against him, or

(b) that the interdicted person has refrained from doing the things that caused his interdiction for at least twelve months immediately preceding the application,

the judge, police magistrate or justice may, by order, set aside the order of interdiction and thereupon any disability created by the order of interdiction is removed.

(2) A copy of the order shall be filed with the Commissioner.

(3) The applicant shall, at least ten clear days before the hearing of the application, give notice thereof in writing to the Commissioner and to any other person the judge, police magistrate or justice directs.

EXEMPTIONS.

Saving provisions and exemptions.

60. (1) Notwithstanding anything in this Ordinance, any person may, for medicinal or sacramental purposes, consume liquor or supply or administer it to any person.

(2) The burden of proof that the consumption, supplying and administering of liquor was for medicinal purposes, is upon the person who consumed, supplied or administered it, and a justice who tries a case may draw inferences of fact from the frequency with which the liquor is consumed, supplied or administered, and from the amount of liquor so used, and from the circumstances under which it is used.

Idem.

61. Notwithstanding anything in this Ordinance, any person may sell, purchase, have in possession or consume

(a) any pharmaceutical preparation containing liquor that is prepared by a druggist according to a formula of the British Pharmacopoeia, the Codex Medicamentarius of France, the Pharmacopoeia of the United States or the Canadian Formulary; or

(b) any proprietary or patent medicine within the meaning of the *Proprietary or Patent Medicine Act*;

and may purchase, have in possession or consume any alcohol for any bona fide industrial or scientific purpose.

Idem.

62. Where a toilet or culinary product, perfume, lotion or flavouring extract or essence contains alcohol and also contains an ingredient or medication that makes it unsuitable as a beverage, a druggist or other person who manufactures or deals in the product may purchase or sell the product and any other person may purchase or use it for any purpose other than as a beverage, but where the justice hearing a complaint respecting selling, buying or consuming such product is of the opinion that an unreasonable quantity of any such product, having regard to the purposes for which the same was legitimately manufactured, was sold or otherwise disposed of to any person or persons either at one time or at intervals and proof is also given that the product so sold or disposed of was used for beverage purposes by any person, the person selling or otherwise disposing of the same may be convicted of selling liquor contrary to this Ordinance and any person who obtains or consumes for beverage purposes any of the products mentioned in this section is guilty of an offence.

ARREST, SEARCHES AND SEIZURES.

Arrest.

63. Any peace officer may arrest without warrant any person whom he finds committing, or whom he on reasonable grounds suspects of committing any offence against this Ordinance or the regulations.

Search and seizure.

64. Any peace officer, if satisfied that there are reasonable grounds for believing that a person unlawfully possesses or possesses for an unlawful purpose liquor contained in a vehicle, may

without warrant, stop such vehicle by any necessary means, and search for liquor therein wherever he suspects it to be, and if need be by force, and may in addition search any person in or in charge of the vehicle and seize any liquor he finds and any package in which it is contained.

65. (1) Where a justice is satisfied by the oath of a peace officer that there is reasonable grounds for believing that liquor is unlawfully possessed, or possessed for an unlawful purpose, he may issue a warrant under his hand authorizing the peace officer therein named, at any time within ten days from the date thereof, to enter, if need be by force, the place named in the warrant and any premises connected therewith, and search for liquor thereon wherever he suspects it to be; and the peace officer may, in addition, search any person found in the place at the time he enters it, and seize any liquor that he finds and any package in which it is contained. Warrant.

(2) For the purposes of making a search of the place under this section a peace officer may, if necessary, with such assistance as he deems expedient, break down any door, lock or fastening of such place, or any closet, cupboard, box or other article in the place suspected of containing liquor.

66. (1) Any peace officer who is authorized in writing for the purpose by the Commissioner, if he believes or suspects upon reasonable grounds that liquor is unlawfully sold or kept for sale in any residence, building or premises, may, without warrant, either alone or accompanied by other officers, at any time in the day or night, enter and search the residence, building or premises and every part thereof, and for that purpose may break open any door, lock or fastening of the residence, building or premises or any part thereof, or any closet, cupboard, box or other receptacle thereon which might contain liquor and seize such liquor if found. Entry and search.

(2) Any authorization given by the Commissioner under subsection (1) may be given generally or specially, and is effective, according to its terms, until revoked by the Commissioner; and any authorization so given in writing shall be received in evidence as proof of the authority of the peace officer to or in respect of whom it is given without proof of the authenticity of any signature thereto.

67. (1) Where liquor is found by any peace officer on any premises or in any place or in any vehicle and in such quantities as to satisfy the peace officer that the liquor is being had or kept contrary to this Ordinance or the regulations, the peace officer may forthwith seize and remove by force, if necessary, any liquor so found and the packages in which the liquor was had or kept. Seizure and removal of liquor.

(2) Where liquor has been seized by a peace officer under this Ordinance, under such circumstances that the peace officer

is satisfied that the liquor was had or kept contrary to this Ordinance or the regulations, he shall retain the liquor and packages in which the liquor was had or kept.

(3) If, within thirty days from the date of the seizure, no person by notice in writing filed with the Commissioner claims to be owner of the liquor, the liquor and all packages containing the liquor are forfeited to the Territory and shall forthwith be delivered to the Commissioner.

(4) If, within thirty days from the date of the seizure any claimant appears, it is incumbent upon him within that time and after three days' notice in writing filed with the Commissioner stating the time and place fixed for the hearing, to prove his claim and his right under this Ordinance and the regulations to the possession of the liquor and packages to the satisfaction of any justice, and on failure within that time to prove and establish his claim and right, the liquor and packages are forfeited to the Territory and shall forthwith be delivered to the Commissioner.

(5) In every case in which any claimant to the liquor under this section fails to establish his claim and right thereto, the liquor in question and the packages in which the liquor is kept shall forthwith be delivered to the Commissioner.

Search of
females.

68. Where a female is suspected of an offence under this Ordinance or the regulations, a peace officer shall, if he thinks it advisable to search such female, employ a woman to make such search, and the woman so employed has all the powers, privileges and immunities of a peace officer for that purpose.

EVIDENCE.

Proof of right
to possess.

69. The burden of proving the right to possess, sell, give, purchase or consume liquor is on the person accused of improperly or unlawfully possessing, selling, giving, purchasing or consuming liquor.

Certificate
of analyst.

70. A certificate purporting to be signed by any person appointed or designated by the Commissioner in writing as an analyst for the purposes of this Ordinance, as to the percentage of alcohol contained in any liquid, drink, liquor or combination of liquors, when produced in any court or before any justice, is prima facie proof of the percentage of alcohol contained therein, without proof of signature or official position of the analyst by whom the certificate is made.

Inference.

71. A justice trying a case shall, in the absence of proof to the contrary, be at liberty to infer that the liquor in question is intoxicating from the fact that a witness describes it as intoxicating or describes it by a name that is commonly applied to an intoxicating liquor.

72. (1) In proving the purchase, sale or gratuitous or other disposal or consumption of liquor for the purpose of any proceeding relative to an offence under this Ordinance, it is not necessary to show that money passed or the liquor was consumed, if the justice hearing the case is satisfied that a transaction in the nature of a sale or other disposal took place or that any consumption of liquor was about to take place.

Transactions
in nature
of sale.

(2) In any prosecution for the sale or other disposal of liquor in contravention of this Ordinance, it is not necessary that any witness depose directly to the precise description of the liquor sold or disposed of or the precise consideration therefor.

73. In describing offences respecting the sale or other disposal of liquor or the keeping or the consumption of liquor in any information, summons, conviction, warrant or proceeding under this Ordinance, it is sufficient to state the sale, disposal, keeping or consumption of liquor simply, without stating the name of liquor or the price thereof or the name of any person to whom it was sold or disposed of or by whom it was consumed; and it is not necessary to state the quantity of liquor sold, disposed of, kept or consumed, except in the case of offences where the quantity is essential, and then it is sufficient to allege the sale or disposal of more or less than such quantity as the case requires.

Sufficiency of
description
of offence.

74. (1) In any proceeding under this Ordinance against a corporation it is not necessary for the prosecutor to prove the fact of incorporation.

Proceedings
against
corporations.

(2) In a prosecution against a corporation, every summons, writ, warrant or order or other proceeding may, in addition to any other manner of service that may be proved, provided or authorized by law, be served on a corporation by delivering it to an officer, attorney, agent or representative in the Territory of the corporation by whatever names the representative may be known, or by leaving it at any place where it carries on business; but service in any other way may be deemed sufficient if the justice or judge, by or before whom the summons, writ, warrant, order or other proceeding was issued or is returnable, or by or before whom any proceeding is to be had or taken, is of the opinion that the service has been such as to bring the summons, warrant, writ, order or other proceeding to the notice of the corporation.

75. In any proceeding under this Ordinance proof of one unlawful sale of liquor is sufficient to establish the intent or purpose of unlawfully keeping liquor for sale in violation of this Ordinance, and where the sale is by an agent or employee, it shall be deemed, unless the contrary is proved, that such agent or employee was acting within the scope of his authority or employment.

Proof of
intent.

OFFENCES AND PENALTIES.

Offences.

76. (1) Every person, other than a corporation, who violates section 44, 47 or 51 is guilty of an offence and liable upon summary conviction,

- (a) subject to paragraphs (b) and (c), to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment;
- (b) for a second offence, to a fine not exceeding three hundred dollars or to imprisonment for a term not exceeding four months, or to both such fine and imprisonment; and
- (c) for a subsequent offence, to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(2) Every corporation that violates section 44, 47 or 51 is guilty of an offence and liable upon summary conviction,

- (a) subject to paragraph (b), to a fine not exceeding one thousand dollars, and
- (b) for a second or subsequent offence, to a fine not exceeding three thousand dollars.

Offences for which no other penalty specifically provided.

77. (1) Every person, other than a corporation, who violates any provision of this Ordinance or the regulations for which no other penalty is provided in this Ordinance is guilty of an offence and liable upon summary conviction to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding two months, or to both such fine and imprisonment.

(2) Every corporation that violates any provision of this Ordinance or the regulations for which no other penalty is provided in this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars.

Offence by corporation.

78. Where an offence against this Ordinance is committed by a corporation, the officer or agent of the corporation in charge, or apparently in charge, of the premises in which the offence is committed shall, unless the contrary is established, be deemed to be a party to the offence so committed, and is personally liable to the penalties prescribed for the offence as a principal offender; but nothing in this section relieves the corporation, or the person who actually committed the offence, from liability therefor; and in the case of any such offence, the corporation, the officer or agent and the person who actually committed the offence, may all or each be found guilty of the offence.

Offence by employee.

79. Upon proof that an offence against this Ordinance has been committed by a person in the employ of the occupant of any house, shop, hotel, restaurant, room or other premises in which the offence is committed, or by any person who is suffered by the occupant to be or remain in or upon the house, shop, hotel, restaurant, room or premises, or to act in any way for the

occupant, the occupant shall, unless the contrary is established, be deemed to be a party to the offence so committed, and on conviction is liable to the penalties prescribed for the offence as a principal offender, notwithstanding the fact that the offence was committed by a person who is not proved to have committed it under or by the direction of the occupant, but nothing in this section relieves the person actually committing the offence from liability therefor; and in the case of any such offence, the occupant and the person who actually committed the offence may be each or both found guilty of the offence.

80. Upon proof that an offence against this Ordinance has been committed by a person in the employ of a licensee or permittee, the licensee or permittee shall, unless the contrary is established, be deemed to be a party to the offence so committed, and on summary conviction is liable to the penalties prescribed for the offence as a principal offender; but nothing in this section relieves the person actually committing the offence from liability therefor, and both the person committing the offence and the licensee or permittee may each or both be found guilty of the offence.

Offence by
employee of
licensee.

FORFEITURE.

81. (1) Upon conviction of a person for an offence under this Ordinance or the regulations, the justice before whom the case was heard may declare the forfeiture to the Territory of any liquor that has been seized under this Ordinance in connection with the conviction and any package in which it was contained.

Forfeiture
of liquor
seized.

(2) Any liquor that becomes forfeited to the Territory, under any of the provisions of this Ordinance, if found to be unsuitable for sale at a liquor store and so declared by the Commissioner, shall be destroyed under the direction of the Commissioner.

GENERAL.

82. The whole amount of all moneys derived from the sale of liquor by vendors shall, as directed by the Commissioner, be deposited to the credit of the Yukon Consolidated Revenue Fund in a special account designated as the "Liquor Account".

Liquor
Account.

83. (1) From and out of the Liquor Account there may be paid all expenses incurred in the administration of this Ordinance, including, without limiting the generality of the foregoing,

Expenses of
administration.

- (a) the cost of all liquor purchased pursuant to this Ordinance;
- (b) the cost of transporting, storing and insuring such liquor;
- (c) the rental of lands, buildings or equipment required for storing liquor, liquor stores, offices and the cost of maintaining such lands, buildings or equipment, including insurance thereon;
- (d) the costs of administering offices and liquor stores, including the rental of equipment, furniture and supplies;

- (e) the remuneration of persons appointed under this Ordinance for the administration of this Ordinance and the payment of their necessary travelling and removal expenses;
 - (f) the employer's share of unemployment insurance, workmen's compensation and other assessments in respect of the persons referred to in paragraph (e);
 - (g) the printing of licences, permits, listings, notices and other stationery required for the purposes of this Ordinance; and
 - (h) the payment of such expenses as the Commissioner deems necessary concerning any hearing held pursuant to this Ordinance.
- (2) All payments made under this section shall be by cheque drawn on the Liquor Account signed by
- (a) the Territorial Treasurer, or in lieu thereof, by an officer appointed by the Commissioner; and
 - (b) the Commissioner, or an officer appointed by him other than the officer appointed to act in lieu of the Territorial Treasurer.

Inspection
of records.

84. The premises, stocks and records under the control of the Superintendent shall be inspected monthly by an inspector designated by the Commissioner and they shall be at all times subject to examination by the Comptroller of the Treasury of Canada and the Auditor General of Canada.

Transfer of
moneys to
Yukon
Consolidated
Revenue Fund.

85. (1) The Territorial Treasurer shall, at the beginning of each quarter of the fiscal year commencing with the first day in July, transfer one-quarter of the estimated net annual revenue of the operation of liquor control from the Liquor Account to the General Account in the Yukon Consolidated Revenue Fund; but the total amount so transferred shall not exceed the net revenue of the fiscal year established by audit and the amount so established shall be adjusted to the amount to be transferred in the transfer covering the final quarter of each fiscal year.

(2) The Territorial Treasurer shall, forthwith after the end of each fiscal year, prepare a statement of operations of all liquor stores showing the profit or loss resulting therefrom and the net profit on the total operation of liquor control during the fiscal year.

(3) All transfers of funds from the Liquor Account to the General Account in the Yukon Consolidated Revenue Fund shall be at the disposal of the Commissioner in Council.

LIQUOR SURCHARGE.

Surcharge.

86. (1) There shall be levied on all liquor purchased at a liquor store, a surcharge as follows:

- (a) on each dozen bottles of beer, ten cents;
- (b) on each bottle of wine, ten cents;
- (c) on each flask of spirits, ten cents; and
- (d) on each bottle of spirits, twenty-five cents.

(2) Once each month the Superintendent shall give to the Territorial Treasurer a statement showing the types and number of bottles of liquor upon which surcharge was collected in respect of each liquor store during the next preceding month, and the Territorial Treasurer shall deposit the surcharge so collected to the credit of the Yukon Consolidated Revenue Fund.

MISCELLANEOUS.

87. Where by any provision of this Ordinance, power is given to a justice respecting any matter, thing or person and by the same or any other provision, further or other power is given the Commissioner respecting the same matter, thing or person, the latter power shall be in addition to and not in substitution for the former.

Powers of justice.

REGULATIONS.

88. (1) The Commissioner may make regulations or orders

Regulations.

- (a) for controlling and conducting the liquor stores, including the duties and bonding of the employees at the liquor stores, the manner in which and under what restrictions as to quantity, or otherwise, liquor may be sold and delivered at such stores;
- (b) respecting the terms and conditions and the form of licences and permits and applications therefor, and the nature of the proof required to be furnished for replacing licences and permits in place of licences and permits lost or destroyed;
- (c) respecting the operation of licensed premises;
- (d) respecting the number of licences that may be granted in the Territory;
- (e) respecting the disposal of liquor and packages that have been forfeited under this Ordinance; and
- (f) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Ordinance.

(2) Every regulation or order made by the Commissioner under the authority of this Ordinance shall be tabled at the first meeting of the Territorial Council following the making of such regulation or order.

SCHEDULE.

ANNUAL FEES FOR LICENCES AND PERMITS.

1. Licences	
(a) Beer Licence	
(i) to a tavern	\$100.00
(ii) to a club	100.00
(iii) to a canteen or mess	5.00
(b) Liquor Licence	
(i) to a cocktail lounge	250.00
(ii) to a club	250.00
(iii) to a mess	5.00
(c) for endorsing a licence with permission to sell beer in a restaurant	10.00
(d) for granting an interim licence	10.00
2. Permits	
(a) Banquet permit	2.00

CHAPTER 68.

AN ORDINANCE RESPECTING THE MAINTENANCE OF PARENTS, DESERTED WIVES AND CHILDREN.

SHORT TITLE.

1. This Ordinance may be cited as the Maintenance Ordinance. Short Title. Ordinance.

INTERPRETATION.

2. In this Ordinance, Definitions.

- (a) "child" includes an illegitimate child, a stepchild and an adopted child (de facto or de jure), but does not include any person eighteen years of age or over; "Child."
(b) "justice" means a police magistrate or any two justices of the peace or any person having the authority and jurisdiction of two justices of the peace; and "Justice."
(c) "parent" or words referring to or denoting the parent of a person includes an individual whose child that person is. "Parent."

(2) For purposes of this Ordinance, a wife shall be deemed deserted where Deserted wife.

- (a) her husband has, without sufficient cause, refused or neglected to supply her or her children with adequate food, clothing and other necessities; or
(b) she is living apart from her husband because of his assaults or other acts of cruelty towards her or her children.

(3) For purposes of this Ordinance, a parent shall be deemed dependent where by reason of age, disability or infirmity he is unable to maintain himself. Dependent Parent.

LIABILITY FOR MAINTENANCE.

3. (1) The father and mother of a child shall provide maintenance including adequate food, clothing, medical aid and lodging for such child. Maintenance of child.

(2) For purposes of this section, father includes a grandfather and mother includes a grandmother. Father and mother defined.

4. (1) The son or daughter of a dependent parent shall provide maintenance including adequate food, clothing, medical aid and lodging for such parent. Maintenance of parent.

(2) For purposes of this section, son includes a grandson and daughter includes a granddaughter. Son and daughter defined.

Maintenance of wife.

5. The husband of a deserted wife shall provide maintenance including adequate food, clothing, medical aid and lodging for such wife.

Liability for maintenance of spouse.

6. Subject to this Ordinance, a husband is primarily liable for the maintenance of his wife and the wife is primarily liable for the maintenance of her husband.

Priority of liability for maintenance of child.

7. (1) Subject to this Ordinance, where liability is imposed for the maintenance of a child under section 3, no liability under this Ordinance arises

- (a) in the case of a mother, unless the father is unable and the mother is able to maintain the child in respect of whom the order is sought,
- (b) in the case of a grandfather, unless
 - (i) both the father and mother are deceased, and
 - (ii) the grandfather is able to maintain the child in respect of whom the order is sought, and
- (c) in the case of a grandmother, unless
 - (i) the father, mother and grandfather are all deceased, and
 - (ii) the grandmother is able to provide maintenance for such child.

Priority of liability for maintenance of parent.

(2) Subject to this Ordinance, where liability is imposed under section 4 for the maintenance of a dependent parent, no liability under this Ordinance arises

- (a) in the case of a daughter unless the son is unable and the daughter is able to maintain the parent in respect of whom the order is sought,
- (b) in the case of a grandson, unless
 - (i) both the son and daughter are deceased, and
 - (ii) the grandson is able to provide such maintenance, and
- (c) in the case of a granddaughter, unless
 - (i) the son, daughter and grandson are all deceased, and
 - (ii) the granddaughter is able to provide such maintenance.

Exemption.

(3) Section 4 does not impose liability on a person to provide maintenance for another if he is unable to do so out of his own property or by means of his own labour.

MAINTENANCE ORDERS.

Application for maintenance order.

8. (1) Where liability to provide maintenance is imposed upon any person by sections 3, 4, 5 or 6 and such person fails to provide the required maintenance, then such person may be summoned before a justice by any person having knowledge of the fact.

Power to make order.

(2) Upon proof of service of the summons, and whether or not the person so summoned appears, the justice having regard to all of the circumstances of the case may make an order for maintenance.

9. An order for maintenance may provide

Contents of order.

- (a) that the person in respect of whose maintenance the order is made shall be cared for by any person or in a home, shelter, hospital or other institution;
- (b) for the period or periods during which the maintenance granted thereunder is to be paid;
- (c) for the instalments in which the maintenance is to be paid and the amounts of the instalment;
- (d) to what person or institution such instalments are to be paid; and
- (e) that any one or more of the persons herein rendered liable for the maintenance of another, whether they are named in the proceedings taken under this Ordinance or not, shall pay such maintenance or contribute thereto where it seems to the justice harsh or unfair that the person primarily liable should bear the whole or any part of the burden thereof.

10. In the case of a dependent parent, an order may be made whether or not the dependent parent is being cared for in a sanatorium, home, mental hospital or charitable institution.

Parent under care.

11. Where it is proved that the wife has

Wife guilty of adultery or desertion.

- (a) committed adultery which the husband has not condoned or connived at or by his wilful misconduct condoned to, or
 - (b) deserted her husband without lawful excuse,
- no order shall be made under section 8 for the maintenance of the wife unless in the discretion of the justice, having regard to all the circumstances, the justice otherwise orders.

12. (1) Where the husband and wife have separated by mutual agreement and the wife has agreed in writing to release her husband from liability for her maintenance, no order shall be made under this Ordinance for her maintenance.

No order made where separation agreement exists.

(2) This section does not apply

Exceptions.

- (a) where in a separation agreement the husband has agreed to contribute to the maintenance of his wife and is in default therein under the agreement;
- (b) where in a separation agreement the husband has not provided suitably therein according to his circumstances for the maintenance of his wife; and
- (c) where the wife has become or is likely to become a public charge or in need of public assistance.

13. (1) On application before the justice who made the order, any order made under this Ordinance may be varied or rescinded by said justice upon proof that the circumstances of any of the parties have changed since the making of the original order or any subsequent order varying the original order.

Power to vary or rescind order.

- Application. (2) The application may be made by or on behalf of any person named in the order.
- The Deserted Wives Maintenance Ordinance.* (3) A reference in subsection (1) to this Ordinance includes a reference to *The Deserted Wives Maintenance Ordinance*, chapter 7 of the Ordinances of 1938.

ENFORCEMENT OF ORDERS.

Summons upon default. **14.** In the case of non-payment of any sum ordered to be paid by an order for maintenance granted under section 8, together with costs, for thirty days after the order has been made, or for such less time as the order may provide and when and so often as the payment so ordered is in arrears, the person on whose behalf the order has been obtained or any person acting on his behalf may procure from the justice who made the order a summons against the person in default returnable on the fourteenth day after service.

Service of summons. **15.** A summons may be served on the person named therein either personally or in such other manner as the justice may in writing direct and shall require the person so served to attend at the time and place mentioned therein to show cause why the order should not be enforced as hereinafter provided.

Enforcement of order by fine or imprisonment. **16.** If the person so summoned does not attend as required by the summons, or show a just and sufficient reason for non-attendance, or does not satisfy the justice that he is unable to pay the sum ordered to be paid, the justice may enforce the order by like proceedings, including imprisonment, as are applicable in the case of a fine or penalty imposed by a justice of the peace in proceedings under the provisions of the *Criminal Code* relating to summary convictions.

APPEALS.

Appeal to Territorial Court. **17.** (1) Any party aggrieved by an order for maintenance under this Ordinance, or a refusal or failure to make such an order, may appeal the decision of a justice to the Court.

Trial *de novo*. (2) The Court shall hear and determine an appeal taken in accordance with this section by holding a trial *de novo*.

Costs in appeal. (3) All costs in an appeal under this section are within the discretion of the Court.

Stay of proceedings. (4) Where an appeal is taken under this section from an order made under section 8, it shall not operate as a stay of proceedings unless the justice who made the order otherwise directs.

MISCELLANEOUS.

Application to *Criminal Code*. **18.** The costs of proceedings under this Ordinance shall be the same as in proceedings under the *Criminal Code* relating to summary convictions.

19. The provisions of the *Criminal Code* as to appeals in the Territory from summary convictions and the proceedings there-under and incidental thereto shall apply to any order made under this Ordinance. ^{Idem.}

20. In proceedings under this Ordinance the parties are competent and compellable witnesses against each other. ^{Parties competent and compellable witnesses.}

21. Any case arising under this Ordinance may in the discretion of the justice be heard in private. ^{Hearing in private.}

22. Where any act is required to be performed under this Ordinance by a justice who made a particular order and such justice is absent or dead, the act may be performed by any other justice. ^{Where justice absent or dead.}

CHAPTER 69.

A ORDINANCE RESPECTING MARRIAGES.

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as the *Marriage Ordinance*.

INTERPRETATION.

Definitions. **2.** In this Ordinance,
 "Clergyman." (a) "clergyman" means a person duly ordained or appointed by his religious body and authorized by this Ordinance to solemnize marriage;
 "Issuer." (b) "issuer" means a person appointed under this Ordinance to issue licences;
 "Licence." (c) "licence" means a marriage licence issued under this Ordinance;
 "Marriage commissioner." (d) "marriage commissioner" means a person who is not a clergyman who is appointed or authorized under this Ordinance to solemnize marriage; and
 "Religious body." (e) "religious body" includes a church, religious denomination, sect, congregation or society.

REGISTRATION OF CLERGYMEN.

Register. **3.**(1) Subject to subsection (2), the Commissioner shall keep a register of the names of clergymen who permanently reside in the Territory and whose names have been submitted to him by the ecclesiastical authorities of the religious bodies in which they are ordained or by which they are appointed.

Commissioner to decide what clergymen may be registered. (2) The Commissioner shall decide whether a religious body from which he receives a certified list of the names of its clergymen resident in the Territory is established, both as to continuity of existence and as to recognized rites and usages respecting the solemnization of marriage, as to warrant the registration of its clergymen under this Ordinance and may refuse to register the names of clergymen submitted by a religious body generally or the names of any particular clergymen.

Issue of certificates. (3) The Commissioner shall issue a certificate of registration to each clergyman registered under subsection (1).

Clergymen temporarily resident. (4) Subject to subsection (2), the Commissioner may register clergymen who are temporarily resident in the Territory and whose names have been submitted by their religious body and may issue certificates of registration to such clergymen to be valid for the period fixed by the Commissioner and named in the certificate.

4. The proper ecclesiastical authorities of each religious body whose clergymen are authorized to solemnize marriage shall annually, or oftener if required by the Commissioner, supply the Commissioner with a certified list in Form A of clergymen to be registered and shall notify the Commissioner of every clergyman who has died or who has ceased to reside in the Territory or who has in any other way ceased to possess the qualifications qualifying him to be registered.

Duty of religious bodies.

5. The Commissioner may at any time, as the result of information received by him under section 4, strike the name of a clergyman off the register and cancel his certificate of registration.

Cancellation of registration.

MARRIAGE COMMISSIONERS.

6. (1) The Commissioner may appoint persons as marriage commissioners with authority to solemnize civil marriages under this Ordinance.

Appointment.

(2) Every justice of the peace who has the powers of two justices of the peace is *ex officio* a marriage commissioner.

Justices of the peace.

7. A marriage commissioner is entitled to a fee of five dollars for each marriage solemnized by him under this Ordinance.

Fee.

SOLEMNIZATION OF MARRIAGE.

8. (1) Every clergyman who holds a valid certificate of registration under this Ordinance and every marriage commissioner may solemnize marriage in the Territory between persons not under a legal disqualification to contract marriage.

Persons qualified to solemnize marriage.

(2) No person other than a clergyman or marriage commissioner shall solemnize a marriage in the Territory.

9. (1) No clergyman shall solemnize marriage unless the parties to the intended marriage produce to him the licence required by this Ordinance or, where banns are published in lieu of a licence, unless the provisions of this Ordinance relating to the publication of banns have been complied with.

Preliminaries required.

(2) No marriage commissioner shall solemnize marriage unless the parties to the intended marriage produce to him the licence required by this Ordinance.

10. (1) No marriage shall be solemnized unless it takes place within three months after the second publication of the banns or within three months after the issue of a licence, as the case may be.

Within three months after banns or licence.

(2) No marriage shall be solemnized until after the expiry of twenty-four hours from the time of issue of the licence therefor.

Within twenty-four hours.

11. No marriage shall be solemnized unless at least two adult credible witnesses are present at the ceremony in addition to the contracting parties and the person performing the ceremony.

Presence of witnesses.

Hours for solemnization.

12. No marriage shall be solemnized between the hours of ten o'clock in the afternoon and six o'clock in the forenoon unless the officiating clergyman or marriage commissioner is satisfied from evidence adduced to him that the proposed marriage is lawful and that exceptional circumstances exist that render its solemnization between those hours advisable.

Where party does not understand language used.

13. No clergyman or marriage commissioner shall solemnize a marriage where either of the contracting parties does not speak or understand the language in which the ceremony is to be performed unless an independent interpreter is present to interpret and convey clearly to that party the meaning of the ceremony.

Civil marriage.

14. Where a marriage ceremony is performed by a marriage commissioner

(a) each of the parties to the marriage shall, in the presence of the marriage commissioner and the witnesses, make the following declaration:

"I do solemnly declare that I do not know of any lawful impediment why I, _____, may not be joined in matrimony to _____"; and

(b) each of the parties shall, in the presence of the marriage commissioner and the witnesses, say to the other party:

"I call upon these persons here present to witness that I, _____, do take thee, _____, to be my lawful wedded wife (or husband)."

Second ceremony.

15. (1) Persons who, having been married in accordance with the provisions of this Ordinance relating to civil marriage, desire a second ceremony for religious purposes may have that ceremony performed.

Supplemental to prior marriage.

(2) The second ceremony referred to in subsection (1) is supplemental to and does not supersede the prior civil marriage and shall not be registered as a marriage.

Prior licence sufficient.

(3) The licence obtained for the prior civil marriage is sufficient for the purposes of the second ceremony and the second ceremony need not be performed within three months from the issue of the licence.

Registration of marriage.

16. (1) Subject to subsection (2) of section 15, every person who is authorized to solemnize marriage under this Ordinance shall register every marriage solemnized by him in accordance with the provisions of the *Vital Statistics Ordinance*.

Certificate of marriage.

(2) Upon completion of the marriage ceremony, the officiating clergyman or marriage commissioner shall furnish the contracting parties with a certificate of marriage.

17. No clergyman or marriage commissioner is subject to an action or liable for damage by reason of the existence of a legal impediment to the marriage, unless, at the time he performed the ceremony, he was aware of the impediment. Protection of clergymen, etc.

18. No marriage is invalid by reason only that the person performing the ceremony was not then registered under this Ordinance. Effect of lack of authority.

PROHIBITION TO MARRIAGE.

19. (1) No person shall perform a marriage ceremony where he knows that either of the contracting parties is a lunatic so formally declared under any law or Ordinance in force in the Territory. Lunacy.

(2) No person shall go through a form of marriage with any person in the Territory where he knows that such person is a lunatic so formally declared under any law or Ordinance in force in the Territory.

20. No person shall marry in the Territory where he knows that he is suffering from a communicable disease in a communicable state or where he knows that the other contracting party is suffering from a communicable disease in a communicable state. Communicable disease.

21. (1) No person shall perform a marriage ceremony where he knows or has reason to believe that either of the contracting parties is under the influence of liquor at the time of the ceremony. Under influence of liquor.

(2) No person shall go through a form of marriage with any person in the Territory if he knows or has reason to believe that such person is under the influence of liquor at the time of the ceremony.

22. (1) No issuer shall issue a marriage licence and no clergyman shall perform a marriage ceremony where either of the contracting parties is under the age of fifteen years unless there is furnished to the issuer or clergyman Party under fifteen years of age.

- (a) a certificate of a duly qualified medical practitioner that the female contracting party is pregnant;
- (b) where no qualified medical practitioner is available, other evidence satisfactory to the issuer or clergyman that the female contracting party is pregnant; or
- (c) the written permission of the Commissioner to the issue of the marriage licence or to the performance of the marriage ceremony, as the case may be.

(2) A certificate, other evidence or written permission of the Commissioner given under subsection (1) does not relieve any person from the requirements of this Ordinance respecting consents to the marriage of minors. Minors still require consent.

PUBLICATION OF BANNS.

Licence not required where banns published.

23. (1) Persons intending to marry do not require a licence where banns are published in accordance with this section.

Proclamation of intended marriage.

(2) Intention to marry shall be proclaimed openly and in an audible voice during divine service at least once on two successive Sundays in the place of public worship in which both of the persons intending to marry have been attending worship or in some place of public worship of the religious body with which the clergyman who is to perform the marriage ceremony is connected in the local municipality, parish, circuit or pastoral charge where both of the persons intending to marry have, for the space of fifteen days immediately preceding had their usual place of abode.

Where Saturday, etc., usual day of worship.

(3) Where the practice of faith of a religious body substitutes Saturday or some other day as the usual and principal day of the week for the celebration of divine service, proclamation of banns may be made on two consecutive Saturdays or such other days.

Where both parties do not reside in same place.

(4) Where both of the persons intending to marry do not reside in the same local municipality, parish, circuit or pastoral charge, a similar proclamation shall be made in the local municipality, parish, circuit or pastoral charge, if within Canada, where the other of the contracting persons has, for the space of fifteen days immediately preceding, had his or her usual place of abode and the marriage shall not be solemnized until there is delivered to the officiating clergyman a certificate in Form B showing that the proclamation has been made.

Where divine service not regularly held.

(5) Notwithstanding anything in this section, where, by reason of remoteness or otherwise, divine service, by the clergyman who is to perform the marriage ceremony, is not regularly held on successive Sundays, Saturdays or other days at a place in the Territory, intention to marry shall, at that place, be proclaimed at not less than two successive divine services other than in the same day, openly and in an audible voice by the said clergyman.

Statutory declaration.

24. (1) Before publication of banns each of the persons intending to marry shall personally and separately make a statutory declaration in Form C before the clergyman who is to proclaim the banns.

Clergyman may take declarations.

(2) A clergyman who is to proclaim banns may take declarations and administer oaths for the purposes of this section.

Other documents.

(3) Before publication of banns, where either of the persons intending to marry has been previously married or is a minor, the declarations, proofs, consents or other documents respecting previously married persons or minors required by this Ordinance shall be furnished by that person to the clergyman who is to proclaim the banns.

(4) A clergyman who proclaims banns shall, where he is not also the clergyman who is to solemnize the marriage, transfer all documents received by him pursuant to this section to the clergyman who is to solemnize the marriage within forty-eight hours after the second publication of banns has been made. ^{Transfer.}

25. Where either party to the intended marriage desires a certificate of publication of banns the clergyman who proclaims the banns, upon payment to him of a fee of fifty cents, shall furnish a certificate in Form B. ^{Certificate of publication.}

26. Within forty-eight hours after the solemnization of a marriage subsequent to the publication of banns the officiating clergyman shall forward to the Commissioner a certificate of the publication of banns in Form B, the statutory declarations in Form C required under section 24 and, in respect of persons previously married or minors, the declarations, proofs, consents or other documents required by this Ordinance to be furnished to him by the contracting parties or transferred to him by the clergyman who proclaimed the banns. ^{Clergyman to forward documents to Commissioner.}

27. No irregularity or insufficiency in the proclamation of the intention to marry where banns are published or in the certificate of publication shall invalidate a marriage. ^{Effect of irregularities.}

MARRIAGE LICENCES.

28. The Commissioner may appoint persons to issue marriage licences under this Ordinance. ^{Appointment.}

29.(1) Every issuer shall on the first day of every month make a return to the Commissioner of all licences issued by him during the preceding month with the names of the persons to whom the licences were issued and shall forward to the Commissioner the statutory declaration in Form C taken in each instance together with documents required to be deposited with him respecting previously married persons or minors or any other documents required to be deposited with him under this Ordinance. ^{Monthly returns.}

(2) The Commissioner may in his discretion alter the periods in which returns shall be made by an issuer or may order special returns to be made. ^{Commissioner may alter periods, etc.}

30. (1) Upon application for a licence, the applicant shall pay a fee of three dollars to the issuer. ^{Fees.}

(2) Each fee received by an issuer under subsection (1) shall be distributed as follows:

- (a) the issuer shall retain one dollar; and
- (b) the issuer shall send two dollars to the Commissioner.

Appointment of deputy issuers.

31. (1) An issuer who is prevented from acting by sickness may, with the approval of the Commissioner, appoint in writing for a period not exceeding three months, a deputy issuer to act for him in his absence.

Signature by deputy issuer.

(2) Every deputy issuer shall sign each licence issued by him in the following manner:

“ _____ , Issuer of Marriage Licences, _____ per _____ , Deputy Issuer.”

Powers and duties.

(3) A deputy issuer has the same powers and duties as an issuer.

Issuer may take declarations.

32. An issuer may take declarations and administer oaths for the purposes of this Ordinance.

Prohibition.

33. No issuer or deputy issuer shall issue a licence for his own marriage.

Form of licences.

34. (1) Licences shall be in Form D.

Form to be completed by issuer.

(2) Every issuer shall fill out the blanks and endorse on the licence the date and time of issue and shall sign each licence at the time of issue.

Issuer to read licence to parties.

35. (1) The issuer shall satisfy himself that both parties to the intended marriage fully understand the contents of a licence and shall read over the form of licence to each of the parties separately.

Interpreter where party does not understand English.

(2) Where either of the parties to the intended marriage does not understand the English language an independent interpreter shall be employed to explain the contents of the licence to that party.

Statutory declaration.

36. Before a licence is issued each of the persons for whose marriage it is to be issued shall personally and separately make a statutory declaration in Form C before the issuer.

Where resident party unable to attend.

37. (1) Where either of the contracting parties is resident in the Territory but is unable to make the declaration required in section 36 personally before the issuer, the issuer may permit that party to make a declaration in Form E before a justice of the peace or a commissioner for oaths or a notary public.

Contents and delivery of declaration.

(2) The declaration permitted under subsection (1) shall contain the reason relied upon to excuse personal attendance before the issuer and shall be delivered to the issuer at least seven days before the issue of the licence.

Where party is not a resident.

38. (1) Where one of the contracting parties resides outside the Territory and is unable personally to appear before the issuer, the issuer may, in his discretion, issue a licence upon the declaration in Form F to be taken before the issuer by the other contracting party.

(2) The declaration under subsection (1) shall be made at least seven days before the issue of the licence. Time of declaration.

39. No licence shall be issued between the hours of ten o'clock in the afternoon and six o'clock in the forenoon unless the issuer is satisfied from evidence adduced to him that the proposed marriage is lawful and that exceptional circumstances exist that render the issue of a licence between those hours advisable. Time for issue of licence.

40. No irregularity in the issue of a licence where it has been obtained or acted on in good faith shall invalidate a marriage solemnized in pursuance thereof. Effect of irregularity.

PERSONS PREVIOUSLY MARRIED.

41. (1) Subject to subsection (2), where either of the parties intending to be married is a widow or widower, she or he shall furnish to the clergyman proclaiming the banns or an issuer of marriage licences, as the case may be, a certificate of the death of the former husband or wife issued under the *Vital Statistics Ordinance*, or the law respecting vital statistics of the place where the death is registered. Certificate of death of deceased spouse.

(2) Where a clergyman or issuer is satisfied that a widow or widower cannot obtain a certificate of death of the deceased spouse, he may accept as proof of death an affidavit made by a credible adult person who has knowledge of the death. Affidavit in lieu of certificate.

(3) An affidavit under subsection (2) must be made by a credible adult person other than either of the persons intending to marry and shall be sworn before a justice of the peace, commissioner for oaths or notary public. Nature of affidavit.

42. (1) Where a previously married person cannot produce proof of death of his or her previous spouse and alleges that reasonable grounds exist for supposing that the other party to the previous marriage is dead, that person may present a petition to a judge for a declaration of presumption of death and the judge, if satisfied that such reasonable grounds exist, may make a declaration of presumption of death. Application for presumption of death.

(2) In an application under subsection (1) evidence, satisfactory to the judge, that for a period of seven years or upwards the other party to the previous marriage has been continually absent from the petitioner and that the petitioner has made reasonable inquiries and has no reason to believe that the other party has been living within that period is sufficient evidence in support of the petition. Evidence on petition.

(3) A previously married person who has obtained a declaration of presumption of death under this section and who wishes to marry again shall present a certified copy of the declaration to the clergyman proclaiming the banns or to an issuer of marriage licences, as the case may be, together with Documents to be produced on re-marriage.

a statutory declaration made by that person in Form G and a statutory declaration in Form H made by the other contracting party of the intended marriage.

Where previous marriage dissolved or annulled in Territory.

43. (1) Where either party intending to be married has been previously married but the previous marriage has been dissolved or annulled in the Territory, that party shall furnish to the clergyman proclaiming the banns or to an issuer of marriage licences, as the case may be,

- (a) a certificate of the dissolution or annulment obtained from an appropriate official under the *Vital Statistics Ordinance*; or
- (b) a certified copy of the decree absolute or decree of annulment obtained from the clerk of the appropriate court and, where an appeal from such decree is permitted, a certificate from the Clerk of the Court showing that no appeal has been brought within the time limited for appeal and that that time has expired or that, if brought, the appeal has been dismissed.

Where previous marriage dissolved or annulled outside the Territory.

(2) Where either party intending to be married has been previously married but the previous marriage has been dissolved or annulled elsewhere than in the Territory that party shall furnish to the clergyman proclaiming the banns or to an issuer of marriage licences, as the case may be, a certificate of the dissolution or annulment, or the decree absolute or decree of annulment or a certified or notarial copy thereof, obtained from a public or court official of the province, state or country in which the marriage was dissolved or annulled.

MINORS.

Minor.

44. (1) A party to an intended marriage who is under the age of twenty-one years is a minor within the meaning of this Ordinance.

Consent.

(2) Before the publication of banns or the issue of a licence, a minor shall deposit with the clergyman who is to proclaim the banns or with the issuer a consent to the marriage in Form I.

Who may execute consent.

(3) A consent required under subsection (2) shall be executed

- (a) by both parents of the minor where both his parents are living and are not legally separated;
- (b) by the surviving or other parent of the minor where one of his parents is dead or is a patient in a mental institution;
- (c) by the parent or other person who has legal custody of the minor where his parents are legally separated; or
- (d) by a lawfully appointed guardian of the minor or by an acknowledged guardian who has brought up

the minor or has supported him for at least three years preceding the intended marriage where both his parents are dead or where both parents are patients in a mental institution or the surviving parent is a patient in a mental institution.

(4) The consent required by this section is a condition precedent to a valid marriage, unless the marriage has been consummated or the contracting parties have, after the ceremony, cohabited and lived together as man and wife.

Consent is a condition precedent.

45. (1) The consent mentioned in section 44 shall not be required when a minor is at least eighteen years of age and deposits with the clergyman who is to proclaim the banns or with the issuer a statutory declaration in Form J made by the minor and sworn before a justice of the peace, commissioner for oaths or a notary public.

Statutory declaration in lieu of consent.

(2) The statutory declaration referred to in subsection (1) shall show

Contents.

- (a) that the father and mother of the minor are dead and that there is no guardian of the minor,
- (b) that a parent whose consent is required is not a resident of the Territory and that the minor has been a resident of the Territory for twelve months preceding the date of the declaration,
- (c) that the father and mother of the minor are patients in a mental institution or that the surviving parent is a patient in a mental institution and that there is no guardian of the minor, or
- (d) that the minor has, for not less than six months immediately preceding the date of the statutory declaration, been living apart from his parents or guardian and has not received financial aid or support from his parents or guardian within that period.

46. (1) Where the parents or guardian of a minor refuse or neglect to execute the consent required under section 44, the minor may apply to a judge and the judge may, in his discretion, grant an order dispensing with such consent.

Order dispensing with consent.

(2) Where an order has been granted under subsection (1) the minor shall deposit the order or a certified copy thereof with the clergyman who is to proclaim the banns or with the issuer before banns are published or a licence is issued, as the case may be.

Order to be deposited with clergyman, etc.

47. Where the clergyman who is to proclaim the banns or the issuer, as the case may be, is not satisfied that a minor is over the age of fifteen years he may require the minor to furnish a birth certificate or, in lieu thereof, an affidavit showing the age of the minor and made by a credible adult who has knowledge of the date of the birth of the minor.

Clergyman, etc., may ask for birth certificate.

VALIDITY OF CERTAIN MARRIAGES.

Registration dispensed with under certain conditions.

48. Where it is made to appear by statutory declaration to the satisfaction of the Commissioner that a marriage has been solemnized in the Territory in good faith and in intended compliance with this Ordinance by a clergyman or marriage commissioner and that, in ignorance of the requirements of this Ordinance, the marriage was not registered and where

- (a) neither of the parties to the marriage was at that time under any legal disqualification to contract the marriage;
- (b) after the marriage the parties lived together and cohabited as husband and wife; and
- (c) the validity of the marriage has not been questioned by action in any court;

the Commissioner may in writing declare that the requirements of this Ordinance as to registration are waived in respect of that marriage and that the marriage has been lawful and valid from the date of solemnization.

Nullity of marriage.

49. (1) Where a form of marriage is gone through between persons either of whom is a minor, without the consent required by this Ordinance, and the marriage has not been consummated and the parties thereto have not, after the ceremony, cohabited and lived together as husband and wife, a judge has jurisdiction to entertain an action by the contracting party who was at the time of the ceremony a minor and to declare and adjudge that a valid marriage was not effected or entered into.

Where carnal intercourse before marriage.

(2) A judge shall not declare a marriage void under subsection (1) where he is satisfied from evidence adduced to him that carnal intercourse has taken place between the parties before their marriage was solemnized.

No judgment by consent or in default.

(3) A judge shall not declare a marriage void upon consent of the parties or in default of appearance or of pleading or otherwise than after a trial.

Evidence.

(4) At every trial under subsection (1) the evidence shall be taken *viva voce* but the judge may permit the use of depositions of witnesses residing out of the Territory or of witnesses examined *de bene esse*.

Examination of parties.

(5) The judge may order the examination of both or of either of the parties before him touching the matters in question in the action and may order either party to submit to a physical examination by a duly qualified medical practitioner appointed for the purpose by the judge.

OFFENCES AND PENALTIES.

Issuers.

50. Every issuer who

- (a) issues a licence without first having obtained all the documents required by this Ordinance,
- (b) issues a licence where either contracting party is prohibited from marrying under this Ordinance,

- (c) fails to make any return or payment required by this Ordinance, or
- (d) neglects or refuses to perform any duty that he is required by this Ordinance to perform,
- is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars.

51. Every person who issues or purports to issue licences or issues any documents purporting to be a marriage licence and who is not a duly appointed issuer under this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars.

Issue of licences by unauthorized persons.

52. Every person who solemnizes a marriage contrary to the provisions of this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars.

Solemnizing marriage contrary to Ordinance.

53. Every person who, having been a clergyman or marriage commissioner with authority to solemnize marriage, has been deposed or removed from his ministry or office and who solemnizes or undertakes to solemnize a marriage after he has been deposed or removed is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars or to a term of imprisonment not exceeding twelve months.

Performing ceremony after removal from office.

54. Every person who wilfully makes or causes to be made a false statement of particulars required to be recorded or reported under this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars.

False statements.

55. Every person who violates a provision of this Ordinance for which no other penalty is provided is guilty of an offence and liable on summary conviction to a fine not exceeding twenty dollars.

General penalty.

56. Every prosecution for an offence under this Ordinance shall be commenced within two years from the date of the offence.

Time limit for prosecution.

57. No prosecution for an offence under this Ordinance shall be commenced until the permission of the Commissioner has been obtained.

Consent to prosecution.

SCHEDULE.

FORM A.

LIST OF CLERGYMEN AUTHORIZED TO SOLEMNIZE MARRIAGE.

The , being a religious body within the meaning of the Marriage Ordinance and having well recognized rites and ceremonies respecting the solemnization of marriage, hereby makes application by its governing authority for the registration of the persons whose names are hereinafter set forth. Each of the said persons is duly ordained or appointed according to our rites and ceremonies and we respectfully submit are clergymen within the definition of section 2 of the Marriage Ordinance.

The undersigned, being the governing authority duly authorized to act in the premises on behalf of the said religious body, hereby certify to the statements hereinafter set forth.

Dated at , this day of , 19

Signature.....

Address.....

Name Address Pastoral Charge

FORM B.

CERTIFICATE OF PUBLICATION OF BANNS.

I, _____, of _____,
 in the Yukon Territory, do hereby certify that on _____
 _____, the _____ day of _____ 19____
 and on _____, the _____ day of _____ 19____,
 the intention of _____ and of _____
 _____ of _____ to
 intermarry was duly proclaimed by me in accordance with the
Marriage Ordinance.

I further certify that I verily believe that the said
 _____ and _____
 had their usual place of abode at _____
 for the space of fifteen days immediately preceding the said
 _____ day of _____ 19____, being
 the first day on which the proclamation of banns was made.

Dated at _____ this _____ day of _____ 19____.

.....
Clergyman proclaiming banns

.....
Address

.....
Religious Body

I hereby certify that the above named contracting parties
 were married by me at _____ in the
 Yukon Territory on _____ the _____ day of
 19____

.....
Officiating Clergyman

.....
Address

.....
Religious Body

FORM C.

STATUTORY DECLARATION OF PARTIES TO MARRY.

Whereas we, and are desirous of entering into the contract of marriage, we do severally solemnly declare as follows:

According to the best of my knowledge and belief there is no affinity, consanguinity or other lawful cause or impediment to bar or hinder the solemnization of the said marriage.

According to the best of my knowledge and belief there is no affinity, consanguinity or other lawful cause or impediment to bar or hinder the solemnization of the said marriage.

I am of the age of years.

I am of the age of years.

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.

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.

..... (signature of Bridegroom)

..... (signature of Bride)

Declared before me at in the Yukon Territory this day of , 19 .

Declared before me at in the Yukon Territory this day of , 19 .

..... (Clergyman or Issuer of Marriage Licences)

..... (Clergyman or Issuer of Marriage Licences)

FORM D.

MARRIAGE LICENCE.

Whereas _____ of _____
 and _____ of _____ have
 determined to enter into the holy state of matrimony and are
 desirous of having this marriage solemnized in the manner
 prescribed by the *Marriage Ordinance*, I do hereby for good
 causes give and grant this licence, as well to them, the said
 parties, contracting, as to all or any clergyman or marriage
 commissioners, duly authorized under the said *Marriage Ordinance*,
 to solemnize or perform the same.

This licence is subject to the conditions that there are no
 impediments by reason of any affinity or consanguinity prior
 to marriage or by reason of any other lawful cause and if any
 fraud shall appear to have been committed at the time of grant-
 ing this licence either by false suggestions or concealment of
 the truth, this licence shall be null and void to all intents and
 purposes whatsoever.

Commissioner of the Yukon Territory.

Issued at _____, in the Yukon Territory at
this.....day of _____, 19...
 (time)

.....
Issuer

I hereby certify that the above named parties were married
 by me at _____, in the Yukon Territory at
on theday of _____, 19...
 (time)

.....
*Officiating Clergyman or Marriage
 Commissioner*

.....
Address

.....
Religious Body of Clergyman

FORM E.

STATUTORY DECLARATION RESPECTING
NON-ATTENDANCE OF PARTY RESIDENT
IN THE YUKON TERRITORY.

Whereas _____ and _____
are desirous of entering into the contract of marriage and of
having the marriage duly solemnized;

I, _____, of _____,
one of the contracting parties, do solemnly declare:

1. That I reside at _____ in the Yukon Ter-
ritory and that I am unable to appear before the issuer of
Marriage Licences because

.....
.....

2. That I am of the age of _____ years.

3. That to the best of my knowledge and belief there is no
affinity, consanguinity or any other lawful cause or impediment
to bar or hinder the solemnization of the said marriage.

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*.

.....
Bridegroom or Bride

Declared before me at _____ in the Yukon
Territory this _____ day of _____, 19 _____.

.....
*Justice of the Peace, Commissioner
for Oaths or Notary Public*

FORM F.

STATUTORY DECLARATION RESPECTING
NON-ATTENDANCE OF PARTY RESIDENT
OUTSIDE THE YUKON TERRITORY.

Whereas _____ and _____
are desirous of entering into the contract of marriage and of
having the marriage duly solemnized;

I, _____, of _____,
one of the contracting parties, do solemnly declare:

1. That _____, the other contracting party,
being a resident of _____
in the province of _____, is therefore unable
to personally appear before the issuer of Marriage Licences.

2. That _____, the other contracting party,
is to the best of my knowledge and belief of the age of _____
years.

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*.

.....
Bridegroom or Bride

Declared before me at _____ in the Yukon
Territory this _____ day of _____, 19 _____.

.....
Issuer of Marriage Licences

FORM G.

STATUTORY DECLARATION TO BE MADE BY
PREVIOUSLY MARRIED PERSON WHOSE FORMER
SPOUSE IS PRESUMED TO BE DEAD.

Whereas _____ and _____
are desirous of entering into the contract of marriage and of
having the marriage duly solemnized;

I, _____, of _____,
one of the contracting parties, do solemnly declare:

1. That I was married to _____ at
_____ , on the _____ day of _____ ,
19 _____ .

2. That I have perused the document now shown to me and
marked Exhibit "A" to this my declaration which purports
to be a certified copy of the Order or Declaration of Presump-
tion of Death of the said _____ given by
_____ , Judge, of _____ on
the _____ day of _____ , 19 _____

3. That I still have no reason to believe that the said
_____ is living.

4. That I have given careful consideration to the question of
the validity of the proposed marriage between
_____ and myself if
is not in fact dead at the time of the solemnization of the pro-
posed marriage and to the situation that will exist if the pro-
posed marriage takes place and the marriage proves to be
invalid by reason of it being found that the said
_____ was not in fact dead when the
marriage was solemnized.

5. That, nevertheless, it is my desire to enter into a contract
of marriage with the said _____

6. That I have acquainted _____, the
other contracting party, with the true particulars with respect
to the said Order of Declaration of Presumption of Death of

7. That this solemn declaration is made by me
separate and apart from _____, the other party
to the proposed marriage.

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 Ter-
ritory this _____ day of _____, 19 ____.

.....
*Justice of the Peace, Commissioner
for Oaths or Notary Public.*

FORM H.

STATUTORY DECLARATION TO BE MADE BY PERSON
MARRYING A PREVIOUSLY MARRIED PERSON
WHOSE FORMER SPOUSE IS PRESUMED
TO BE DEAD.

Whereas _____ and _____
are desirous of entering into the contract of marriage and of
having the marriage duly solemnized;

I, _____, of _____,
one of the contracting parties, do solemnly declare:

1. That I have been advised and verily believe that _____
_____, the other contracting party, was
married to _____ at _____
on the _____ day of _____, 19 ____.

2. That I have been informed by _____
the other contracting party, of the presumption of death of
the said _____ and the circumstances
thereof.

3. That I have no reason to believe that the said _____
is still living.

4. That I have given careful consideration to the question of the validity of the proposed marriage between _____ and myself if _____ was not in fact dead at the time of the solemnization of the proposed marriage and to the situation that will exist if the proposed marriage takes place and the marriage proves to be invalid by reason of it being found that the said _____ was not in fact dead when the marriage was solemnized.

5. That, nevertheless, it is my desire to enter into a contract of marriage with the said _____

6. That this solemn declaration is made by me separate and apart from _____, the other party to the proposed marriage.

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 Ter-
ritory this _____ day of _____, 19 _____.

.....
*Justice of the Peace, Commissioner
for Oaths or Notary Public.*

FORM I.

CONSENT TO MARRIAGE OF MINOR.

I/we _____, hereby consent to the marriage of
 my/our (son, daughter or ward) whose name is _____
 with _____ and
 I/we certify that my/our said (son, daughter or ward) is of
 the age of _____ years.

Dated at _____ this _____ day of
 _____, 19 _____.

.....
Witness

.....

.....
Witness

.....

.....
*Signature and address of Parents
 (or Parent) or Guardian*

NOTE:—This form must be signed:

- (a) by both parents of the minor where both his parents are living and are not legally separated;
 or
- (b) by the surviving or other parent of the minor where one of his parents is dead or is a patient in a mental institution;
 or
- (c) by the parent or other person who has legal custody of the minor where his parents are legally separated;
 or
- (d) by a lawfully appointed guardian of the minor or by an acknowledged guardian who has brought up the minor or who has supported him for at least three years preceding the intended marriage where both his parents are dead or where both parents are patients in a mental institution or where the surviving parent is a patient in a mental institution.

FORM J.

STATUTORY DECLARATION BY MINOR.

Whereas _____, of _____, and _____, of _____, have agreed to enter into the state of matrimony and whereas _____ is at least eighteen year of age but is under twenty-one years of age;

I, _____, of _____, the contracting party under twenty-one years of age do solemnly declare;

1. That my father and mother are dead and that I have no guardian.

or

2. That my parent whose consent is required is not a resident of the Yukon Territory and that I have been a resident of the said Territory for twelve months preceding the date of this declaration.

or

3. That my parents (or my surviving parent) are (is) a patient(s) in a mental institution and that I have no guardian.

or

4. That, for not less than six months preceding the date of this declaration, I have been living a part from my parents (or guardian) and that I have not received financial aid or support from my parents (or guardian) within that period.

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*.

.....
Minor

Declared before me at _____ in the Yukon Territory
this _____ day of _____, 19 _____.

.....
*Justice of the Peace, Commissioner
for Oaths or Notary Public.*

NOTE:—The Justice of the Peace, Commissioner for Oaths or Notary Public will delete the paragraphs numbered 1, 2, 3 and 4 which do not apply, and will initial each deletion in the left margin.

CHAPTER 70.

AN ORDINANCE RESPECTING THE CAPACITY,
PROPERTY AND LIABILITIES OF
MARRIED WOMEN.

1. This Ordinance may be cited as the *Married Women's Short Title. Property Ordinance.*

2. In this Ordinance, "property" includes a thing in action Interpretation. and any interest in real or personal property.

3. Subject to the provisions of this Ordinance, a married Capacity and liabilities of married woman. woman

- (a) continues to be liable in respect of any tort committed, contract entered into or debt or obligation incurred by her before marriage,
- (b) is capable of rendering herself and being rendered liable in respect of any contract, debt or obligation,
- (c) is capable of acquiring, holding and disposing of any property,
- (d) is capable of suing and being sued in tort, contract or otherwise,
- (e) is subject to the enforcement of judgments and orders, and
- (f) is capable of acting in any fiduciary or representative capacity,

in all respects as if she were unmarried.

4. (1) All property that

- (a) immediately prior to the 1st day of April, 1955, was the Property of married woman. property of a married woman,
- (b) belongs, at the time of her marriage, to a woman married after the 1st day of April, 1955, or
- (c) after the 1st day of April, 1955, is acquired by, or devolves upon, a married woman,

belongs to her in all respects as if she were unmarried and may be dealt with accordingly.

(2) Nothing in subsection (1) interferes with or renders inoperative a restriction upon anticipation or alienation attached to the enjoyment of any property and contained in an instrument executed prior to the 1st day of April, 1955. Saving Provision.

(3) An instrument executed after the 1st day of April, 1955, in so far as it purports to attach to the enjoyment of property by a married woman a restriction upon anticipation or alienation that could not be attached to the enjoyment of that party by a man, is void. Restrictions upon anticipation.

When restriction deemed to have been imposed.

- (4) For the purposes of the provisions of this section relating to restrictions upon anticipation or alienation,
 - (a) an instrument executed after the 1st day of April, 1955, attaching such a restriction pursuant to an obligation imposed prior to the 1st day of April, 1955, is deemed to have been executed prior to the 1st day of April, 1955;
 - (b) a restriction contained in an instrument made in exercise of a special power of appointment is deemed to be contained in that instrument only and not in the instrument by which the power was created; and
 - (c) the will of a testator who dies at any time after three years from the 1st day of April, 1955, is, notwithstanding the actual date of the execution of the will, deemed to have been executed after the 1st day of April, 1955.

Limitations on husband's liability.

- 5. The husband of a married woman is not, by reason only of his being her husband, liable
 - (a) in respect of a tort committed by her before or after marriage, or
 - (b) in respect of a contract entered into, or a debt or obligation incurred by her before marriage.

Saving provision.

- 6. Nothing in this Ordinance
 - (a) exempts a husband from liability in respect of any contract entered into, or debt or obligation incurred by his wife after marriage in respect of which he would be liable if this Ordinance had not been passed;
 - (b) prevents a husband and wife from acquiring, holding or disposing of property jointly or as tenants in common or from rendering themselves or being rendered jointly liable in respect of any tort, contract, debt or obligation, or from suing or being sued in tort, contract or otherwise in like manner as if they were not married; or
 - (c) prevents the exercise by a husband and wife of any joint power given to the husband and wife.

Remedies for protection of property.

7. (1) A married woman has in her own name against all persons, including her husband, the same remedies for the protection and security of her property as if she were unmarried.

Idem.

(2) A married man has against his wife the same remedies for the protection and security of his property as his wife has against him for the protection and security of her property.

Actions in tort.

(3) Subject to subsections (1) and (2), no husband or wife is entitled to sue the other in tort, except in respect of a tort committed while living apart under a separation agreement or under a decree or order for judicial separation.

CHAPTER 71.

AN ORDINANCE RESPECTING MASTERS
AND SERVANTS.

1. This Ordinance may be cited as the *Masters and Servants* Short Title.
Ordinance.

2. In this Ordinance, Definitions.

- (a) "contract" means a contract of personal service between "Contract."
a master and a servant and includes any hiring;
- (b) "master" includes any employer, whether a corporation, "Master."
partnership or individual;
- (c) "servant" means any person engaged or hired by or "Servant."
bound to a master whether as employee, labourer, work-
man or otherwise; and
- (d) "wages" includes salary whether the employment in "Wages."
respect of which the same is payable is by time or by
the job or piece or otherwise.

3. Subject to section 10, this Ordinance applies to every Scope of
hiring or contract of personal service. Ordinance.

4. Unless a contract of personal service for a period of more Certain
than one year is in writing and signed by the contracting contracts to
parties, it is void and of no effect. be in writing.

5. A servant who Misconduct
of servant.

- (a) is guilty of drunkenness;
- (b) absents himself by day or night without leave from his
proper service or employment;
- (c) refuses or neglects to perform his duties or to obey the
lawful commands of his master;
- (d) dissipates his master's property or effects; or
- (e) abandons his employment by leaving his master's service
before the expiration of his contract without the consent
of his master and without lawful excuse;

shall be deemed to have violated his contract and upon sum-
mary conviction is liable to a fine not exceeding thirty dollars
with costs.

6. (1) A master who Misconduct
of master.

- (a) neglects after demand to pay wages due to,
- (b) ill uses, or
- (c) improperly dismisses,

a servant is guilty of violation of his contract and upon the
oath of such servant a justice of the peace having jurisdiction
may summon the master to appear before him at a reasonable
time to be stated in the summons.

(2) At the time and place appointed the justice shall examine into the matter of the complaint whether the master appears or not; and upon due proof of the personal service of the summons and the cause of complaint may discharge the servant from the service of the master and may direct the payment to him of any wages found to be due, not exceeding six months' wages, together with costs, and in default of payment forthwith may issue his warrant for the distress and sale of the goods and chattels of the master.

Limit of time
for taking
proceedings.

7. Proceedings may be taken under this Ordinance within three months after the contract has ceased or has been terminated or within three months after the last instalment of wages under the contract has become due, whichever day is the later.

*Criminal
Code.*

8. The provisions of the *Criminal Code* relating to summary convictions that deal with the enforcement of an order requiring payment of a sum of money do not apply to proceedings under this Ordinance.

Foreign
contracts.

9. This Ordinance applies to contracts made out of the Territory in respect of service or labour performed in the Territory.

Civil rights
preserved.

10. Except as provided in section 4, nothing in this Ordinance curtails, abridges or defeats any civil or other remedy for the recovery of wages or damages that masters may have against their servants or that servants may have against their masters.

CHAPTER 72.

AN ORDINANCE RESPECTING LIENS IN FAVOUR OF MECHANICS AND OTHERS.

SHORT TITLE.

1. This Ordinance may be cited as the *Mechanics Lien Ordinance*.

INTERPRETATION.

2. In this Ordinance,
- (a) "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; Definitions.
"Contractor."
 - (b) "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; and "Sub-contractor."
 - (c) "owner" includes 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. "Owner."

LIEN FOR WORK OR MATERIALS.

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. Agreement as to liens.
Third party's rights.

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. Nature of lien.

Property upon which lien shall attach.

5. (1) The lien shall attach upon the estate and interest of the owner 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.

Where estate charged is leasehold.

(2) In cases where the estate or interest charged by the lien is a leasehold, the land itself may also, with the consent of the owner thereof, be subject to the lien if 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.

Prior mortgage.

(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.

Claim for wages.

6. (1) Without prejudice to any lien that 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.

(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.

Owner to retain 10% of contract price for 30 days.

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 cent of the price to be paid to the contractor.

Lien claimed by sub-contractor.

8. In case the lien is claimed by a sub-contractor the amount that 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.

Payments made in good faith without notice of lien.

9. (1) All payments up to ninety per cent of the price to be paid for the work, machinery or materials mentioned in section 4, 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 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 does 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 cent of the price to be paid by the owner for the work, machinery or materials mentioned in section 4, 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 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.

10. Except 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. Lien not to increase liability of owner.

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 lienholder for such material or labour, shall be entitled, subject to sections 6 and 9, 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. Persons having claims against the lienholders.

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 section 11, the same shall be first determined by action in the Territorial Court in that behalf, or by arbitration in manner mentioned in section 14, 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. Disputes to be settled by action or arbitration.

13. Where the person primarily liable to the person giving notice as mentioned in section 11 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 Failure to pay.

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 to the person primarily liable.

Arbitration of sub-contractor's claim.

14. (1) Where 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.

(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.

Material affected by lien not to be removed.

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.

REGISTRATION OF LIEN.

Registration of lien.

16. (1) 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

- (a) the name and residence of the claimant, 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; and
- (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.

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.

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*; and the said claim of lien may be described as a mechanic's lien. Claims to be filed as an encumbrance.

19. Where a claim is so deposited the person entitled to the lien shall be deemed a purchaser *pro tanto*. Lienholder a purchaser *pro tanto*.

20. (1) Where the lien is for wages under sections 6 or 9, the claims may be registered Time for registration.

(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 sections 6 and 9 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.

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. Time for registration.

PROCEEDINGS TO REALIZE LIEN.

22. Every lien that has not been duly deposited under 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 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. Actions to enforce unregistered lien. Time for.

23. Every lien that has been duly deposited under 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 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. Action to enforce registered lien.

Time for action if no period of credit or none stated.

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 have been instituted pursuant to section 23.

Lien realizable in Territorial Court.

25. In all cases the lien may be realized in the Territorial Court according to the ordinary procedure of the Court.

Lienholders joining in action.

26. (1) Any number of lienholders may join in one action and any action brought by a lienholder shall be taken to be brought on behalf of all the lienholders of the same class who have registered their liens before or within thirty days after the commencement of the action or who 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.

Action enuring to class.

(2) In the event of the death of the plaintiff or his refusal or neglect to proceed any other lienholder 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.

Sale of land. Time for.

(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.

Machinery.

(4) The Court or judge may also direct the sale of any machinery and authorize its removal.

Costs.

(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.

Class to rank *pari passu*.

(6) Where there are several liens under this Ordinance against the same property each class of the lienholders shall, subject to sections 5, 9 and 11, 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 lienholders *pro rata* according to their several classes and rights and they shall respectively be 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 registration of the lien.

Annulling registration.

(8) The Court or judge may annul the said registration upon any other ground.

(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 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.

Summary hearing and determination.

DEATH OF LIENHOLDER.—ASSIGNMENT OF LIEN.

27. In the event of the death of a lienholder, his right of lien shall pass to his personal representatives and the right of a lienholder may be assigned by any instrument in writing.

Death of holder. Assignment 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.

Discharge of lien.

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.

Discharge to be at contractor's costs.

EXECUTION AGAINST PERSON SUPPLYING MATERIAL.

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.

Materials exempt from execution.

LIENS ON CHATTELS.

31. (1) 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

Liens for improvement of chattels. Enforcing.

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.

(2) 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.

FORMS.

Forms.

32. The forms in the Schedule hereto shall be deemed sufficient for the purposes specified in such Schedule.

SCHEDULE.

FORM A.
(Section 16)

CLAIM OF LIEN.

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 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.
(Section 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 under-mentioned 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.
(Section 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)*.

<i>A.B.,</i> of <i>(residence)</i>	\$	for	_____	days wages.
<i>C.D.,</i> of	\$	for	_____	days wages.
<i>E.F.,</i> 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 lienholder that fact must be stated and the name and residence of the original lienholder stated.]*

FORM D.
(Section 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 }

CHAPTER 73.

AN ORDINANCE RESPECTING THE
MEDICAL PROFESSION.

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as the *Medical Profession Ordinance*.

INTERPRETATION.

Definitions. **2.** In this Ordinance,
 "Licence." (a) "licence" means a valid and subsisting licence issued under this Ordinance to practise medicine in the Territory;
 "Medical practitioner." (b) "medical practitioner" means a person who is entitled to practise medicine in the Territory under this Ordinance;
 "Practise medicine." (c) "practise medicine" means to offer or undertake by any means or method to diagnose, treat, operate or prescribe for any human disease, pain, injury, disability or physical condition or to hold oneself out as being able to diagnose, treat, operate or prescribe for any human disease, pain, injury, disability or physical condition; and
 "Register." (d) "register" means the Medical Register referred to in section 3.

Medical Register. **3.** The Territorial Secretary shall keep a register, called the Medical Register, and shall enter therein the names, addresses and qualifications of all persons who are, pursuant to this Ordinance, entitled to be registered in the Medical Register and he may issue licences to such persons.

Qualifications for registration. **4.** (1) A person who
 (a) on the 22nd day of November, 1954, was entitled by law to practise medicine in the Territory; or
 (b) produces to the Commissioner a certificate under the hand of the Registrar of the Medical Council of Canada showing that his name is registered in the Canadian Medical Register under the provisions of the *Canadian Medical Act*, and satisfies the Commissioner that he is the person named in the certificate;
 and who pays the fees required by this Ordinance, is entitled to be registered in the register.

Registration fee. (2) Every person who applies for registration in the Medical Register shall, with his application for registration, send to the Territorial Secretary a registration fee of fifty dollars payable to the Territorial Treasurer.

5. Every person who is registered in the register shall send to the Territorial Secretary at the time his name is registered in the register and subsequently on or before the 31st day of March in each year an annual licence fee in the sum of twenty-five dollars.

Annual licence fee.

6. A licence expires on the 31st day of March next following the day upon which it came into force.

Duration of licences.

PERMITS.

7. (1) The Commissioner may issue a permit to a member of any of the armed forces of Canada or of a visiting force as defined in the *Visiting Forces (North Atlantic Treaty) Act* to practise medicine among such persons, in such parts of the Territory, for such period of time and upon such terms and conditions as the Commissioner may prescribe, and for the purposes of this Ordinance, a holder of a permit issued under this section shall, when practising medicine pursuant to this section, be deemed to be the holder of a licence.

Permits to members of armed forces of Canada or visiting forces.

(2) No fee shall be charged for a permit issued under subsection (1).

No fee to be charged for permit under subsection (1).

PRACTICE OF MEDICINE.

8. No person is entitled to recover a fee, reward or remuneration for professional services rendered or material or appliances provided by him in practising medicine unless he holds a licence at the time the services are rendered or the materials or appliances are provided.

Practice limited to holders of licences.

9. A person who holds a licence is entitled to practise medicine in the Territory, and to bring an action before a judge for the recovery of reasonable charges for professional aid, advice and visits and costs of any medicine, materials or appliances supplied by him to his patients.

Licentee's right to practise and to recover fees.

10. No action shall be brought in respect of any negligent act or omission or malpractice on the part of a medical practitioner in connection with professional services rendered by him unless it is commenced within two years from the day when, in the matter complained of, the professional services terminated.

Limitation of actions for malpractice.

OFFENCES AND PENALTIES.

11. (1) A person who is not the holder of a licence under this Ordinance and who

Offence for unlicensed practice.

- (a) publicly or privately practises medicine;
- (b) appends to his name the title of doctor, surgeon or physician or any word indicative of any such title or used in substitution or abbreviation thereof;

(c) holds himself out in any way to be a duly qualified medical practitioner; or

(d) assumes any title or description implying or designed to lead the public to believe that he is duly qualified to practise as a medical practitioner;

is guilty of an offence.

Penalty. (2) A person who commits an offence against this Ordinance is liable upon summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

Exceptions to subsection (1). (3) Paragraph (b) of subsection (1) does not affect the right of a dentist, duly licensed to practise dentistry in the Territory under the *Dental Profession Ordinance*, to append the title doctor or dental surgeon to his name, nor the right of a veterinary surgeon to append the title doctor or veterinary surgeon to his name, nor the right of any doctor of divinity or philosophy or otherwise duly qualified by a degree from a recognized university to append the word doctor to his name.

Time for prosecution. 12. No prosecution for an offence under this Ordinance shall be commenced after one year from the day when the offence is alleged to have been committed.

Onus of proof. 13. In a prosecution for an offence under this Ordinance the onus of proof that the person against whom the charge is laid is the holder of a licence is upon the person against whom the charge is laid.

INVESTIGATION AND REMOVAL.

Removal for nonpayment of fees. 14. (1) Subject to subsection (2), the Territorial Secretary shall remove from the register the name of a person registered therein who fails to comply with the provisions of this Ordinance respecting licence fees, and the licence issued to that person is invalid until such time as he is again registered in the register.

Extension of time. (2) Where reasons satisfactory to the Commissioner are advanced to him as to why the licence fee has not been paid at the required time or within the required period, the Commissioner may grant an extension for payment of fees before allowing the name of the person, on whose behalf they are paid, to be struck off the register but shall in no case grant an extension of time exceeding sixty days.

Reinstatement. (3) A person whose name is removed from the register pursuant to subsection (1) is entitled to have his name restored in the register if he pays a fee of ten dollars in addition to the fee in respect of which his name was removed from the register.

Board of Inquiry. 15. (1) The Commissioner may appoint two or more persons, who are registered in the Canadian Medical Register as duly qualified medical practitioners to act as a Board of Inquiry for the purpose of investigating any complaint made against a

person practising as a medical practitioner with respect to an alleged contravention of this Ordinance or any complaint of malpractice or infamous, disgraceful or improper conduct on the part of a person practising as a medical practitioner.

(2) Without restricting the generality of the expression "improper conduct" a person practising medicine is guilty of improper conduct who

Meaning of "improper conduct".

- (a) abandons a patient in danger without giving him an opportunity to retain the services of another medical practitioner;
- (b) knowingly gives a false certificate respecting birth, death, notice of disease, state of health, vaccination or disinfection or respecting any matter relating to life, health or accident insurance;
- (c) divides with another person, who is not a partner, any fees or profits resulting from consultations, medical attention or surgical operations without the patient's knowledge and consent;
- (d) is addicted to the excessive use of intoxicating liquors or the excessive or habitual use of opiates or narcotics; or
- (e) impersonates another medical practitioner.

(3) A Board of Inquiry appointed pursuant to subsection (1) may make rules and regulations under which the inquiry is to be held and has power

Powers of Board.

- (a) to summon and bring before it any person whose attendance it considers necessary to enable the Board properly to inquire into the matter complained of;
- (b) to swear and examine all persons under oath;
- (c) to compel the production of documents; and
- (d) to do all things necessary to provide a full and proper inquiry.

(4) A Board of Inquiry may direct that the person who made the complaint it is appointed to investigate shall deposit with the Board, as security for the costs of the inquiry and to the person complained against, a sum not exceeding five hundred dollars.

Security for costs.

(5) Where the Board of Inquiry finds that a complaint is frivolous or vexatious, it may cause to be paid to the Territorial Secretary out of the deposit for security mentioned in subsection (4) such portion of the costs of the inquiry and to the person complained against as it deems advisable, and where the Board does not so find or where there is any balance of the deposit remaining, the deposit or balance thereof shall be returned to the person who deposited it.

Frivolous and vexatious complaint.

(6) A majority of the members of a Board of Inquiry is a quorum.

(7) A Board of Inquiry shall, after investigation of a complaint pursuant to this section, make a finding and shall immediately report its finding to the Commissioner, and where

Findings and recommendations.

it finds that the person complained against is guilty of a contravention of this Ordinance or of malpractice or of infamous, disgraceful or improper conduct, may, in its report to the Commissioner, recommend that such person be

- (a) reprimanded;
- (b) fined in an amount named by the Board, such amount not to exceed five hundred dollars;
- (c) struck off the register and his licence cancelled; or
- (d) struck off the register and his licence suspended for a definite period named by the Board.

Notification to the person complained against.

(8) The Board of Inquiry shall, at the time it sends its report to the Commissioner pursuant to subsection (7), notify the person complained against of its finding and of the recommendations for punishment, if any, made by it in such report.

Offence.

- (9) Every person who
 - (a) fails, without valid excuse, to attend an inquiry under this section,
 - (b) fails to produce any document, book or paper in his possession or under his control, as required under this section, or
 - (c) at an inquiry under this section
 - (i) refuses to be sworn or to affirm or to declare, as the case may be, or
 - (ii) refuses to answer any proper question put to him by the Board of Inquiry,

is guilty of an offence.

Appeal to judge.

16. (1) A person against whom a finding has been made by a Board of Inquiry may, within thirty days after the finding has been made, appeal from such finding to a judge.

Powers of judge.

(2) The judge before whom an appeal is made under subsection (1) may hear the appeal at such time and in such manner as he deems just and he may, by order, quash, alter or confirm the finding of the Board of Inquiry.

Commissioner powers on recommendation by Board.

17. (1) Where a medical practitioner has been found guilty of a contravention of this Ordinance or of malpractice or of infamous, disgraceful or improper conduct by a Board of Inquiry and no appeal has been taken from the finding or the time for appeal has expired, the Commissioner shall, after receiving the report from the Board, impose the penalty recommended by it, and

- (a) in the case of a reprimand, reprimand the practitioner in writing and note the reprimand in the register;
- (b) in the case of a fine, make an order fining the practitioner, which order shall be filed in the appropriate court and have the same effect as an order of that court;
- (c) in the case of a recommendation to strike off the register and cancel his licence, have the name of the practitioner struck off the register and cancel his licence; and

(d) in the case of a recommendation to strike off the register and suspend his licence, have the name of the practitioner struck off the register and suspend his licence for such time as the Board has recommended.

(2) Where a judge on appeal confirms or alters the finding of a Board of Inquiry, his order in the case of a fine shall be carried out in the usual way and in the case of any other punishment referred to in subsection (1) shall be directed to the Commissioner and carried out by him in the same manner as provided by subsection (1). Commissioner to enforce order of judge.

18. (1) A medical practitioner whose name has been struck off the register and whose licence has been cancelled or suspended pursuant to section 17 may, Application for reinstatement.

(a) where he had not taken any appeal from the finding within one year from the date of the finding of the Board of Inquiry, apply to the Commissioner to have his name restored to the register; or

(b) where he had appealed from the finding within one year from the date of an order under subsection (2) of section 16, apply to a judge for an order directing the Territorial Secretary to have his name restored to the register.

(2) The Commissioner or a judge may, upon application under subsection (1), order the Territorial Secretary to reinstate on the register a medical practitioner whose name is registered in the Canadian Medical Register and renew his licence and restore his rights and privileges in such manner and upon such conditions as the Commissioner or judge may decide. Order by Commissioner or judge.

(3) The Territorial Secretary shall, upon receiving an order under subsection (2) to do so, reinstate a medical practitioner on the register and renew his licence and restore his rights and privileges in such manner and upon such conditions as the order directs. Territorial Secretary to reinstate.

APPLICATION.

19. Nothing in this Ordinance applies to or affects Exceptions.

- (a) a duly qualified medical practitioner of any province or country meeting in consultation in the Territory with a medical practitioner of the Territory;
- (b) the furnishing of first aid or temporary assistance in cases of emergency;
- (c) the domestic administration of family remedies;
- (d) the practising by any person of the religious tenets of his church or religion without pretending a knowledge of medicine or surgery, unless he violates any laws regulating or with respect to contagious diseases or sanitary matters;
- (e) the manufacture, fitting or selling of artificial limbs or similar appliances;

- (f) the practice of chiropractic by a chiropractor duly licensed under the *Chiropractic Ordinance*;
- (g) the practice of dentistry by a dentist duly licensed under the *Dental Profession Ordinance*;
- (h) the practice of optometry by an optometrist duly licensed under the *Optometry Ordinance*;
- (i) the practice of pharmacy by a pharmaceutical chemist duly licensed under the *Pharmaceutical Chemists Ordinance*;
- (j) the practice of nursing by a nurse; or
- (k) a medical practitioner, physician or surgeon employed by the Government of Canada who, during the course of his duties as an employee of the Government of Canada, practises medicine in the Territory, unless he practises medicine on his own behalf in the Territory outside the course of his duties as an employee of such Government.

No person appointed as medical officer in public service unless registered.

20. No person shall be appointed as medical officer, physician or surgeon in any branch of the public service of the Territory or in any hospital or other charitable institution, unless he is registered under this Ordinance.

MEANING OF "DULY QUALIFIED MEDICAL PRACTITIONER".

Meaning of "duly qualified medical practitioner".

21. Where the words "duly qualified medical practitioner" or "legally qualified medical practitioner" or any other words implying legal recognition of a person as a medical practitioner are used in any law of the Territory, they shall, in so far as that law applies to the Territory, be construed to mean

- (a) a person who holds a licence under this Ordinance; and
- (b) a person referred to in paragraph (k) of section 19.

OTHER ORDINANCES.

Effect of other Ordinances.

22. Nothing in the *Dental Profession Ordinance* or the *Pharmaceutical Chemists Ordinance* shall be construed to prohibit a medical practitioner from doing, in the course of administering medical aid or treatment, any thing for which a licence is required under any of the said Ordinances or from doing anything in an emergency, to attempt to relieve the pain or suffering of a person or animal.

CHAPTER 74.

AN ORDINANCE RESPECTING LIENS IN FAVOUR OF MINERS.

SHORT TITLE.

1. This Ordinance may be cited as the Miners' Lien Ordinance.

Short Title.

INTERPRETATION.

2. In this Ordinance,

Definitions.

(a) "mine" or "mining claim" means a mine, claim or mineral claim as defined in the Yukon Quartz Mining Act and the Yukon Placer Mining Act;

"Mine" or "mining claim."

(b) "miner" means any person working upon a mine or mining claim or in connection therewith;

"Miner."

(c) "owner" includes a person having any estate or interest in a mine or mining claim upon or in respect of which work or service is done or materials are placed or furnished, at whose request and upon whose credit or on whose behalf or with whose consent or for whose direct benefit any such work or service is performed or materials are placed or furnished, and all persons claiming under him or them whose rights are acquired after the work or service or furnishing of materials in respect of which the lien is claimed is commenced; and

"Owner."

(d) "registering" or "registration" means the filing or depositing of an instrument with the Mining Recorder.

"Registering" and "registration."

LIEN FOR WORK AND MATERIALS.

3. (1) Any person who performs any work or service upon or in respect of or places or furnishes any material to be used in the mining or working of any placer or quartz mine or mining claim shall, by virtue thereof, have a lien for the price of such work, service or material upon the minerals or ore produced from and the estate or interest of the owner in the mine or mining claim in or upon or in respect of which such work or service is performed or material furnished, limited however in amount to the sum justly due to the person entitled to the lien.

Persons furnishing materials on quartz or placer mining claims to have lien on product of mine and interest of claim holder.

(2) The lien shall attach upon the estate or interest of the owner and of all persons having any interest in the mine or mining claim and all appurtenances thereto, the minerals or ores produced therefrom, the land occupied thereby or enjoyed therewith and the chattels, equipment and machinery in, upon or used in connection with such mine, mining claim or land.

Lien to attach as against owner and others interested.

To take effect as against subsequent mortgages.

(3) Upon registration, the lien shall attach and take effect as against persons purchasing and mortgagees and other encumbrancers registering their mortgages or encumbrances subsequent to the commencement of performance of work or service or furnishing of material in respect of which the lien is claimed.

Priority of lien.

4. Any lien registered pursuant to this Ordinance shall, as to one-half of the output from the mine or mining claim in respect of which the lien is claimed, take priority over all mortgages and encumbrances registered subsequent to the 16th day of November, 1957.

REGISTRATION OF LIEN.

Claim of lien.

5. (1) A claim of lien may be deposited in the office of the mining recorder for the district in which the mine or mining claim is situate and shall 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 or service is performed or material furnished and the time or period within which the same was or was to be performed or furnished;
- (b) the work or service performed or material 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 lienholder for payment for his work, service or material where credit has been given.

Claim to be verified.

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

Number of claims.

6. A claim may include the claims of any number of miners, labourers or other persons who have performed work or supplied materials who may choose to unite their claims in such case; each claimant shall verify his claim by affidavit but need not repeat the facts set out in the claim.

Registration.

7. The claim may be registered at any time before the expiration of six months from the last day upon which the work or service or material, the subject matter of the claim, was performed or furnished or where credit has been given from the time fixed for payment.

Failure to deposit lien.

8. Every lien that has not been duly deposited under the provisions of this Ordinance shall cease to exist on the expiration of the time hereinbefore limited for the registration thereof.

PROCEEDINGS TO REALIZE LIEN.

9. Every lien that has been duly deposited pursuant to this Ordinance shall cease to exist upon the expiration of sixty days after such deposit unless, in the meantime, proceedings are instituted to realize the claim under this Ordinance and a certificate thereof, granted by the Court, is duly filed in the office of the mining recorder. When lien ceases to exist.

10. (1) Proceedings to enforce any lien may be commenced by originating summons in which will be set forth the grounds upon which such lien is claimed. How enforced.

(2) Such summons shall be granted upon application of the lienholder supported by his affidavit setting forth the facts of his claim.

11. Upon the return of such summons the judge, upon being satisfied that due notice has been given to all persons interested, may adjudicate upon the liability of the owner or other person or persons in respect of the claim or claims and may make such order or orders in the matter including allowance of costs of the proceedings as to him seems meet. Court may fix liability.

12. (1) Any number of lienholders may join in one summons and any proceedings brought by a lienholder shall be taken to be brought on behalf of all the lienholders who have duly registered their liens before or within sixty days after the commencement of the proceedings or who, within such period of sixty days, file with the Clerk of the Court a statement of their respective claims intitled in or referring to such proceedings. Actions for liens united.

(2) In the event of the death of the claimant to whom such summons has been granted or his refusal or neglect to proceed any other lienholder who has duly registered his claim or filed his statement in the manner and within the time limited by this section for that purpose may be allowed to continue and prosecute the proceedings on such terms as are considered by the judge to be just and reasonable. Death of claimant.

(3) If the minerals or ore produced from the mine or mining claim against which the lien is registered are not sufficient to satisfy the liens so registered, the judge may direct a sale of any estate or interest or estates or interests or any material, equipment, machinery and chattels charged with the lien to take place at any time after three months from the recovery of judgment. Sale of estate or interest or material, etc.

(4) In any case in which judgment is given in favour of any claimant the judge may adjudge payment to such claimant of his costs of and incidental to registration of his claim of lien. Costs.

(5) Upon application the judge may at any time after the expiration of sixty days from the commencement of the proceedings, receive payment or security satisfactory to him for Vacating registration.

payment of a sum sufficient to pay all claims then duly registered as liens or filed with the Clerk of the Court in accordance with subsection (1), together with a sum estimated by the judge to be sufficient to pay all costs mentioned in subsection (4), and the judge may thereupon vacate the registration of any lien or liens then registered against the mine or mining claim the subject matter of the proceedings.

(6) Applications may be made by way of originating summons to the judge at any time by the owner or any person having an estate or interest in the mine or mining claim against which any lien is registered that such lien be vacated, and the judge may upon such application make such order or orders as to him seems meet.

DEATH OF LIENHOLDER.

Death of
lien holder.

13. In the event of the death of a lienholder 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.

DISCHARGE OF LIEN.

14. A lien may be discharged by a receipt signed by the claimant or his agent and verified by affidavit and filed with the clerk of the Court; such a receipt shall be numbered and entered like other instruments but need not be copied in any book.

FEES.

15. The fees for registering any instrument under this Ordinance is two dollars for the first claim and ten cents for each additional claim.

FORMS.

16. The forms set forth in the Schedule shall be deemed sufficient for the purposes specified in such Schedule.

SCHEDULE.

FORM A.

ORIGINATING SUMMONS.

In the Territorial Court of
the Yukon Territory

(Here insert style of cause or matter)

Let all parties concerned attend in Court at _____ 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 advocate
at the time and place above mentioned such order will be
made in your absence as to the Court seems just and expedient.

.....
Judge

This summons was taken
out by
for the applicant

FORM B.

CLAIM OF LIEN.

A.B., *(name of claimant)* of *(here state residence of claim-
ant)*, *(if so, as assignee of state name and residence of original
lienholder)* claims a lien under the *Miners' Lien Ordinance*
upon the estate or interest of *(here state the name and residence
of the entrant or lessee of the mine or mining claim upon which
the lien is claimed)* in the undermentioned mine or mining
claim in respect of the following work done *(or materials
furnished)* *(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 amount claimed as due *(or to become due)* is the sum
of \$

The following is the description of the mine or mining claim to be charged: *(here set out a concise description of the mine or mining claim to be charged sufficient for the purpose of registration).*

(When 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 C.

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 *Miners' Lien Ordinance*, upon the estate of *(here state the name and residence of the owner of the mine or mining claim upon which the lien is claimed)* in the undermentioned mine or mining claim 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 is done)* on or before the day of _____.

The amount claimed as due is the sum of \$ _____

The following is the description of the mine or mining claim to be charged: *(here set out a concise description of the mine or mining claim to be charged sufficient for the purpose of registration).*

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

.....
(Signature of claimant)

FORM D.

CLAIM OF LIEN FOR WAGES WHEN SEVERAL CLAIMANTS.

The following persons claim a lien under the *Miners' Lien Ordinance* upon the mine or mining claim of (*here state the name and residence of the entrant or lessee of the mine or mining claim*) in respect of wages for labour performed thereon while in employment of (*here state name and residence or names and residences 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 mine or mining claim to be charged: (*here set out a concise description of the mine or mining claim to be charged sufficient for the purpose of registration*).

Dated at this day of A.D. 19

.....
(Signatures of the several claimants)

(*If any of the above named claimants are assignees of the original lienholder that fact must be stated and the name and residence of the original lienholder stated.*)

FORM E.

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.)

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 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
Territory, 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

CHAPTER 75.

**AN ORDINANCE GOVERNING THE SAFE
OPERATION OF MINES IN THE
YUKON TERRITORY.**

SHORT TITLE.

1. This Ordinance may be cited as the *Mining Safety* Short Title.
Ordinance.

INTERPRETATION.

- 2.** In this Ordinance,
- (a) "agent" means a person having, on behalf of the owner, the charge and control of a mine, and includes the general manager; Definitions.
- (b) "dust exposure occupation" means "Dust
exposure
occupation."
- (i) any underground occupation or employment in a mine,
- (ii) any occupation or employment at the surface of a mine in ore or rock crushing operations in which the ore or rock being crushed is not constantly kept in a moistened or wet condition by the use of water or chemical solutions, or
- (iii) any occupation or employment at the surface of a mine that is designated by an inspector of mines as a dust exposure occupation;
- (c) "inspector" means a duly qualified person appointed or authorized to act as such by the Commissioner under this Ordinance; "Inspector."
- (d) "manager" means the superintendent or other person in immediate charge of a mine; "Manager."
- (e) "medical officer" means a duly qualified medical practitioner appointed or authorized to act as a medical officer by the Commissioner under this Ordinance; "Medical
officer."
- (f) "mine" includes an opening, quarry or excavation in, or working of, the ground for the purpose of searching for, winning, opening up, removal of or proving any mineral-bearing substance, and any ore body, mineral deposit, stratum, soil, rock, quartz, limestone, bed of earth, clay, sand or gravel or other place where mining is or may be carried on, and all ways, works, machinery, plant, buildings and premises below or above ground belonging to or used in connection with the mine and any roastery, smelting furnace, mill, work or place used for or in connection with crushing, reducing, smelting, refining or treating any mineral-bearing or other substances described in this paragraph; "Mine."

- "Miner's certificate." (g) "miner's certificate" means a valid and subsisting certificate or card issued by a medical officer, under this Ordinance, to a person respecting employment in a dust exposure occupation;
- "Mining." (h) "mining" includes any mode or method of working whereby any soil, earth, rock, stone, quartz, clay, sand or gravel may be disturbed, removed, carted, carried, washed, sifted, crushed, roasted, smelted, refined or dealt with for the purpose of obtaining any minerals or metal therefrom, whether the same may have been previously disturbed or not, and all operations and workings in a mine;
- "Owner." (i) "owner" means a person, mining partnership or corporation, being the immediate proprietor, lessee or occupier of a mine or any part thereof or any land located or leased as mining lands, and includes his or its agent, but does not include a person, mining partnership or corporation merely receiving a royalty, rent or fine from a mine or mining lands;
- "Rules." (j) "rules" means rules made by the Commissioner under this Ordinance; and
- "Shaft." (k) "shaft" means a vertical or inclined excavation in a mine extending downward from the surface or from some interior point through which men or materials are transported, and includes a pit or winze.

ADMINISTRATION.

- Appointment of officers, inspectors. **3.** The Commissioner may
- (a) appoint duly qualified persons as inspectors or authorize other duly qualified persons to act as such for the purposes of this Ordinance; and
- (b) appoint duly qualified medical practitioners as medical officers or authorize other duly qualified medical practitioners employed by the owner of a mine to act as medical officers for the purposes of this Ordinance.
- Powers and duties. **4.** The duties and powers of an inspector and of a medical officer are those hereinafter described in this Ordinance.
- Powers and duties of inspector. **5.** (1) An inspector shall
- (a) make such examinations and inquiries as he deems necessary to ascertain whether this Ordinance and any rules and regulations made thereunder are being complied with;
- (b) give notice, in writing, to the manager of the particulars of any matter, thing or practice in, about or concerning a mine or mining that, in the opinion of the inspector, is dangerous, defective or contrary to this Ordinance or the rules and regulations made thereunder, and require the matter, thing or practice to be remedied within the time named in the notice;

- (c) enter, inspect and examine any mine or portion thereof by day or night in any manner that will not unreasonably or unnecessarily impede or obstruct the working of the mine;
- (d) order the immediate cessation of work in and removal of persons from a mine or portion thereof that he considers unsafe or require such precautions as he deems necessary to be taken before persons are allowed to return to or continue working therein;
- (e) exercise such other powers as he may deem necessary for ensuring the health and safety of persons employed in or about a mine; and
- (f) do all other acts or things that may be otherwise prescribed for him in this Ordinance or in any rules made hereunder.

(2) An inspector has power to compel the attendance of witnesses, require the production of any document, book, paper, article or thing relevant to an examination or inquiry, administer oaths and examine any person upon oath, affirmation or otherwise and do all other necessary acts or things for the purposes of conducting an examination or inquiry under this Ordinance.

Power to summon witnesses, etc.

(3) An inspector shall

- (a) immediately upon the completion of an examination or inquiry made by him, submit a report thereof to the Commissioner; and
- (b) make such monthly reports of his activities as he may be directed to make by the Commissioner.

Reports to Commissioner.

(4) The Commissioner may direct an inspector to make a special report concerning

Special reports.

- (a) an accident that resulted in the death or injury of any person; or
- (b) the condition of a mine.

6. (1) The Commissioner may

- (a) prescribe such forms and notices as he deems necessary for the carrying out of this Ordinance;
- (b) prescribe the nature of examinations to be made by medical officers in connection with the issuance of miners' certificates;
- (c) make rules for the purpose of ensuring the safe operation of mines to be complied with by all persons in or around a mine;
- (d) make rules respecting any particular mine therein named;
- (e) suspend the operation of any rule on the written recommendation of an inspector, either with respect to any period of time or with respect to any particular mine;
- (f) approve, alter, suspend or cancel any rule made by an inspector or a manager; and
- (g) make rules for the carrying out of this Ordinance.

Powers of Commissioner.

(2) Every rule or order made by the Commissioner under the authority of this Ordinance shall be tabled at the first meeting of the Territorial Council following the making of such rule or order.

Suspension of rules by inspector.

7. (1) An inspector may suspend or vary the operation of any rule made under this Ordinance and upon being satisfied that it is advisable to do so, where he has received an application, in writing, from the owner or manager of a mine for that purpose giving reasons therefor.

Lapse of suspension.

(2) Suspension or variation of a rule by an inspector under subsection (1) shall cease to have effect after two months have elapsed from the date of such suspension or variation, unless sooner cancelled or confirmed by the Commissioner.

Report.

(3) An inspector who suspends or varies a rule under this section shall forthwith report the particulars thereof to the Commissioner.

Where advice and assistance required.

(4) Where, in the opinion of an inspector, further expert advice or assistance is required, he may procure such advice or assistance at the expense of the owner concerned, except that in no such case shall the liability of the owner concerned to pay such expense exceed five hundred dollars.

Rule making powers of manager.

8. Subject to the approval of the Commissioner and an inspector, the manager of a mine may make rules, not inconsistent with this Ordinance or any rule made under it, for the safe operation of a mine under his management and for the maintenance of order and discipline in the mine.

Duty of manager, foreman, etc., to enforce Ordinance.

9. The manager of a mine and every foreman, shift boss, mine captain and department head thereof shall take all reasonable measures to enforce this Ordinance and the rules made thereunder and to ensure their observance by all employees of the mine or those under his charge, as the case may be, and all employees in a mine shall take all necessary and reasonable measures to carry out their duties in accordance with those provisions of this Ordinance and the rules that are applicable to the work on which they are engaged.

EMPLOYMENT IN AND ABOUT MINES.

Restrictions as to age.

10. (1) No male person under the age of eighteen years shall be employed underground or at the working face of any open cut workings, pit or quarry.

Blasting operations.

(2) Except as provided in the *Blasting Ordinance*, no person shall conduct any blasting operation requiring the use of explosives unless he is the holder of a permit issued under that Ordinance.

Hours of work.

11. (1) Except as otherwise provided in this section, no person shall

(a) remain or be permitted to remain underground in any mine; or

(b) operate or be permitted to operate, either on the surface or underground, any hoisting engine in a shaft, for more than eight hours in any twenty-four hours, which eight hours shall be computed from the time he enters the mine to the time he leaves the mine.

(2) Subsection (1) does not apply

Exemption for emergency, etc.

(a) to a foreman, pumpman, cagetender or any person engaged solely in surveying or measuring;

(b) in cases of emergency where life or property is in danger; or

(c) in cases where repair work is necessary.

(3) Where one of the regular hoistment is absent from duty and no competent substitute is available, the remaining hoistman or hoistmen may work extra time, not exceeding four hours each in any consecutive twenty-four hours for a period not exceeding ten consecutive days.

Exemption for hoistmen where one absent.

(4) Where work at a mine or in any particular shaft is not carried out continuously on a three shift daily basis, a hoistman may work the extra time necessary for hoisting or lowering, at the beginning and end of each shift, the workmen employed on the shift.

Exemption for hoistmen where non-continuous shifts.

HOISTMEN.

12. (1) No person under the age of twenty-one years shall operate or be permitted to operate any hoisting engine at a mine when persons are being carried.

Age.

(2) No person shall operate or be permitted to operate any hoisting engine in a mine during any time that his ability is impaired by an intoxicant or drug.

Prohibition where ability impaired.

(3) No person who has not had adequate experience on a reversing hoisting engine shall operate or be permitted to operate any hoisting engine at a mine when persons are being carried.

Experience required.

(4) Where a hoisting engine is operated at a mine when persons are being carried or for a purpose designated by an inspector to be within this section, no person shall operate or be permitted to operate it unless he is the holder of a valid and subsisting medical certificate issued by a medical officer, certifying that such person has been examined and is not suffering from defective sight, hearing or other physical or mental infirmity or illness in any degree that would interfere with the effective discharge of his duties.

To hold medical certificate.

(5) Medical certificates are valid only for six months after their dates of issue, unless sooner cancelled by a medical officer.

Duration of certificates.

(6) Medical certificates shall be kept on file by the manager of the mine in which the workmen concerned are employed and shall be made available to an inspector upon request and a record of the medical certificates of hoistmen operating in a hoist room shall be kept posted up therein showing the name of each hoistman and the date of his certificate.

Record of certificates.

DUST EXPOSURE OCCUPATIONS.

Miner's certificate required.

13. No person shall engage in or be permitted to engage in a dust exposure occupation unless he is the holder of a miner's certificate stating that he is fit for employment in a dust exposure occupation.

Application.

14. (1) Every person who does not hold a miner's certificate and who intends to work in a dust exposure occupation shall apply to a medical officer for a miner's certificate and be medically examined by him.

X-rays.

(2) An examination by a medical officer for the issuance or renewal of a miner's certificate shall include the taking of chest X-ray photographs and the medical officer shall duly examine such photographs before issuing the certificate, and may, before issuing the certificate, send the photographs for examination and report to a specialist or clinic approved by the Commissioner.

Issue and contents of certificate.

(3) A medical officer shall issue a miner's certificate to an applicant therefor showing its date of issue, the facts disclosed by the examination and clearly stating whether the holder is fit or unfit for employment in a dust exposure occupation.

Duration of certificate.

15. (1) A miner's certificate is valid only for a period not exceeding twelve months from its date of issue unless sooner cancelled by a medical officer.

Medical officer may order examination.

(2) A medical officer may at any time require any person who is employed in a dust exposure occupation to present himself for examination and may endorse the results of such examination on the miner's certificate issued to such person.

Renewal of certificate.

(3) A holder of a miner's certificate who desires or intends to continue or resume work in a dust exposure occupation shall, within thirty days prior to the date of expiry of the certificate, apply to a medical officer for examination and renewal of the certificate and renewal shall be granted where the medical officer finds upon examination that the applicant is free from tuberculosis or silicosis and is otherwise fit to work in a dust exposure occupation.

Renewal after expiry.

(4) Where the holder of a miner's certificate has for any reason ceased to be employed in a dust exposure occupation and has allowed such certificate to expire, he may, before resuming work in a dust exposure occupation, apply to a medical officer for examination and renewal and such renewal shall be granted where the medical officer finds upon examination that the applicant is free from tuberculosis or silicosis and is otherwise fit to work in a dust exposure occupation.

Contents of renewal.

(5) The date of renewal and facts found upon an examination for renewal and a clear statement as to whether or not the person to whom it is issued is fit to work in a dust exposure occupation shall be endorsed on a renewal of a miner's certificate.

16. An employee shall deliver and the manager shall require him to deliver his miner's certificate to the manager of the mine concerned before he commences work in a dust exposure occupation and the manager shall retain such certificate, except for delivery up for renewals, during the period such employee continues to work at the mine and shall return it to the employee when his employment terminates.

Delivery and custody of certificate.

OTHER HEALTH MEASURES.

17. An owner of a mine at which radio-active materials are mined, concentrated or treated shall supply and install such equipment and ensure that such medical tests are carried out as the Commissioner may, from time to time, direct for the protection of the health of employees at the mine and shall otherwise take suitable precautions to protect the employees engaged in mining, milling or treating such materials.

Radio-active materials.

18. The owner of a mine shall dispose of arsenic sludge or any other by-products of his mine that are dangerous to people, domestic animals, wild animals, fish or property in such a manner that they will not cause injury to any person, animal, fish or property.

Disposal of harmful by-products.

19. No person shall operate or be permitted to operate a diesel locomotive underground unless its operation is in accordance with the rules, and has been authorized by an inspector.

Underground operation of diesel locomotive.

FENCING.

20. (1) Where a mine has been abandoned or work therein has been discontinued, the owner shall, to the satisfaction of an inspector, cause the top of the shaft, and all surface entrances, pits and openings to be securely fenced.

Fencing of abandoned mines.

(2) An inspector shall, where he is of the opinion that a fence should be erected around a mine or part thereof or any tailings or arsenic sludge to prevent injury to people, domestic animals, wild animals, fish or property, whether the mine is in operation or not, order the owner to erect a suitable fence for that purpose.

Fencing of tailings, etc.

(3) Where an owner who is required by or ordered under this section to do so fails to erect suitable fencing within such time as an inspector may order, the inspector may cause suitable fences to be erected and all costs arising therefrom constitute a debt due to Her Majesty and are recoverable in any court of competent jurisdiction.

Where owner fails to comply.

NOTICES OF INSTALLATION, OPENING AND CLOSING.

21. (1) The owner of a mine shall give or cause the manager to give written notice, within fourteen days prior to the commencement or resumption thereof, to an inspector, of

Notices.

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| Installation of hoisting and power equipment. | (a) the installation of a mine hoisting plant or power plant, including the name and address of the person in charge of the operation, the lot and group numbers or grant numbers of the land involved and the specifications and layout of the head frame, buildings, hoist, power plant and equipment; |
| Electrical installation. | (b) the connection or reconnection of any electrical mining equipment with any source of electrical energy controlled by a person other than the owner; |
| Mining operations. | (c) the commencement of mining operations or the resumption of mining operations after an interruption of one month or more; and |
| Closing of a mine. | (d) the closing down of a mine together with information as to compliance with the provisions of this Ordinance and any rules or regulations made thereunder in that connection. |
| Other information. | (2) The owner or manager of a mine shall, in addition to the notice referred to in subsection (1), furnish an inspector with any other information respecting the mine that he may require. |

PLANS.

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| Plans. | 22. (1) The owner of a mine shall cause plans, on a scale acceptable to the Commissioner, to be kept up to date not more than six months last past, as follows, namely: |
| Of surface. | (a) a surface plan showing the boundaries of mining property and all lakes, streams, roads, railways, power transmission lines, buildings, shaft opening adits, open surface workings, diamond-drill holes, out-croppings of rock, dumps and tailings disposal sites therein; |
| Of underground. | (b) an underground plan showing all underground workings, including shafts, tunnels, diamond-drill holes, dams and bulkheads; |
| Of vertical sections. | (c) vertical mine sections at suitable intervals and suitable azimuths, showing all shafts, tunnels, drifts, stopes and other mine workings in relation to the surface including the location at the top of the bedrock, surface of the over-burden and bottom and surface of any known body of water or watercourse; and |
| Of ventilation. | (d) adequate ventilation plans showing the direction and velocity of the main air currents and the location of permanent fans, ventilation doors, stoppings and connections with adjacent mines. |
| Electrical power. | (2) The owner of a mine in which electricity is used underground shall cause to be kept up to date not more than six months last past an adequate plan or diagram, on a suitable scale, showing <ul style="list-style-type: none"> (a) the position of all fixed electrical apparatus in the mine; (b) the routes of all fixed power feeders and fixed branch feeders, properly noted and referenced; and (c) the rating of all electrical feeder control apparatus and equipment. |

(3) The owner or manager of a mine shall produce all plans, sections and diagrams to an inspector at an examination of a mine and shall render them available to him at any time and supply him with copies upon request. Copies to be furnished.

PARTY WALLS.

23. (1) Except as otherwise provided in this Ordinance or Width. unless the owners of adjoining mines, with the approval of the mining recorder, and an inspector, dispense therewith, a party wall at least fifteen feet thick, seven and one-half feet on each side of the boundary line, shall be left between adjoining underground mines.

(2) Adjoining owners of two mines are entitled to use the party wall in common on the surface as a roadway and no person shall obstruct the surface of the party wall in any manner. Use of surface.

24. (1) Where the owner of a mine or mining property has reason to believe that a breach has been made in the party wall between his own and an adjoining property or that a trespass has been committed thereto, he may apply to the Commissioner for an investigation. Application where suspected breach.

(2) The Commissioner may, upon an application therefor, authorize a competent and disinterested person to investigate the complaint and for such purpose to enter the mine or mining property with such assistants as the Commissioner and the investigator deem necessary, use any workings and appliances thereof and examine the party wall and otherwise conduct a full investigation. Investigation.

(3) The person appointed under subsection (2) to investigate shall report, in writing, his findings to the Commissioner as soon as possible after completing the investigation and the costs of the examination and report shall be borne as directed by the Commissioner. Report and costs.

(4) The Commissioner may, following an investigation under this section or upon application of an owner without such investigation, Powers of Commissioner

- (a) direct the owner of an adjoining mine to permanently close a breach made in a party wall or correct any trespass committed in connection therewith;
- (b) direct the owner of an adjoining property to do such things as the Commissioner deems necessary to prevent or stop the flow of water from his property to another property; or
- (c) authorize an applicant to enter an adjoining mine and erect bulkheads or do such other things as the Commissioner deems necessary to protect the applicant's mine and employees from damage or danger from accumulations of water in the adjoining mine.

- Recommendations to Commissioner.** **25.** (1) Where the inspector deems it necessary or advisable for the protection of workmen employed underground, he may recommend, in writing, to the Commissioner that a connection between adjoining mines be established at such place as he deems advisable and that, if necessary, the connection be made and equipped as a refuge station.
- Service of copies.** (2) A copy of the recommendation shall be mailed by registered mail or served personally upon the owner or his agent of each of the mines affected.
- Committee.** (3) Upon receipt of the recommendation, the Commissioner may, by order, appoint a committee of three persons to determine
- (a) the design, specifications and locations of the connecting passage, bulkheads or other structures to be constructed in order to safeguard the present and future operations of the mines affected;
 - (b) the work to be done by each of the mines affected and the proportion in which the cost of that work and of future maintenance shall be borne by the owners of the mines affected;
 - (c) the time at which the work referred to in paragraph (b) shall be commenced and completed;
 - (d) the proportion in which the costs and expenses of the committee shall be borne by the owners of the mines affected; and
 - (e) such other provisions and requirements as the committee may deem necessary.
- Report.** (4) The committee shall submit a report in writing to the Commissioner of its findings and a report of the majority of the committee shall be deemed to be its findings.
- Carrying into effect.** (5) The Commissioner may order the findings of the committee to be carried out upon such terms and conditions as he deems advisable.

ACCIDENTS, SPECIAL OCCURRENCES
AND RESCUE WORK.

- Notification of accident.** **26.** (1) Where an accident that causes any loss of life occurs in a mine, the manager of the mine shall forthwith notify a coroner and an inspector or the Commissioner.
- Scene of accident.** (2) Subject to subsection (3), no person shall, except for the purpose of saving life or relieving suffering, interfere with, destroy, carry away or alter the position of any wreckage, article or thing at the scene of or connected with an accident until an inspector has completed an investigation of all circumstances surrounding the accident.
- Permission to alter scene.** (3) Where it is not possible to make an immediate investigation under subsection (2), an inspector may permit the wreckage, articles or things at the scene of or connected with an accident to be removed to such an extent as may be necessary to permit the work of the mine to be continued, but photographs or drawings showing the details of the scene of the accident shall be made prior to such removal.

- 27.** (1) Where in or about any mine Notice of special occurrences.
- (a) an accident involving the hoist, sheaves, hoisting rope, shaft conveyance or shaft timbering,
 - (b) an inrush of water from old workings or otherwise,
 - (c) a failure of an underground dam or bulkhead,
 - (d) any outbreak of fire below ground or an outbreak of fire above ground that endangers any structure at a mine entrance or the health and safety of any person,
 - (e) a premature or unexpected explosion or ignition of explosives,
 - (f) asphyxiation effecting a partial or total loss of physical control,
 - (g) inflammable gas in the mine workings, or
 - (h) unexpected and non-controlled extensive subsidence or caving of mine workings,
- occurs, whether or not loss of life or injury is caused thereby, the owner, manager or agent of a mine shall forthwith send written notice to an inspector of such occurrence and shall also furnish the inspector with such particulars as he may require.
- (2) Where in or about any mine an outbreak of fire occurs Notice of fire. that endangers the health or safety of any person, the owner or manager shall forthwith notify an inspector.
- (3) Where a rockburst, whether or not personal injury or death is caused thereby, is determined to have occurred within the workings of any mine, the owner or manager shall forthwith send a written notice to an inspector or, in his absence, to the Commissioner, notifying him thereof and shall furnish such particulars as he may require. Rockbursts.
- (4) Records of rockbursts shall be kept at every mine showing as far as possible their times, locations and extent, the injuries caused to persons and any other relevant information and such records shall be made available to an inspector whenever he so requests. Record of rockbursts.
- (5) Where any person suffers injury or disability in a mine Injuries. that in the opinion of the attending medical officer may result in incapacitation for work for seven or more days, the owner or manager shall, within a reasonable time, but not exceeding one month after the occurrence of the injury or disability, send notice thereof to an inspector on a form prescribed by the Commissioner.
- 28.** (1) This section applies only to a mine that in the opinion of an inspector conducts operations that may require the use of mine rescue apparatus. Application.
- (2) The owner of every mine shall provide self-contained oxygen breathing mine rescue apparatus, which, in the opinion of an inspector, is adequate, and such apparatus shall be kept in good condition and ready for use at all times. Mine rescue apparatus.
- (3) The owner of every mine shall cause a sufficient number of workmen to be trained in the use and maintenance of mine rescue apparatus. Training to use apparatus.

- Noxious gases. (4) Notwithstanding anything in this section, where noxious gases may be encountered, not less than three sets of one-half hour self-contained breathing apparatuses shall be provided by the owner.
- Mine rescue training. **29.** (1) The manager of a mine shall cause sufficient personnel at the mine to be trained
 (a) as mine rescue officers, in such numbers as may be directed by an inspector; and
 (b) as mine rescue crews trained in the use and maintenance of mine rescue apparatus by the mine rescue officers, in such manner as may be directed by an inspector.
- Supervision of crews. (2) The manager of a mine or a responsible mine rescue officer designated by him, subject to any directions that may be received from an inspector, shall supervise mine rescue crews in all mine rescue work and recovery operations conducted at a mine.
- Supervision of rescue work. (3) An inspector shall have general supervision and control of all mine rescue work and has full authority for that purpose to requisition any labour, machinery, materials or other things he deems necessary to carry out such operations.
- Returns. (4) The owner or manager of a mine shall submit to an inspector such returns or other information respecting safety at a mine or mine rescue training or operations as the Commissioner may prescribe.
- Committee to recommend safety rules. (5) At every mine a safety committee shall be established having representation of labour and management, and such safety committee may assist in making recommendations to the Commissioner with respect to rules establishing reasonable standards of safety at such mine.

OFFENCES AND PENALTIES.

- Commencement of prosecution. **30.** (1) No prosecution shall be commenced for an offence against this Ordinance, unless it is commenced by
 (a) an inspector;
 (b) a member of the Royal Canadian Mounted Police; or
 (c) any other person authorized in writing by the Commissioner to do so.
- Limitation. (2) No prosecution for an offence against this Ordinance shall be commenced after the expiration of one year from the date of the commission of the offence.
- Offence and penalty. **31.** (1) Every person who violates a provision of this Ordinance or any rule made thereunder or who neglects or refuses to obey an order or direction issued or given under any of them by the Commissioner or an inspector is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars.

(2) Where written notice has been given by the Commissioner or an inspector to an owner or manager or other person who has committed an offence against this Ordinance that such offence has been committed and such person continues to commit the offence after receiving such notice, he is, on summary conviction, liable in addition to the fine prescribed in subsection (1), to a fine not exceeding one hundred dollars for each day on which the offence continues to be so committed. Where offence continues.

(3) Where an offence is one that might have endangered the safety of persons employed in or about a mine or caused serious personal injury or a dangerous accident and was wilfully committed by the act, default or negligence of the person guilty thereof, that person is, upon summary conviction, liable either in substitution for or in addition to any pecuniary penalty that may be imposed, to imprisonment for a term not exceeding three months. Additional penalty where offence dangerous.

(4) A prosecution for an offence under this Ordinance may be heard before a judge or a justice. Prosecution before judge or justice.

CHAPTER 76.

AN ORDINANCE RESPECTING MOTION PICTURES.

SHORT TITLE.

Short Title. 1. This Ordinance may be cited as the *Motion Pictures Ordinance*.

INTERPRETATION.

- Definitions. 2. In this Ordinance,
- 'Exhibitor's licence.'" (a) "exhibitor's licence" means a valid licence issued under this Ordinance to exhibit films or slides in a theatre;
- "Motion picture machine." (b) "films" means a motion picture or cinematographic film or similar device used in connection with a motion picture machine;
- "Officer." (c) "motion picture machine" includes a cinematograph or other similar apparatus used for the showing of films or slides;
- "Operator." (d) "officer" means a person appointed by the Commissioner under section 10;
- "Operator's licence." (e) "operator" means a person who operates or manipulates a motion picture machine in a theatre;
- "Performance." (f) "operator's licence" means a valid licence issued under this Ordinance to a person to operate or manipulate a motion picture machine in a theatre;
- "Safety film." (g) "performance" means an exhibition, show or other form of entertainment that includes the exhibition of motion pictures or slides and that is held in a theatre;
- "Slide." (h) "safety film" means film that does not contain more than thirty-six one-hundredths of one per cent of nitrogen and that, when tested in accordance with the definitions and analytical procedures prescribed by the Canadian Standards Association in its Standard for Safety Film, is shown to be both difficult to ignite and slow burning;
- "Theatre." (i) "slide" means a stationary picture slide or similar device used in conjunction with a motion picture machine; and (j) "theatre" means any building, hall, place of amusement or other premises that is erected or used for a place of public resort, gathering, entertainment or amusement in or upon which a motion picture machine is operated whether or not the motion picture machine is regularly or occasionally operated and whether or not it forms part of the equipment of the building, hall, place of amusement or other premises.

APPLICATION.

3. Except as provided in section 19, this Ordinance applies only to commercial theatres. Application.

LICENCES AND PERMITS.

4. No person shall exhibit films or slides in a theatre unless he is the holder of an exhibitor's licence. Exhibitor's licence required.

5. No person shall operate or manipulate a motion picture machine in a theatre unless Operator's licence required.

- (a) he is the holder of an operator's licence issued under this Ordinance,
- (b) he is the holder of a valid licence, equivalent to an operator's licence, issued by the government of a province of Canada, or
- (c) he is acting pursuant to a permit issued under section 9.

6. (1) The Commissioner or an officer may issue exhibitors' licences and operators' licences. Issue.

(2) The Commissioner may, for any reasonable cause, revoke a licence issued under this Ordinance. Revocation.

7. Exhibitors' licences and operators' licences expire on the 31st day of March next after the day on which they come into force. Duration.

8. (1) The annual fee for an exhibitor's licence is Annual fee for exhibitor's licence.

- (a) thirty-five dollars where the population of the area within a three-mile radius of the place where the motion picture is being shown does not exceed two hundred persons; and
- (b) seventy-five dollars in all other cases.

(2) The annual fee for an operator's licence is one dollar. Annual fee for operator's licence.

9. The Commissioner may, in his discretion, issue temporary permits to operators not fully qualified where it appears expedient to do so. Exemptions by Commissioner.

OFFICERS.

10. (1) The Commissioner may appoint persons to act as officers for the purposes of this Ordinance. Appointment.

(2) An officer has the following duties and powers: Duties and powers.

- (a) to issue licences required by this Ordinance;
- (b) to investigate, approve, reject or report on motion picture machines and equipment;
- (c) to investigate the qualifications and activities of operators including the right to demand the production of operators' licences; and
- (d) to investigate, approve, reject or report on the fire prevention or other equipment or facilities of theatres.

MOTION PICTURE MACHINES AND CABINETS.

- Cabinet. **11.** (1) A motion picture machine shall be located in a cabinet or enclosure of a style and size approved by the Commissioner or an officer.
- Lining. (2) The cabinet or enclosure shall be lined with two ply pure asbestos paper or equivalent fire-protective lining and covered with protective covering.
- Door. (3) The cabinet or enclosure shall be equipped with a metal door that opens outward and that is kept unlocked.
- Wires and switches. (4) Wires conveying electricity to the cabinet or enclosure shall be covered by porcelain tubes or equivalent insulating material and electric switches shall be enclosed in a fire-proof box.
- Automatic cut-off. (5) The cabinet or enclosure shall be equipped with an automatic cut-off switch.
- Application. (6) This section does not apply to a motion picture machine using safety film.
- Cabinets to be kept clean. **12.** (1) A motion picture machine cabinet or enclosure shall be kept clean and shall not contain any articles that are not required for the operation or maintenance of the machine.
- Fire extinguisher. (2) A fire extinguisher, in good working order, of a type approved by the Commissioner or an officer shall be kept within each cabinet or enclosure.
- Motion picture machine. **13.** (1) A motion picture machine shall be equipped with
 (a) a fire-proof magazine,
 (b) an automatic fire shutter, and
 (c) properly insulated wire connections throughout, of a type and size approved by the Commissioner or an officer.
- Rheostat. (2) Where a rheostat is used it shall be set on a marble, slate or other insulated base of a thickness of at least one inch inside a fire-proof box.
- Use of non-electric lamps. (3) Non-electric lamps shall not be used in a motion picture machine unless they have been first approved by the Commissioner or an officer.

THEATRES.

- Exits. **14.** (1) A theatre shall have proper exits of a number, type and size approved by the Commissioner or an officer.
- Signs. (2) Each exit shall be marked with a sign containing the single word "exit" in letters that are at least six inches long.
- Red lights. (3) A red light shall be placed near each exit sign and red lights shall not be used elsewhere in the theatre.
- Doors. (4) Exit doors shall open outwards and shall remain unlocked during a performance.

(5) All exit doors shall be opened at the conclusion of a performance or where, during a performance, it is necessary for reasons of safety for the persons attending the performance to leave the theatre. Opening of exit doors.

15. The cabinet or enclosure in which the motion picture machine is located in a theatre shall occupy a position that does not interfere with an aisle, passageway, stairway or exit. Location of cabinets.

16. In every theatre, two fire extinguishers in good working order of a type approved by the Commissioner or an officer, and sand pails and shovels shall be kept near the motion picture machine cabinet or enclosure together with such other fire-prevention or fire-fighting equipment at appropriate places throughout the theatre as the Commissioner or an officer may require. Fire equipment.

17. (1) The aisles, passageways, stairways and exits of a theatre shall be kept free from seats, chairs or other obstructions. Aisles to be free of obstructions.

(2) No person shall be allowed to stand in an aisle, passageway, stairway or exit during a performance. No standing in aisles, etc.

OPERATORS.

18. No person shall operate a motion picture machine unless he has reached the age of eighteen years. Age.

19. No person shall operate a motion picture machine anywhere, whether in a commercial theatre or not, when he is under the influence of liquor. Liquor.

- 20.** An operator shall Duties.
- (a) thoroughly examine the motion picture machine and all wire connections to and in the machine before each performance in which the machine is to be operated by him;
 - (b) devote his full attention to the motion picture machine during its operation; Attention.
 - (c) prevent the entry of any person, other than an officer, into the motion picture cabinet or enclosure during its operation; and No entry to cabinet.
 - (d) refrain from smoking or lighting matches during the operation of the motion picture machine. No smoking.

SUNDAY PERFORMANCES.

21. A motion picture machine shall not be operated in a theatre on a Sunday except at the times and under the conditions that may be prescribed by the Commissioner.

REGULATIONS.

- 22.** The Commissioner may make regulations Regulations.
- (a) prescribing the application for and the issue and form of exhibitors' and operators' licences;

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- (b) governing the use and operation of motion picture machines and theatres;
- (c) providing for the examination and regulation of operators; and
- (d) governing the duties and employment of officers.

PENALTY.

Offence and
penalty.

23. A person who violates any of the provisions of this Ordinance or the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment.

CHAPTER 77.

AN ORDINANCE TO REGULATE THE SPEED AND
OPERATION OF MOTOR VEHICLES ON
HIGHWAYS.

1. This Ordinance may be cited as the *Motor Vehicles* Short Title.
Ordinance.

INTERPRETATION.

2. In this Ordinance, Definitions.
- (a) "chauffeur" means a person who, for gain or reward, "Chauffeur."
drives or operates a motor vehicle on a highway;
 - (b) "dealer" means any person who carries on the business "Dealer."
of buying, selling or exchanging motor vehicles or trailers
either as principal or agent;
 - (c) "driver" means a person who drives or is in actual "Driver."
physical control of a vehicle;
 - (d) "gain or reward" means any payment, consideration, "Gain or
compensation or gratuity, directly or indirectly charged, reward."
demanded, received or collected for the use of a vehicle
by a person who, as owner, lessee, hirer, chauffeur, opera-
tor or otherwise, has possession of or control over the
vehicle or has directed the movement of the vehicle;
 - (e) "gross weight" means the maximum weight of the motor "Gross
vehicle when loaded to maximum capacity; weight."
 - (f) "highway" includes any thoroughfare, street, road, trail, "Highway."
avenue, parkway, driveway, viaduct, lane, alley, square,
bridge, causeway, trestleway or other place, whether
publicly or privately owned, any part of which the public
is ordinarily entitled or permitted to use for the passage
of vehicles;
 - (g) "intersection" means the area at the intersection of two "Inter-
or more highways that is or would be enclosed by cross section."
lines connecting the middle points of the curb corners of
adjoining highways or, where there are no curbs, con-
necting the points of intersection of the lateral boundary
lines of adjoining highways;
 - (h) "licence" means a valid and subsisting licence issued "Licence."
under this Ordinance;
 - (i) "livery" or "taxicab" means a motor vehicle that is "Livery" or
used by its owner, chauffeur or driver for the business "taxicab."
of transporting passengers at their request to a stated
destination but that is not operated at regular intervals
or in accordance with a set time schedule;

- "Motor vehicle." (j) "motor vehicle" means a vehicle not run upon rails, that is designed to be self-propelled, but does not include a traction engine and a vehicle used exclusively for mining, forestry, construction, road maintenance or farming operations and that is not primarily designed to carry a load;
- "Municipality." (k) "municipality" means a municipal corporation;
- "Officer." (l) "officer" means a person who is appointed or authorized to be an officer under this Ordinance;
- "Operator." (m) "operator" means a person, other than a chauffeur, who operates a motor vehicle on a highway;
- "Owner." (n) "owner" means the person in whose name a motor vehicle or trailer is or is required to be registered under this Ordinance;
- "Permit." (o) "permit" means a valid and subsisting permit issued under this Ordinance;
- "Prescribed." (p) "prescribed" means prescribed by this Ordinance or by regulation made by the Commissioner under this Ordinance;
- "Public service vehicle." (q) "public service vehicle" means a motor vehicle or trailer operated on a highway by or on behalf of any person for gain or reward, whether such operation is regular or only occasional or for a single trip, but does not include a motor vehicle or trailer owned by a municipality nor a motor vehicle or trailer used by its owner for the distribution or transportation of goods manufactured or sold by him or a single vehicle used by the owner to distribute commodities on his own behalf;
- "Registrar." (r) "Registrar" means the Commissioner or any person authorized by the Commissioner to act as Registrar for the purposes of this Ordinance;
- "Settlement." (s) "settlement" means any area or place outside the limits of a municipality in respect of which, pursuant to section 151, signs have been erected or notices posted up respecting the rate of speed of vehicles within the limits of that area or place for the safety of the inhabitants thereof;
- "Traction engine." (t) "traction engine" means a self-propelled vehicle designed primarily for traction purposes and not constructed itself to carry a load, but does not include a truck tractor;
- "Trailer." (u) "trailer" means a vehicle that is drawn on a highway by a motor vehicle, whether or not part of its weight or load rests upon or is carried by that motor vehicle, but does not include an implement of husbandry temporarily drawn, propelled or moved on a highway or a sidecar attached to a motorcycle;
- "Truck." (v) "truck" means a motor vehicle that is constructed for or primarily used for the transportation of goods and chattels;

- (w) "truck tractor" means a motor vehicle that is used solely for the purpose of supplying power for the propulsion or drawing of a trailer or other vehicle; and ^{"Truck tractor."}
- (x) "vehicle" means a device in, upon or by which a person or thing is or may be transported or drawn upon a highway, except a device designed to be moved by human power or used exclusively upon stationary rails or tracks. ^{"Vehicle."}

PART I.

REGISTRATION AND LICENSING OF VEHICLES.

REGISTRATION.

3. Subject to section 22, no person shall operate or permit to be operated a motor vehicle or trailer on a highway in the Territory unless the motor vehicle or trailer is registered pursuant to this Ordinance. ^{Registration required.}

4. The Registrar shall keep a register for the purpose of registering vehicles under this Ordinance. ^{Register.}

5. (1) The owner of a motor vehicle or trailer may apply to the Registrar to have the motor vehicle or trailer registered. ^{Application to Commissioner.}

(2) The application shall be made on a form approved by the Commissioner and shall be accompanied by the prescribed fees.

PUBLIC SERVICE VEHICLES.

6. (1) No person shall operate or cause or permit to be operated a motor vehicle on any highway in the Territory as a public service vehicle unless he or the person for or on whose behalf the motor vehicle is operated holds a subsisting public service vehicle licence authorizing the operation of that motor vehicle in the manner and for the purposes in or for which it is operated; and such licence shall be in addition to the certificate of registration issued pursuant to subsection (1) of section 11. ^{Licence required.}

(2) The owner of a motor vehicle may apply to the Registrar to have a public service vehicle licence issued in respect of such motor vehicle.

(3) An application made under subsection (2) of this section shall be on a form approved by the Commissioner, and shall be accompanied by the prescribed fee and such additional information as the Commissioner may require.

(4) Upon receipt of an application for a public service vehicle licence and of the required information and the prescribed fees, and after such investigation as the Commissioner deems proper, the Commissioner may grant the licence, in whole or in part, or may refuse the licence and any licence granted shall be subject to such conditions as the Commissioner may prescribe. ^{Granting of licence.}

- Issue of licence plates. (5) Where the Commissioner grants a public service vehicle licence he shall issue licence plates to the licensee.
- Renewal of licences. (6) A public service vehicle licence may, with the approval of the Commissioner, be renewed in such manner and on payment of such fees as may be prescribed.
- Transfer of licences. (7) No public service vehicle licence shall be assigned or transferred, except with the approval of the Commissioner and subject to payment of the prescribed fee and to such conditions as the Commissioner may impose.
- Amendment, suspension, and cancellation of licences. (8) The Commissioner may amend, suspend or cancel any public service vehicle licence on any of the following grounds:
- (a) non-compliance by the licensee with any of the conditions of the licence, or with any of the provisions of this Ordinance or the regulations, or any order of the Commissioner;
 - (b) failure of the licensee to exercise any of the rights and privileges granted in the licence or to provide adequate and efficient service; or
 - (c) conviction of the licensee in any court for any offence against this Ordinance or any provision of the *Criminal Code* relating to driving on highways.
- Display of licence. (9) Every public service vehicle licence made subject to conditions shall have the conditions printed on the licence and the licensee shall cause the licence to be carefully preserved and carried on the vehicle and to be available at all times for the inspection of any person authorized by or under the provisions of this Ordinance to inspect such licence.
- Display of licence plates. (10) Every holder of a public service vehicle licence shall cause to be affixed to the outside of and displayed on the motor vehicle throughout the term of the licence, the licence plates issued pursuant to subsection (5) in a manner so that they are clearly visible from the front and rear.
- (11) Where any licensee withdraws from service, sells or otherwise disposes of a motor vehicle for which he holds a subsisting public service vehicle licence, he shall forthwith
- (a) report such fact to the Commissioner;
 - (b) remove the public service vehicle licence plates from the motor vehicle; and
 - (c) return them to the Registrar.
- (12) An owner may apply to the Registrar upon the prescribed form accompanied by the prescribed fee to transfer the public service vehicle licence plates removed from a motor vehicle under this section to another motor vehicle.
- Capacity markers. (13) Every holder of a public service vehicle licence shall cause to be clearly marked in a conspicuous place on both sides of the vehicle in figures or letters not less than one inch in height, the gross weight of the motor vehicle; and no person shall operate on a highway a motor vehicle for which a public service vehicle licence is required unless it is marked as required by this sub-

section; in this subsection "gross weight" means the maximum weight of a motor vehicle when loaded to the maximum capacity authorized under the licence for the vehicle.

(14) Every public service vehicle licensee shall operate his licensed vehicle and conduct his business in conformity with the licence and the conditions of the licence, and with the provisions of this Ordinance and the regulations and orders of the Commissioner. Operation in conformity with law.

LIVERY LICENCES.

7. (1) No person shall carry on the business of a liveryman until he has applied for and received from the Commissioner a liveryman's licence in respect of each vehicle to be operated by the applicant as a livery. Livery business.

(2) The Commissioner shall not issue a liveryman's licence until the applicant pays the prescribed fees and complies with any other condition that may be prescribed.

(3) The Commissioner may, after considering an application for a liveryman's licence, grant or refuse the application.

(4) No liveryman's licence shall be transferable from one owner to another.

(5) Subsections (11) and (12) of section 6 are applicable *mutatis mutandis* to any withdrawal from service, sale or other disposition of a motor vehicle in respect of which a subsisting liveryman's licence has been issued under this section.

(6) Where the holder of a liveryman's licence ceases to carry on business as a liveryman, such holder shall return his liveryman's licence to the Commissioner.

(7) Every purchaser of a livery business shall obtain a new liveryman's licence.

(8) The Commissioner may amend, suspend or cancel any liveryman's licence on any of the following grounds:

- (a) non-compliance by the licensee with any of the conditions of the licence or with any of the provisions of this Ordinance or the regulations, or any order of the Commissioner;
- (b) failure of the licensee to exercise any of the rights and privileges granted in the licence or to provide adequate and efficient service; or
- (c) conviction of the licensee in any court for
 - (i) any offence against this Ordinance,
 - (ii) any offence against any provision of the *Criminal Code* relating to driving on the highways, or
 - (iii) any offence against any provision of the *Liquor Ordinance* or the *Indian Act* relating to the sale or supply of liquor.

MOTOR VEHICLE INSURANCE.

Certificate of insurance.

- 8.** (1) Subject to subsection (5), every owner shall, in respect of his motor vehicle, take out and maintain in force a policy of motor vehicle liability insurance for an amount not less than
- (a) ten thousand dollars, not including interest and costs, for loss or damages resulting from bodily injury to or the death of any one person and, subject to such limit for any one person so injured or killed, twenty thousand dollars, not including interest and costs, for loss or damage resulting from bodily injury to or the death of two or more persons in any one accident, and
 - (b) two thousand dollars, not including interest and costs, for damage to property resulting from any one accident.
- (2) Every insurer who issues a policy of insurance pursuant to subsection (1)
- (a) shall issue to each person named as an insured in the policy a motor vehicle liability insurance card in a form approved by the Commissioner;
 - (b) shall notify the Registrar in writing as to the particulars of the insurance; and
 - (c) shall notify the Registrar in writing ten days before such policy is cancelled or expires.
- (3) A policy covering a motor vehicle insured pursuant to subsection (1) is in force and shall not expire or be cancelled until after ten days notice is received by the Registrar from the insurer that the policy is to expire or be cancelled.
- (4) Every application for registration of a motor vehicle shall be accompanied by a motor vehicle liability insurance card as provided in subsection (2) or such other proof as the Commissioner may prescribe indicating that the owner is insured as required.
- (5) The Commissioner may, in his discretion, order that motor vehicles which are operated only in an area described in such order shall be exempt from this section.
- (6) Where a policy of insurance covering a motor vehicle issued in accordance with this section expires or is for any reason cancelled, the owner of such motor vehicle shall forthwith surrender to the Registrar the certificate of registration and licence plates in respect of such motor vehicle.

CERTIFICATE OF REGISTRATION AND LICENCE PLATES.

No false statement of facts.

- 9.** (1) No person shall knowingly make a false statement of facts in an application for registration of a motor vehicle or trailer.
- (2) No person shall knowingly make a false statement of fact in any proof of insurance required by the Registrar under section 8.

10. Where the Registrar is satisfied that an applicant for the registration of a motor vehicle has complied with sections 5 and 8, or an applicant for the registration of a trailer has complied with section 5, he shall register the motor vehicle or trailer in the register referred to in section 4 by entering there-^{Registration.}
in

- (a) the name and address of the owner;
- (b) the number of the owner's certificate of registration; and
- (c) a description of the motor vehicle or trailer.

11. (1) Where a motor vehicle or trailer is registered under this Ordinance the Registrar shall issue a certificate of registration and licence plate or plates showing in plain figures the number of the certificate of registration for the current year in respect of that motor vehicle or trailer.^{Certificate of registration and number plates.}

(2) A certificate of registration issued under subsection (1) expires on the thirty-first day of March next following the day upon which it was issued.^{Day of expiry.}

(3) The Registrar may renew a certificate of registration that has expired if the owner of the motor vehicle applies for its renewal on the prescribed form and pays the registration fee required.^{Renewal of certificate of registration.}

12. (1) Subject to section 20, no person shall operate on a highway a motor vehicle or trailer that does not have firmly attached thereto the number plate or plates furnished by the Commissioner in respect of that motor vehicle or trailer.

(2) The number plates shall be attached to the outside of a motor vehicle in a manner so that they are clearly visible from the front and rear.^{To be distinctly visible.}

(3) Every motor vehicle, other than a motorcycle, or pedal bicycle with motor attachment, shall carry two number plates firmly affixed to the motor vehicle, one plate at the front of the vehicle and one plate at the rear of the vehicle.^{Motor vehicles.}

(4) A motorcycle or pedal bicycle with motor attachment shall carry one number plate attached to the rear mudguard thereof.^{Motorcycles.}

(5) A trailer shall carry one number plate attached to the rear thereof.^{Trailer.}

(6) Any licence plate or number plate furnished by the Commissioner shall be and remain the property of the Crown and shall be returned to the Commissioner when required by him.

13. Where a number plate of a registered motor vehicle or trailer is lost, destroyed or is so defaced as to be illegible, the owner shall forthwith apply to the Registrar for re-registration of his motor vehicle or trailer and shall transmit with his application^{Where number plates lost, destroyed or defaced.}

- (a) the certificate of registration issued to him under section 11;

(b) the remaining or defaced number plate, if any; and
 (c) a fee of two dollars;
 and the Registrar may re-register the motor vehicle or trailer and issue to the owner a new certificate of registration and new number plates.

Transfers.

14. (1) If an owner disposes of his registered motor vehicle or trailer he shall immediately notify the Registrar and furnish the name and address of the new owner thereof.

(2) The owner shall deliver to the Commissioner for re-issuing the certificate of registration of the motor vehicle or trailer of which he has disposed, and upon payment of a fee of two dollars the certificate of registration shall, subject to this Ordinance, be re-issued to the new owner; the number plates issued to the original owner for the motor vehicle or trailer shall remain affixed to such motor vehicle or trailer.

DEALER'S LICENCES.

Licence
 authorizing
 dealer to
 buy and sell
 motor vehicles
 and trailers.

15. (1) Every dealer, whether motor vehicles or trailers owned, possessed or controlled by him are registered or not, shall apply to the Registrar for a licence authorizing the dealer to buy and sell motor vehicles and trailers and to operate motor vehicles and trailers for the purpose of demonstration and sale.

(2) A dealer shall make application for the licence under subsection (1) to the Registrar in the prescribed form accompanied by the prescribed fees.

(3) Upon the receipt of an application under subsection (1) and upon proof satisfactory to the Commissioner that the applicant has complied with the provisions of subsection (1) of section 8, the Registrar may issue to the applicant a dealer's licence in the prescribed form.

(4) A licence issued under subsection (3) authorizes a dealer to obtain distinctive number plates used for the purposes of demonstration and sale as are necessary in his business upon payment of the prescribed fee.

(5) A motor vehicle or trailer that is owned or possessed by a dealer for purposes of demonstration and sale and not for hire or for use as a service car or truck and that, when driven upon a highway for demonstration or sale, has attached thereto and exposed thereon a set of dealer's number plates, shall be deemed to be registered under this Ordinance.

(6) Where a dealer has an established place of business in more than one municipality or settlement, he shall apply for a separate permit and distinctive number plates for each place of business.

Offence.

16. No person shall attach to any motor vehicle any number plate issued pursuant to section 15, nor shall any person use or operate any motor vehicle to which any number plate so issued is attached except a vehicle that is

- (a) kept by him exclusively for sale and not for hire, and
- (b) used exclusively in his business of a dealer therein for the promotion of sale of such motor vehicle.

17. Any dealer who

Idem.

- (a) drives or permits to be driven upon a highway any motor vehicle or trailer owned or possessed by him for purposes of demonstration or sale without having attached thereto and exposed thereon dealer's number plates, or
- (b) drives or permits to be driven upon a highway for any purpose other than for demonstration or sale or for conditioning or testing, as the case may be, and not in compliance with the requirements of this Ordinance and the regulations, any motor vehicle or trailer having attached thereto or exposed thereon dealer's number plates

is guilty of an offence.

18. (1) No dealer or any person employed on commission by him shall deliver a motor vehicle that he has sold to a purchaser unless such motor vehicle and its equipment complies with this Ordinance and regulations.

(2) Every dealer and other person mentioned in subsection (1) shall at the time of delivery of a motor vehicle to a purchaser furnish him with a certificate to the fact that the motor vehicle and its equipment complies with this Ordinance and the regulations.

19. (1) Upon proof satisfactory to the Commissioner that the dealer has taken out a policy of motor vehicle liability insurance in an amount not less than the amount set out in subsection (1) of section 8 in respect of the new motor vehicle and upon payment of the prescribed fee, the Registrar may issue to a dealer "In Transit" markers, which shall be used only on the original trip of new motor vehicles from the distributor to the dealer.

In transit markers.

(2) An "In Transit" marker shall be pasted on the windshield of the motor vehicle and shall be destroyed immediately upon the arrival of the vehicle at the dealer's place of business.

(3) Every dealer shall account to the Registrar for all "In Transit" markers issued to him.

EXEMPTION OF NON-RESIDENTS.

20. Where the owner of a motor vehicle resides outside the Territory and has complied with the law of his place of residence with respect to the registration and licensing of the motor vehicle and the motor vehicle carrying number plates for the current year assigned under that law to that motor vehicle is brought into the Territory for the purpose of touring for pleasure for a period not exceeding ninety days, the motor vehicle shall be deemed to be registered pursuant to this Ordinance.

Registration of vehicles of non-residents.

Reciprocal arrangements with other provinces.

21. (1) The Commissioner may enter into a reciprocal arrangement or agreement with any province or state exempting any class of owners who are ordinarily resident in that province or state from the application of the provisions of this Ordinance respecting

- (a) registration and licensing of motor vehicles and the carrying and displaying upon motor vehicles of licences and number plates;
- (b) the granting by that province or state of similar exemptions and privileges with respect to owners who are ordinarily resident in the Territory.

(2) Every arrangement or agreement made under subsection (1) and the exemptions thereunder shall be subject to the condition that no person shall be entitled to any exemption or privilege thereunder in respect of a motor vehicle in the Territory unless the owner of the motor vehicle has complied with the law of his place of residence as to the registration and licensing of motor vehicles and carries or causes to be carried on the motor vehicle the certificate or licence and the number plates prescribed by the law of that place, and shall also be subject to all further conditions and restrictions set out in the arrangement and agreement and to cancellation by the Commissioner.

Permit for foreign motor vehicles delivering goods within the Territory.

22. (1) Where a motor vehicle or trailer is registered or licensed at a place outside the Territory and is brought into the Territory

- (a) for the purpose of delivering inside the Territory goods loaded thereon;
- (b) for the purpose of being loaded inside the Territory with goods for delivery outside the Territory;
- (c) for both purposes set out in paragraphs (a) and (b); or
- (d) for the purpose of transporting goods through the Territory without loading or discharging any part of such goods inside the Territory;

the Registrar may, upon receiving application therefor and upon proof satisfactory to the Commissioner that the applicant is adequately covered by a policy of motor vehicle liability insurance in respect of such motor vehicle or trailer, issue to the applicant a permit accompanied by a suitable windshield sticker.

(2) The fee for a permit pursuant to subsection (1) shall be as set forth in the Schedule.

(3) A permit issued pursuant to subsection (1) permits the operation of the motor vehicle or trailer within the Territory subject to such conditions as may be specified therein, and is not valid after thirty days from the date of its issue except as otherwise stated in such permit.

(4) The applicant for the permit issued under subsection (1) shall display the windshield sticker upon the motor vehicle and cause the permit to remain with the motor vehicle for exhibition at the request of any officer.

(5) Subject to the full observance of the conditions set out in the permit during the period of the use or operation of the motor vehicle or trailer within the Territory, the obtaining of the permit shall be deemed a sufficient compliance with this Ordinance as to the registration and licensing of that motor vehicle or trailer while used within the Territory for the purpose herein mentioned during the period for which the permit was issued.

(6) The Commissioner shall not issue more than three permits under subsection (1) in any licence year in respect of the same motor vehicle or trailer.

(7) Where an applicant requires more than three permits under subsection (1), the Commissioner may issue a public service vehicle licence in accordance with section 6 to the applicant and the fees already paid for permits under subsection (1) may be applied to the fee for such public service vehicle licence.

(8) Where a motor vehicle is registered or licensed at a place outside the Territory and, while transporting passengers for hire, is brought into the Territory for a purpose and during a limited period of time approved by the Registrar, the owner may,

- (a) upon application as in subsection (1),
- (b) upon payment of the prescribed fee, and
- (c) upon proof satisfactory to the Commissioner that the owner has taken out a policy of motor vehicle liability insurance not less than the amount set out in subsection (1) of section 8,

be issued a permit for the operation of that motor vehicle within the Territory for the like period with the like effect and subject to the conditions set out therein as in the case of a permit issued under subsection (1).

(9) Every person who drives or operates or is in charge of a motor vehicle or trailer in respect of which a permit has been issued under this section and who fails to observe any of the conditions set out in the permit is guilty of an offence.

23. The provisions of this Ordinance respecting the registration and licensing of motor vehicles do not apply to service vehicles of a visiting force as defined by the *Visiting Forces (North Atlantic Treaty) Act* of Canada nor shall any tax be payable in respect of the use of the said vehicles on a highway. Vehicles of visiting force exempted.

PROHIBITIONS RESPECTING REGISTRATION AND NUMBER PLATES.

- 24.** No person shall Prohibition respecting number plates.
- (a) deface or alter a number plate issued under this Ordinance;
 - (b) use or permit the use on his motor vehicle or trailer of a defaced or altered number plate;
 - (c) without the authority of the owner, remove a number plate of a motor vehicle or trailer;

- (d) unless otherwise permitted by this Ordinance, use or permit the use of a number plate on his motor vehicle or trailer other than the number plate issued under this Ordinance for that motor vehicle or trailer; or
- (e) fail to notify the Registrar of the sale, exchange or other disposal by him of a motor vehicle or trailer as required by section 14 or of the purchase by him of a motor vehicle or trailer in respect of which a certificate of registration has been issued.

PART II.

CHAUFFEURS' AND OPERATORS' LICENCES.

LICENCES.

Licence required.

25. (1) Subject to subsections (2), (3) and (4), no person shall operate a motor vehicle on a highway in the Territory unless he holds a chauffeur's licence or operator's licence issued to him under this Ordinance.

Exemption for non-residents.

(2) Subsection (1) does not apply to a person who does not reside or carry on business in the Territory for more than six consecutive months in each year if

- (a) he holds a chauffeur's licence or operator's licence issued to him by his province, state or country of residence; and
- (b) his province, state or country of residence grants similar privileges with respect to the operation of motor vehicles to persons who reside or carry on business in the Territory.

Exemption for learners.

(3) Subsection (1) does not apply to a person who is learning to operate a motor vehicle where he is accompanied by a person who holds a chauffeur's licence or operator's licence and who sits beside the person learning to operate the vehicle for the purpose of teaching him to operate it.

Exemption for member of a visiting force.

(4) Subsection (1) does not apply to a member of a visiting force as defined in the *Visiting Forces (North Atlantic Treaty) Act of Canada*, if such member is in possession of a driving permit or licence issued to him by proper authority.

Issue of licences.

26. (1) Subject to subsections (2) and (3), the Registrar may issue an operator's licence or a chauffeur's licence to a person who applies therefor for a period and under such conditions as the Commissioner may prescribe.

(2) An operator's licence shall not be issued under this section to a person under the age of sixteen years.

(3) Subject to subsection (4), a chauffeur's licence shall not be issued under this section to a person under the age of eighteen years.

(4) The Commissioner may, after careful consideration of the qualifications of any person of the age of sixteen or seventeen years holding an operator's licence, grant him a temporary permit for the operating of a motor vehicle as a chauffeur, where such motor vehicle is not used for the purpose of transporting passengers for hire.

27. The Registrar may refuse to issue a chauffeur's licence or an operator's licence until he is satisfied that the applicant therefor is capable of operating a motor vehicle without endangering the safety of the general public and may require the applicant to submit himself for examination by an officer or may determine the circumstances in which an examination may be dispensed with. Applicant may be examined.

28. Every application for a chauffeur's licence or an operator's licence shall be made to the Registrar and shall be on a form approved by the Commissioner and shall state Form of application.

- (a) the name and address of the applicant;
- (b) his age, weight, colour of eyes, colour of hair and sex;
- (c) whether or not the applicant has ever had his chauffeur's or operator's licence suspended or cancelled and, if so, the reasons therefor;
- (d) whether the applicant has ever suffered from any mental disability, epilepsy, stroke, fits, fainting spells or convulsions or illness affecting the eyes; and
- (e) such additional information as the Registrar may require.

29. Every application for a chauffeur's licence shall be accompanied by the payment of a licence fee of five dollars and for an operator's licence shall be accompanied by the payment of a licence fee of two dollars. Licence fee.

30. A chauffeur's licence or an operator's licence is not valid until the person to whom the licence is issued has written his usual signature thereon in the space provided for that purpose. Signature of licensee required.

31. Unless stated otherwise therein, a chauffeur's licence or an operator's licence expires on the thirty-first day of March next following the day upon which it was issued. Day of expiry.

CANCELLATION AND SUSPENSION.

32. The Commissioner may suspend or cancel a chauffeur's licence or operator's licence issued under this Ordinance if the licensee violates any of the provisions of this Ordinance or the regulations. Suspension and cancellation by Commissioner.

33. (1) Every holder of a chauffeur's or operator's licence who is convicted of Licence to be delivered on conviction for endorsement.

- (a) an offence under this Ordinance;
- (b) an offence under section 221, 222, 223, 225 or 281 of the *Criminal Code*;

- (c) the offence of manslaughter or criminal negligence under section 192 or 193 of the *Criminal Code* committed in either case by a person while operating a motor vehicle;
- (d) an offence under a provision of a municipal by-law that fixes a speed limit within a municipality; or
- (e) an offence under a provision of the regulations made pursuant to the *Government Property Traffic Act* that fixes a speed limit;

shall forthwith deliver his licence to the judge or magistrate making the conviction, and the Judge or magistrate shall endorse on the licence the particulars of the conviction.

Magistrate may suspend or cancel licence of offender.

(2) A judge or a magistrate who convicts the holder of a chauffeur's licence or an operator's licence of

- (a) an offence under this Ordinance;
- (b) an offence under a provision of a municipal by-law that fixes a speed limit within a municipality; or
- (c) an offence under a provision of the regulations;

may, upon making the conviction, suspend or cancel the licence and shall send the suspended or cancelled licence to the Commissioner, together with a report setting out the nature of the conviction and the circumstances of the offence.

RENEWAL OF LICENCES.

Renewals.

34. (1) The Registrar may renew a chauffeur's licence or an operator's licence where the applicant for a renewed licence

- (a) shows that he has previously been issued a licence;
- (b) gives the number, date of issue and classification of the licence to be renewed; and
- (c) sends a fee of five dollars for a chauffeur's licence renewal or two dollars for an operator's licence renewal along with his application;

and the Registrar is satisfied that the applicant is qualified to operate a motor vehicle.

(2) No person who is the holder of operator's or chauffeur's licence shall apply for or obtain another operator's or chauffeur's licence except for the purpose of obtaining a duplicate of a valid and subsisting licence that has been lost, destroyed or become worn out.

PROHIBITIONS.

Not to allow unlicensed operation.

35. Unless otherwise permitted in this Ordinance, no person shall allow his motor vehicle to be driven by any person who has not been issued a chauffeur's licence or an operator's licence under this Ordinance.

Not to hire or rent to unauthorized operators.

36. No person shall hire or let for hire a motor vehicle unless the person by whom the motor vehicle is to be driven is authorized under this Ordinance to operate a motor vehicle.

37. (1) No person shall operate a motor vehicle on a highway as a chauffeur unless he has been issued a chauffeur's licence under this Ordinance.

(2) No person shall employ for hire for the principal purpose of operating a motor vehicle a person who has not been issued a chauffeur's licence under this Ordinance.

Hired employees shall hold chauffeur's licence.

38. (1) No person shall use or possess a chauffeur's licence or an operator's licence that has been issued to another person or that is fictitious or that has been suspended or cancelled.

Not to use licence of another, etc.

(2) No person shall allow his chauffeur's licence or his operator's licence to be used or possessed by another person.

39. No person shall apply for, procure or attempt to procure a chauffeur's licence or an operator's licence during a period while he is disqualified or prohibited from driving a motor vehicle by reason of the suspension or cancellation of his licence.

No person to apply for licence during period of suspension.

PART III.

EQUIPMENT.

LIGHTS.

40. (1) No person shall operate a vehicle on a highway during the night or at any time when fog or other atmospheric conditions reduce the degree of visibility to that approximating the degree of visibility existing under normal atmospheric night conditions or less, unless the vehicle is equipped with lighted lamps in accordance with this Part.

Lamps at night.

(2) For the purposes of this Part, "night" means the period from sunset to the next following sunrise.

Meaning of "night".

(3) In this Part, requirements as to visibility of lamps in terms of distance from a vehicle means that the lamps are clearly visible at the stated distance under normal atmospheric night conditions.

Visibility refers to normal atmospheric night conditions.

41. (1) A motor vehicle, other than motorcycle or a pedal bicycle with motor attachment, shall be equipped with the following lamps:

Requirements respecting lamps.

- (a) not less than two headlamps, one at each side of the motor vehicle at the front, each of which projects a white light for a distance of at least three hundred feet in front of the motor vehicle; and
- (b) a tail lamp of not less than three candlepower that shows a red light plainly visible at a distance of at least two hundred feet behind the motor vehicle and illuminates, with a white light, the number plate fixed on the back of the motor vehicle so that its letters and figures are plainly visible at a distance of at least sixty feet behind the motor vehicle.

Vertical position of headlamps.

(2) The headlamps of a motor vehicle shall be not more than fifty inches above the plane surface upon which the motor vehicle rests.

Angle of headlamp beam.

(3) No part of the direct, reflected or refracted light projected from a motor vehicle headlamp shall rise more than forty-two inches, at a distance of seventy-five feet in front of the motor vehicle, above the plane surface upon which it stands.

Special case.

(4) Where a motor vehicle or trailer is more than twenty feet in length, or more than eighty inches in width, it shall have affixed in conspicuous positions as near the top as practical at least one lighted amber clearance light on each side of the front and at least one lighted red clearance light on each side of the rear.

Lamps for motorcycles.

42. A motorcycle or pedal bicycle with motor attachment shall carry one headlamp at the front and one tail lamp at the rear, but these lamps shall, in all respects, conform to the requirements respecting lamps set out in section 41.

Lamps for bicycles.

43. A bicycle, other than a pedal bicycle with motor attachment, shall carry a white lamp at the front and a red lamp or red reflector at the rear, each of which is clearly visible at a distance of at least two hundred feet.

Lamps for trailers.

44. A trailer shall carry at least one red lamp or reflector at the rear that is clearly visible at a distance of at least two hundred feet.

Vehicles other than motor vehicles.

45. A vehicle other than a motor vehicle, trailer or bicycle that is operated on a highway at night shall carry a lamp, showing white to the front and red to the rear, located on the left side of the vehicle and clearly visible at a distance of at least two hundred feet.

Spotlights, etc.

46. (1) No vehicle shall carry more than one spotlight, searchlight or other auxiliary lamp and the light from such spotlight, searchlight or other auxiliary lamp shall be directed towards the right of the travel portion of a highway.

(2) This section does not apply to ambulances, police vehicles, salvage vehicles, road maintenance vehicles, public utilities vehicles or fire fighting vehicles operated on highways by authorized persons.

Parking lights.

47. Where any vehicle, machine or other obstruction is standing upon a highway at a time when lighted lamps are required to be displayed, it may, in lieu of the lights hereinbefore required, show a light on the left side of the vehicle, machine or other obstruction in such a manner as to be clearly visible both to the front and back of the vehicle, machine or other obstruction from a distance of at least two hundred feet under

normal atmospheric conditions and such a light shall show white or green only to the front and red only to the rear of the vehicle, machine or other obstruction.

48. (1) Where a motor vehicle, the gross weight of which ^{Flares.} is in excess of eight thousand pounds, is stopped on a highway during the period when lighted lamps are required to be displayed on vehicles and the lighting equipment required by this Ordinance is disabled and the vehicle cannot immediately be removed from the travelled portion of a highway outside of a municipality, the operator of the motor vehicle shall cause to be placed on the highway

- (a) two lighted flares, lamps or lanterns, or
- (b) two reflecting devices
 - (i) each reflector of which has a diameter of not less than two and one-half inches, and
 - (ii) casting a red reflection clearly visible under normal atmospheric conditions from a distance of at least five hundred feet.

(2) One of the flares, lamps, lanterns or reflecting devices ^{Location of flares, reflectors.} mentioned in subsection (1) shall be placed at a distance of at least two hundred feet in advance of the vehicle, and the other shall be placed at a distance of at least two hundred feet to the rear of the vehicle; and where reflecting devices are so placed, each of them shall be so placed as to be illuminated by the lights of any approaching vehicle.

(3) Every motor vehicle, with a gross weight in excess of ^{Must carry flares.} eight thousand pounds shall carry at all times and in good working condition, and the driver of the vehicle shall on the request of an officer produce two flares, lamps or lanterns for the use mentioned in subsection (1).

49. Where a motor vehicle on a highway is approaching or is ^{Dimming headlamps.} being approached by another vehicle proceeding in the opposite direction, and when within not less than four hundred yards of it, the driver of the motor vehicle, whether in motion or stationary, shall dim or drop the beams of its headlamps.

BRAKES.

50. (1) Every motor vehicle shall be equipped with brakes ^{Brakes.} adequate to control it at all times.

(2) Every person operating a motor vehicle on a highway ^{Inspection.} shall upon request of any officer permit the officer to inspect and test the brakes of the motor vehicle or, at the option of the officer, shall operate the motor vehicle as directed by him for the purpose of inspecting and testing the brakes.

(3) No brakes shall be deemed to be adequate within the ^{Standards.} meaning of this section unless they are so constructed and adjusted as to be capable of stopping the motor vehicle, whe-

ther loaded or unloaded, when operated on a dry, hard, level highway within the following distances and in respect of the following speeds of the motor vehicle, namely:

- (a) where a motor vehicle, whether loaded or unloaded, carries service brakes on both axles, within thirty-seven feet from a speed of twenty miles per hour upon application of the service brakes alone; and
- (b) where a motor vehicle, whether loaded or unloaded, carries service brakes on one axle only, within forty-five feet from a speed of twenty miles per hour upon application of the service brakes alone.

Idem. (4) The brakes carried by a motor vehicle shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the motor vehicle so as to prevent it from swerving, pulling to one side, and otherwise affecting the operator's control on application of the brakes.

Trailer brakes. (5) Where a motor vehicle, having a trailer in tow where the combined weight of the trailer and its load, but exclusive of passengers, exceeds one thousand five hundred pounds, or where the weight of the trailer exceeds fifty per cent of the weight of the towing vehicle, the trailer shall be equipped with brakes capable of being operated by the operator of the towing vehicle when he is seated in the driver's seat.

Standards. (6) The combined brakes of the towing vehicle and the trailer shall be so constructed and adjusted as to be capable of stopping the combination of vehicles whether loaded or unloaded when operated on a dry, hard, level highway within a distance of thirty-seven feet from a speed of twenty miles per hour.

Idem. (7) The combined brakes of the towing vehicle and the trailer shall be so adjusted as to prevent side-sway or jack-knifing when applied.

Emergency brake. (8) Every motor vehicle shall carry an emergency brake so constructed and adjusted that it is capable of holding the vehicle or combination of vehicles stationary upon any grade upon which the vehicle or combination of vehicles is operated and in any event upon any plus or minus grade of at least five per cent.

OTHER EQUIPMENT.

Horn. 51. (1) Every motor vehicle shall carry a suitable horn, bell or warning device in good working order capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet.

Sounding. (2) The horn shall be sounded whenever it is reasonably necessary as a signal or warning to any person of the approach of the motor vehicle.

Sirens. (3) No horn commonly known as a siren horn shall be carried or used on any motor vehicle other than an ambulance, civil defence vehicle or a motor vehicle operated by the Royal Canadian Mounted Police or a fire department.

(4) No exhaust, compression or spark-plug whistle shall be carried or used on any motor vehicle. Prohibited equipment.

(5) Except as a reasonable warning no person shall at any time sound or use the horn, bell or warning device of a motor vehicle in order to make any unnecessary or unreasonably loud or harsh sound. Unnecessary sounding.

52. (1) Every motor vehicle propelled by an internal combustion engine shall be equipped with an exhaust muffler consisting of a series of pipes or chambers so proportioned and constructed as to allow the exhaust gases from the engine to expand and cool to a degree of noiseless expulsion; and the muffler shall not be cut out or disconnected while the motor vehicle is in operation on any highway. Muffler.

(2) No motor vehicle, the muffler of which has had any baffle-plate or other part for the suppression of exhaust noises removed or the exhaust outlet opened so as to create more noise, shall be operated on any highway, nor shall any device be attached to a motor vehicle muffler or exhaust system which will increase the noise of the exhaust or cause a flame to be emitted therefrom. Prohibition.

53. No person shall operate upon a highway any motor vehicle the windshield or windows of which are in such a condition as to impair the operator's vision. Condition of windshields.

54. No person shall operate any motor vehicle with a sticker, sign, poster or other non-transparent material placed over, or affixed to the windshield, side wings or side or near windows that unduly obstructs the driver's clear view of the highway or any intersecting highway. Windshield stickers.

55. No person shall operate any motor vehicle other than a motorcycle that is equipped with a windshield unless the windshield has installed thereon a device for cleaning dust, rain, snow or other moisture from it; and such device shall be so constructed as to be controlled or operated by the operator of the motor vehicle while the vehicle is in motion and maintained in good working order. Windshield wipers.

56. No person shall replace any glass in doors, windows or windshields of motor vehicles other than motorcycles unless such replacement is made with safety glass. Safety glass.

57. No person shall operate a motor vehicle that carries any equipment, fixture or load in such a manner or position as to interfere with or obstruct the operator's clear view of the highway or intersection. Obstruction of view.

58. (1) No person shall operate a motor vehicle unless it carries a mirror so located as to reflect to the driver a view of the highway at least two hundred feet distant to the rear of the motor vehicle. Mirrors.

Idem.

(2) No person shall operate a motor vehicle having a trailer in tow if the trailer or any load thereon obstructs the view of the driver to the rear unless the towing motor vehicle is equipped with two mirrors, one of the mirrors being located on the left front door, or on the left windshield post or on a projecting rod to the left of the motor vehicle, and the other mirror being located on the right front door, or on the right windshield post or on a projecting rod to the right of the motor vehicle, and unless both mirrors are so adjusted as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of the trailer.

Red flag or red light.

59. (1) No person shall operate any motor vehicle or trailer that carries anything projecting more than four feet from the rear of the motor vehicle or trailer unless there is attached and displayed at the end of the projection

(a) during the day a red flag not less than twelve inches square, or

(b) during the night a red light plainly visible under normal conditions for five hundred feet to the rear of the motor vehicle or trailer.

(2) No person shall, without the written permission of the Registrar, operate upon a highway a vehicle including load having a width greater than ninety-six inches.

Coupling devices.

60. (1) No person shall operate any motor vehicle and trailer on a highway unless the device coupling the motor vehicle and the trailer is of such construction and strength as to hold the weight of the trailer and prevent the break-away.

Idem.

(2) The coupling device mentioned in subsection (1) shall be firmly affixed to an integral part of the vehicle of both the towing vehicle and the trailer.

Idem.

(3) Every trailer shall have, in addition to the main coupling device, an auxiliary hitch consisting of a chain or metal cable equivalent in strength to the main coupling device.

Mudguards.

61. (1) Every motor vehicle and every trailer on a highway shall carry mudguards or fenders adequate to reduce effectively the wheel spray or splash of water from the roadway to the rear thereof, unless adequate protection is afforded by the body of the motor vehicle or trailer or by a trailer drawn by the motor vehicle.

Rock guards.

(2) Every truck or trailer having a manufacturer's rating of one ton or more shall carry rock guards at the rear of such truck or trailer.

PART IV.

RULES OF THE ROAD.

INTERPRETATION.

- 62.** In this Part,
- (a) "business district" means the territory contiguous to any portion of a highway having a length of six hundred feet along which there are buildings in use for business, industrial or public purposes occupying
- (i) at least three hundred feet of frontage on one side of that portion, or
 - (ii) at least three hundred feet collectively on both sides of that portion,
- and includes that portion of the highway;
- (b) "controlled access highway" means a highway
- (i) on to which persons have a right to enter from abutting land, and
 - (ii) from which persons have a right to enter on to abutting land,
- only at fixed locations;
- (c) "crosswalk" means
- (i) any portion of the roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by signs or by lines or other markings on the surface, or
 - (ii) the portion of a highway at an intersection that is included within the connection of the lateral lines of the sidewalks on the opposite sides of the highway, measured from the curbs, or in the absence of curbs, from the edges of the travelled portion of the highway;
- (d) "emergency vehicle" means a vehicle used
- (i) for police duty,
 - (ii) by a fire department, or
 - (iii) as an ambulance.
- (e) "laned roadway" means a roadway that is divided into two or more marked lanes for vehicular traffic;
- (f) "owner" as applied to a vehicle means
- (i) the person who holds the legal title to the vehicle,
 - (ii) a person who is a conditional vendee, a lessee or a mortgagor, and is entitled to be and is in possession of the vehicle, or
 - (iii) the person in whose name the vehicle is registered;
- (g) "park", when prohibited, means the standing of a vehicle, whether occupied or not, except when standing temporarily for the purpose of and while actually engaged in loading or unloading;
- (h) "pedestrian" means a person afoot, or an invalid or child in a wheelchair or carriage;

Definitions.

"Business district."

"Controlled access highway."

"Crosswalk."

"Emergency vehicle."

"Laned roadway."

"Owner."

"Park."

"Pedestrian."

- "Residence district."
 (i) "residence district" means the territory contiguous to any portion of a highway having a length of three hundred feet along which there are buildings in use for residence purposes only or for residence and business purposes occupying
 (i) at least one hundred and fifty feet of frontage on one side of that portion, or
 (ii) at least one hundred and fifty feet collectively on both sides of that portion, and includes that portion of the highway;
- "Roadway."
 (j) "roadway" means the portion of the highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder, and where a highway includes two or more separate roadways, the term "roadway" refers to any one roadway separately and not to all of the roadways collectively;
- "Safety zone."
 (k) "safety zone" means an area officially set apart within a highway for the exclusive use of pedestrians, and protected or marked or indicated by adequate signs so as to be clearly visible;
- "School bus."
 (l) "school bus" means a motor vehicle used for conveyance of children to or from school by or under a contract with the authority in charge of the school;
- "Sidewalk."
 (m) "sidewalk" means the portion of a highway between the curb lines or lateral lines of a roadway and the adjacent property lines intended for use of pedestrians;
- "Stop" or "stand".
 (n) "stop" or "stand" means
 (i) when required, a complete cessation from movement, and
 (ii) when prohibited, the stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a traffic officer or traffic control device;
- "Territorial highway."
 (o) "territorial highway" means a highway within the Territory that is not under the jurisdiction of a municipality and is not privately owned;
- "Through-highway."
 (p) "through-highway" means a highway or part of a highway at the entrances to which stop signs are erected under this Ordinance;
- "Traffic."
 (q) "traffic" includes pedestrians, ridden or herded animals, vehicles and other conveyances, either singly or together, while using a highway for purposes of travel;
- "Traffic control device."
 (r) "traffic control device" means a sign, signal, marking or device not inconsistent with this Part placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic;
- "Traffic control signal."
 (s) "traffic control signal" means a device, whether manually, electrically or mechanically operated, by which traffic is directed to stop and to proceed; and

- (t) "traffic officer" means a person lawfully authorized to direct or regulate traffic or to make arrests for violations of traffic regulations. "Traffic officer."

APPLICATION.

- 63.** Unless the context otherwise requires, Provisions apply only to vehicles on highway.
- (a) the provisions of this Part relating to the operation of vehicles refer only to the operation of vehicles upon a highway;
- (b) the provisions of this Part do not apply to persons, vehicles and other equipment while actually engaged in highway construction or maintenance work upon, under or over the surface of a highway while at the site of the work, but do apply to them when travelling to or from the site of the work; and
- (c) a person riding an animal or driving an animal-drawn vehicle upon a highway has all the rights and is subject to all the duties that a driver of a vehicle has under this Part. Riding animals on highway.
- 64.** (1) Notwithstanding anything in this Part, but subject to subsections (2) and (3), a driver of an emergency vehicle, when responding to, but not when returning from, an emergency call or alarm, or when in pursuit of an actual or suspected violator of the law, may Emergency vehicles.
- (a) exceed the speed limit;
- (b) proceed past a red traffic control signal or stop sign without stopping;
- (c) disregard rules and traffic control devices governing direction of movement or turning in specified directions; and
- (d) stop or stand.
- (2) The driver of an emergency vehicle shall not exercise the privileges granted by subsection (1) unless he is sounding an audible signal by bell, siren or exhaust whistle and is showing a flashing red light.
- (3) The driver of an emergency vehicle exercising any of the privileges granted by subsection (1) shall drive with due regard for safety having regard to all the circumstances of the case, including
- (a) the nature, condition and use of the highway;
- (b) the amount of traffic that is on or might reasonably be expected to be on the highway; and
- (c) the nature of the use being made of the emergency vehicle at the time.
- 65.** Where a traffic officer reasonably considers it necessary Traffic officer may direct traffic.
- (a) to ensure orderly movement of traffic;
- (b) to prevent injury or damage to persons or property; or

(c) to permit proper action in an emergency; he may direct traffic according to his discretion, notwithstanding anything in this Part, and every person shall obey his directions.

TRAFFIC CONTROL DEVICES AND SIGNALS.

Driver to obey traffic control device.

66. Except when otherwise directed by a traffic officer, a driver of a vehicle shall obey the instructions of an applicable traffic control device.

Rules as to traffic control devices.

67. (1) Drivers of vehicles and pedestrians shall obey the instructions of an official traffic control signal in accordance with the provisions of this section, unless directed to do otherwise by a traffic officer.

(2) When a green or "go" traffic control signal is shown at an intersection,

(a) the driver of a vehicle approaching the intersection and facing the traffic control signal

(i) may proceed across the intersection or turn left or right subject to a sign or notice prohibiting a left or right turn or both that is posted at the intersection, and

(ii) shall yield the right of way, if turning left or right, to other vehicles and pedestrians lawfully within the intersection or within an adjacent crosswalk at the time the signal is shown;

(b) a pedestrian approaching the intersection and facing the traffic control signal may proceed across the intersection or cross the intersection in the crosswalk provided, if any, subject to any pedestrian control signal directing him otherwise; and

(c) a pedestrian proceeding across the intersection or crossing the intersection in the crosswalk provided, if any, has a right of way over all vehicles turning into the crosswalk he is using or into his line of passage across the intersection.

(3) When a yellow or amber traffic control signal is shown at an intersection following a green or "go" signal,

(a) the driver of a vehicle approaching the intersection and facing the yellow or amber traffic control signal shall stop his vehicle immediately before entering the intersection or the nearest crosswalk, if any, in the intersection unless a stop cannot be made in safety; and

(b) a pedestrian

(i) if intending to cross the intersection in the direction of the yellow or amber traffic control signal shall not commence to cross the intersection until a pedestrian or traffic control signal permitting him to enter the intersection is shown, and

- (ii) if proceeding across the intersection and facing a yellow or amber traffic control signal displayed after he entered the intersection
 - (A) shall proceed to the sidewalk as quickly as possible, and
 - (B) has a right of way for that purpose over all vehicles in the intersection.
- (4) When a red or "stop" traffic control signal is shown at an intersection following a yellow or amber traffic control signal,
 - (a) the driver of a vehicle approaching the intersection and facing the red or "stop" traffic control signal
 - (i) shall stop his vehicle immediately before entering the intersection or the nearest crosswalk, if any, in the intersection, and
 - (ii) shall not proceed until a traffic control signal permitting the movement of his vehicle in the intersection is shown; and
 - (b) a pedestrian
 - (i) if approaching the intersection and facing the red or "stop" traffic control signal, or
 - (ii) if intending to cross the highway in the direction of the red or "stop" traffic control signal,shall not commence to cross the intersection until a pedestrian or a traffic control signal permitting him to enter the intersection is shown.
- (5) When a red flashing traffic control signal is shown at an intersection,
 - (a) the driver of a vehicle approaching the intersection and facing the traffic control signal
 - (i) shall stop his vehicle immediately before entering the intersection or the nearest crosswalk, if any, at the intersection, and
 - (ii) may, after stopping, enter or cross the intersection only if traffic conditions in the intersection or the crosswalk, if any, are such that the vehicle can enter and cross the intersection with safety; and
 - (b) a pedestrian facing the traffic control signal may proceed across the intersection with caution.
- (6) When a yellow or amber flashing traffic control signal is shown at an intersection,
 - (a) the driver of a vehicle approaching the intersection and facing the traffic control signal
 - (i) may enter the intersection only with caution, and
 - (ii) shall yield the right of way to all vehicles and pedestrians within the intersection, and
 - (b) a pedestrian facing the traffic control signal may proceed across the intersection with caution.

No person can erect a device that resembles a traffic control device.

68. No person shall erect or maintain upon or in view of a highway a device that purports to be, resembles or interferes with the effectiveness of a traffic control device, unless he is authorized to do so by a traffic authority.

Commercial advertising.

69. No person shall place or maintain commercial advertising upon a traffic control device.

Altering or destroying traffic signs.

70. Except with lawful authority, no person shall alter, injure or remove or attempt to alter, injure or remove a traffic control device or any part thereof.

ACCIDENTS.

Person in charge of vehicle to remain at scene of accident, etc.

71. (1) Where an accident occurs on a highway, every person who was in charge of a vehicle and was directly or indirectly a party to the accident shall

- (a) remain at or immediately return to the scene of the accident;
- (b) render all reasonable assistance to any person involved in the accident; and
- (c) give in writing upon request to any one sustaining loss or injury or to any traffic officer or to any witness his name and address, the name and address of the registered owner of the vehicle, the number of the driver's licence and the registration number of the motor vehicle.

(2) Where an accident results in damage to an unattended vehicle or to property upon or adjacent to a highway, the driver of every vehicle involved in the accident shall take reasonable steps to locate and notify the owner of, or a person who has a right to control, the unattended vehicle or the property of the circumstances of the accident, and give to him the name and address of the driver, the registration number of the vehicle and the number of the driver's licence.

Written report required.

72. (1) Subject to subsection (2), where an accident results in injury or death to a person or in property damage to an apparent extent of one hundred dollars or more, the driver shall forthwith make a written report, in the form prescribed by the Commissioner to the nearest detachment of the Royal Canadian Mounted Police.

(2) Where the driver is incapable of making the report required by subsection (1), and there is another occupant of the vehicle capable of making the report, the occupant shall make the report required to be made by the driver.

(3) Where no report has been made under subsection (1) or (2) and the driver or occupant is not the owner of the vehicle, the owner shall forthwith after learning of the accident make the report.

(4) Where the driver is alone, is the owner, and is incapable of making the report required by subsection (1), he shall make the report forthwith after becoming capable of making it.

73. (1) A member of the Royal Canadian Mounted Police ^{Investigating officer to make a report to Commissioner.} who has witnessed or investigated an accident shall forthwith forward to the Commissioner a written report in the form prescribed by the Registrar setting forth full particulars of the accident including the names and addresses of the persons involved and the extent of the personal injuries or property damage.

(2) Where a report has been made under section 71, 72 or this section, the Commissioner may require the driver involved or a traffic officer or person having knowledge of the accident to furnish additional information or to make a supplementary report.

74. (1) Where a motor vehicle that shows evidence of having ^{Report by owner of a repair shop, etc.} been involved in a serious accident or having been struck by a bullet is brought into a public garage, parking station, parking lot, used-car lot or repair shop, the person in charge of the place into which the vehicle is brought shall forthwith report that fact to the nearest detachment of the Royal Canadian Mounted Police, giving the name and address of the owner or operator and also the registration number and a description of the vehicle.

(2) A coroner or other official performing like functions, who ^{Coroner's report.} investigates or holds an inquest or inquiry respecting the death of a person from an accident in which a vehicle was involved, shall immediately, upon the conclusion of his investigation, inquest or inquiry, make a written report to the Commissioner giving the time and place of the accident, the name of the person killed and the name and address of the driver of the vehicle involved.

(3) Where an insurance company receives a claim under a ^{Duty of insurance companies to report to Commissioner.} motor vehicle liability policy in respect of personal injuries or property damage exceeding one hundred dollars, the company shall forthwith notify the Commissioner and shall furnish him such information as he may require.

75. (1) A written report or statement made or furnished ^{Reports to be privileged.} under section 71, 72, 73 or 74

- (a) is not open to public inspection; and
- (b) is not admissible in evidence for any purpose in a trial arising out of the accident, except to prove
 - (i) compliance with this section, or
 - (ii) falsity in a prosecution for making a false statement in the report or statement;

but the Commissioner shall, on the request of a person involved in the accident, his solicitor or agent disclose to him the names and addresses of persons referred to in the report or statement.

(2) No person shall make a false statement in a report made or purporting to be made under section 71, 72, 73 or 74.

(3) In a prosecution for violation of section 71, 72, 73 or 74, a certificate purporting to be signed by the Commissioner or person authorized by him that any report therein required has or has not been made is prima facie proof of the facts stated in the certificate.

(4) In a prosecution for failure to make a report required by section 71, 72, 73 or 74 in respect of an accident, the place of the offence shall be deemed to be the place where the accident occurred.

SPEED RESTRICTIONS.

Duty to drive with care.

76. (1) No person shall drive a vehicle without due care and attention or without reasonable consideration for other persons.

Person deemed to be driving without due care and attention.

(2) A person is prima facie deemed to be driving without reasonable consideration for other persons when he is driving at a greater rate of speed than

(a) thirty miles an hour within a municipality or settlement;
or

(b) the maximum rate designated by signs erected along the highway under sections 151 and 155.

(3) A person, when driving on a highway where there are no signs designating a maximum speed is deemed to be driving without reasonable consideration for other persons when he is driving a truck at a greater rate of speed than fifty miles an hour or when driving any other motor vehicle at a greater rate of speed than sixty miles an hour.

Driving so as to impede traffic.

77. (1) No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable flow of traffic, except when it is necessary to do so for safe operation or to comply with this Part.

(2) Where the driver of a motor vehicle is driving at such a slow speed that he is impeding or blocking the normal and reasonable movement of traffic, a traffic officer may require him to increase his rate of speed or to remove the vehicle from the highway.

DRIVING ON RIGHT SIDE OF ROADWAY. OVERTAKING AND PASSING.

Duty to drive on right.

78. (1) A driver shall drive a vehicle upon the right-hand half of the travelled portion of the highway, if the highway is of sufficient width and it is practicable to do so, except

(a) when overtaking and passing another vehicle proceeding in the same direction;

(b) when the right-hand half of the highway is closed to traffic while under construction or repair; or

(c) upon a highway designated and marked by signs for one-way traffic.

(2) A driver who is proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall drive in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left-hand turn at an intersection or into a private road or driveway.

(3) A driver, when passing around a rotary traffic island, shall drive to the right of the island.

79. The following provisions apply to a driver who is driving a vehicle on a laned roadway, namely,

Rules when driving on a laned roadway.

- (a) he may drive from one lane to another where one or more broken lines only exist between lanes;
- (b) except as provided in paragraph (c), he shall not drive from one lane to another where such action necessitates the crossing of a solid line;
- (c) when a solid line and a broken line exist together, he may, with extra caution, cross the solid line from the lane in which the broken line is located, and re-cross;
- (d) he shall not drive from one lane to another on the same side of the centre line of the roadway, without first signalling his intention to do so by hand and arm or approved mechanical device, in the manner prescribed by sections 93 and 94;
- (e) when approaching an intersection intending to turn left he shall travel in the centre lane or in the lane nearest the centre of the roadway on the right-hand half of the highway;
- (f) when approaching an intersection intending to turn right he shall travel in the lane nearest to the right-hand side of the roadway and may pass another vehicle travelling in the same direction in a lane to his left;
- (g) he shall not use the centre lane of a three-lane roadway except when passing another vehicle proceeding in the same direction or when approaching an intersection where he intends to turn to the left;
- (h) when overtaking another vehicle that is travelling in the same direction in a place where there are two lanes on the same side of the centre line for vehicles travelling in that direction, he shall in passing keep to the left of the other vehicle and to the right of the centre line;
- (i) where a traffic control device directs slow-moving traffic to use a designated lane, when driving slowly he shall use that lane only; and
- (j) when being overtaken by another vehicle travelling in the same direction he shall allow that vehicle to pass and shall travel in the lane nearest to the right-hand side of the roadway or in a manner that allows the overtaking vehicle free passage in the centre lane or in the lane nearest to the centre of the roadway.

Duty to keep to right on meeting a moving vehicle.

80. (1) The driver of a vehicle shall keep to his right when he is meeting another vehicle that is moving.

(2) The driver of a vehicle upon a highway that has a width for only one line of traffic in each direction shall, when meeting another vehicle that is moving, give to the other vehicle at least one-half of the main-travelled portion of the highway as nearly as possible.

Overtaking.

81. (1) Except as provided in section 82, a driver overtaking another vehicle,

- (a) shall sound an audible signal;
- (b) shall pass to its left at a safe distance; and
- (c) shall not return to the right side of the highway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, a driver of an overtaken vehicle,

- (a) upon hearing the audible signal, shall give way to the right in favour of the overtaking vehicle; and
- (b) shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

Passing and overtaking.

82. (1) A driver shall not overtake and pass upon the right of another vehicle except

- (a) when the vehicle overtaken is making a left turn or its driver has signalled his intention to make a left turn;
- (b) when on a laned roadway there are two or more unobstructed lanes on the side of the roadway on which he is permitted to drive; or
- (c) upon a one-way street, or upon a highway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and is of sufficient width for three or more lines of moving vehicles.

(2) Notwithstanding subsection (1), no driver shall overtake and pass another vehicle upon the right,

- (a) when the movement cannot be made safely; or
- (b) by driving off the roadway.

Driving on left while passing.

83. No driver shall drive to the left side in overtaking and passing another vehicle unless the left side of the highway is clearly visible and free of oncoming traffic for a sufficient distance ahead to permit overtaking and passing to be completely made without interfering with the safe operation of another vehicle.

Way must be clear before driving on left.

84. No driver shall drive to or upon the left side of the highway, other than a one-way highway, when he has not a clear view of the highway for a safe distance having regard for all the circumstances.

85. (1) Where all or a portion of a highway has been marked by a sign as a zone in which passing is prohibited or a zone limited to driving on the right-hand side of the roadway, a driver shall obey the instructions on the sign. Driver to obey signals.

(2) Where the Commissioner or a traffic authority has designated and marked by signs a highway for one-way traffic, a driver on that highway shall drive only in the direction designated.

86. (1) No driver shall follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles, and the amount and nature of traffic upon and the condition of the highway. No driver to follow another vehicle too closely.

(2) Where a truck or a motor vehicle that is drawing another vehicle (in this subsection called the "following vehicle") is following a truck or a motor vehicle drawing another vehicle (in this subsection called the "leading vehicle") outside a business or residence district, the driver of the following vehicle, unless he intends to overtake and pass the leading vehicle, shall, if conditions permit, leave sufficient space (in any event not less than two hundred feet) between his vehicle and the leading vehicle so that a vehicle overtaking the following vehicle may enter and occupy that space without danger.

(3) The driver of a motor vehicle in a caravan or motorcade, other than a funeral procession, outside a business or residence district, shall leave sufficient space between his vehicle and another vehicle or combination of vehicles to enable a vehicle to enter and occupy that space without danger.

87. Where a highway has been divided into two roadways by an intervening space or a physical barrier or clearly indicated dividing section constructed so that it impedes vehicular traffic, no driver shall drive a vehicle over, across or within the intervening space, barrier or dividing section, except at a crossover of intersection established by a traffic authority. Highways divided by a space or barrier.

88. (1) Where on a controlled access highway there is a sign indicating a location at which vehicles are permitted to enter, no person shall drive a vehicle onto the highway except at that location. Controlled access highway.

(2) Where on a controlled access highway there is a sign indicating a location at which vehicles are permitted to leave, no person shall drive from the highway except at that location.

TURNING, STARTING AND SIGNALS.

89. (1) When a driver intends to turn right at an intersection he shall approach the intersection and make the turn as close as practicable to the right-hand curb or edge of the roadway. Turning.

(2) When a driver intends to turn left at an intersection where traffic is permitted to move in both directions on each highway entering the intersection, he shall

- (a) approach the intersection in the portion of the right half of the highway that is nearest its centre line;
- (b) keep to the right of the centre line at the place where it enters the intersection;
- (c) after entering the intersection, make a left turn so as to leave the intersection at a point to the right of the centre of the highway being entered; and
- (d) when practicable make the left turn in the portion of the intersection to the left of the centre of the intersection.

(3) When a driver intends to turn left at an intersection where traffic is restricted to one direction on one or more of the highways, he shall approach the intersection in the extreme left-hand lane available to traffic moving in the direction of travel of the vehicle, and after entering the intersection he shall make the left turn so as to leave the intersection as nearly as practicable in the left-hand lane available to traffic moving in its permitted direction upon the highway being entered.

(4) Where at an intersection there is a traffic control device indicating the course to be travelled by drivers turning at the intersection, no driver shall turn a vehicle at the intersection in a manner other than as directed by the traffic control device.

U-turns.

90. No driver shall turn a vehicle so as to proceed in the opposite direction

- (a) unless he can do so without interfering with other traffic; or
- (b) when he is driving
 - (i) upon a curve,
 - (ii) upon an approach to or near the crest of a grade where the vehicle cannot be seen by the driver of another vehicle approaching from either direction within five hundred feet, or
 - (iii) at a place where a sign prohibits making a U-turn.

Moving vehicles.

91. No person shall cause a vehicle to move unless and until the movement can be made with reasonable safety.

Turning at inter-sections, etc.

92. (1) No person shall turn a vehicle at an intersection unless the vehicle is in the position upon the highway required by section 89.

(2) No person shall turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course, or move right or left upon a highway, unless and until the movement can be made with reasonable safety.

(3) Where traffic may be affected by turning a vehicle no person shall turn a vehicle without giving the appropriate signal under sections 93 and 94.

(4) Where a signal of intention to turn right or left is required, a driver shall give the signal continuously for sufficient distance before making the turn to warn traffic.

(5) When there is an opportunity to give a signal, no driver shall stop or suddenly decrease the speed of a vehicle without first giving the appropriate signal under sections 93 and 94.

93. (1) Subject to subsection (2), where a signal is required Signals.
a driver shall give it by means of

- (a) his hand and arm,
- (b) a signal lamp of a type that has been approved by the Commissioner, or
- (c) a mechanical device of a type that has been approved by the Commissioner.

(2) When a vehicle is constructed or loaded in a manner that makes a signal by hand and arm not visible both to its front and rear, a driver shall give signals as provided by paragraph (b) or (c) of subsection (1).

94. (1) When a driver of a left-hand drive vehicle gives a Left-hand drive vehicles. signal by hand and arm he shall do so from the left side and shall signify

- (a) a left turn, by extending his left hand and arm horizontally from the vehicle;
- (b) a right turn, by extending his left hand and arm out and upward from the vehicle; and
- (c) a stop or decrease in speed, by extending his left hand and arm out and downward from the vehicle.

(2) No person shall drive a right-hand drive vehicle upon a highway unless

- (a) the vehicle is equipped with a mechanical or electrical device that has been approved by the Commissioner; or
- (b) there is prominently displayed on the rear of the vehicle in bold face letters not less than two inches in height and of a color contrasting with that of the vehicle the words "Right-Hand Drive Vehicle."

RIGHT OF WAY.

95. Except as provided in section 97, where two vehicles approach or enter an intersection from different highways at approximately the same time and there are no "Yield Right of Way" signs, a driver shall yield the right of way to the vehicle that is on his right, but where there is a "Yield Right of Way" sign, the driver facing the sign shall yield the right of way to all other traffic. Where no signs vehicle on right to have right of way.

96. When a driver is within an intersection and intends to turn left he shall yield the right of way to traffic that is approaching from the opposite direction and is within the intersection or so close that it constitutes an immediate hazard, but having yielded and given a signal as required by sections 93 and 94, the driver may make a left turn and traffic approaching the intersection from the opposite direction shall yield the right of way to the vehicle making the left turn. Driver turning left at intersections to approaching traffic.

Entering a through-highway.

97. (1) Where a driver who is about to enter a through-highway has stopped in compliance with section 109,

(a) he shall yield the right of way to traffic that has entered the intersection upon the through-highway or is approaching so closely thereon that it constitutes an immediate hazard; and

(b) having yielded he may proceed with caution.

(2) Where a driver is entering a through-highway in compliance with subsection (1), traffic approaching the intersection on the highway shall yield the right of way to the entering vehicle while it is proceeding into or across the highway.

Emerging from an alley driveway or building.

98. (1) When a driver, within a business or residence district, is emerging from an alley, driveway or building he shall stop the vehicle immediately before driving onto the sidewalk or onto the sidewalk area extending across an alleyway or private driveway and he shall yield the right of way to a pedestrian on the sidewalk or sidewalk area.

(2) When a driver is about to enter or cross a highway from a private road, alley, building, driveway or lane, he shall yield the right of way to traffic approaching on the highway so closely that it constitutes an immediate hazard.

Duty to stop vehicle when hearing emergency signal.

99. Upon the immediate approach of an emergency vehicle giving an audible signal by a bell, siren or exhaust whistle, and showing a visible flashing red light, except when otherwise directed by a traffic officer, a driver shall yield the right of way and shall immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the roadway, clear of an intersection, and shall stop and remain in that position until the emergency vehicle has passed.

PEDESTRIANS' RIGHTS AND DUTIES.

Pedestrians to comply with traffic control devices.

100. Except when a traffic authority has otherwise ordered, where traffic control signals are operating at an intersection, pedestrians shall comply with them in the manner provided in section 67.

Pedestrians to have right of way.

101. (1) Subject to section 102, where traffic control signals are not in place or not in operation when a pedestrian is crossing the highway within a crosswalk and the pedestrian is upon the half of the highway upon which the vehicle is travelling or is approaching so closely from the other half of the highway that he is in danger, a driver shall yield the right of way to the pedestrian.

(2) No pedestrian shall leave a curb or other place of safety and walk or run into the path of a vehicle that is so close that it is impracticable for the driver to yield.

(3) Where a vehicle is stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the highway, no driver approaching from the rear shall overtake and pass the stopped vehicle.

102. When a pedestrian is crossing a highway at a point other than within a marked crosswalk or within an intersection, he shall yield the right of way to a driver. Driver to have right of way.

103. Notwithstanding sections 100, 101 and 102, a driver shall Driver to use due care.

- (a) exercise due care to avoid colliding with a pedestrian who is upon the highway;
- (b) give warning by sounding the horn when necessary; and
- (c) observe proper precaution upon observing a child or an apparently confused or incapacitated person who is upon the highway.

104. (1) Where there is a sidewalk that is reasonably pass- Pedestrian to walk on roadway.
able on either or both sides of a highway, a pedestrian shall not walk on a roadway.

(2) Where there is no sidewalk, a pedestrian walking along or upon a highway shall, when practicable, walk only on the left side of the roadway or the shoulder of the highway facing traffic approaching from the opposite direction.

(3) No person shall be on a highway for the purposes of soliciting a ride from a driver.

BICYCLES AND PLAY VEHICLES.

105. (1) Except as provided in this section, a person operat- Operator of bicycle has same rights and duties as driver of a vehicle.
ing a bicycle upon a highway has the same rights and duties as a driver of a vehicle.

(2) A person who is operating a bicycle shall comply with the following provisions, namely,

- (a) he shall not ride on a sidewalk;
- (b) subject to paragraph (a), he shall ride as near as practicable to the right-hand side of the highway;
- (c) he shall not ride abreast of any other person who is operating a bicycle upon the highway;
- (d) he shall keep at least one hand on the handle bars;
- (e) he shall not ride other than upon or astride a regular seat of the bicycle;
- (f) he shall not use the bicycle to carry more persons at one time than the number for which it is designed and equipped; and
- (g) he shall not ride a bicycle on any highway where signs prohibit their use.

(3) No person who is operating a bicycle shall ride it upon a highway if there is a usable path intended for the use of bicycles adjacent to the highway.

(4) No person shall ride a bicycle, coaster, roller skates, sled or play vehicle when it is attached to a vehicle upon a highway.

SPECIAL STOPS.

Railway crossing.

106. (1) When a driver is approaching a railway crossing at a time when

- (a) a clearly visible electrical or mechanical signal device gives warning of the approach of a railway train;
- (b) a crossing gate is lowered or a flagman is giving a signal of the approach or passage of a railway train; or
- (c) a railway train in dangerous proximity to a crossing is approaching the crossing and emits an audible signal or is visible;

he shall stop the vehicle not less than fifteen feet from the nearest rail of the railway, and shall not proceed until he can do so safely.

(2) No person shall drive a vehicle through, around or under a crossing gate or barrier at a railway crossing while the gate or barrier is closed or is being opened or closed.

Stop signs at railway crossing.

107. Where a stop has been erected at a railway crossing, a driver shall stop not less than fifteen feet from the nearest rail of the railway and shall not proceed until he can do so safely.

Vehicles required to stop at railway crossings.

108. (1) Except as provided in subsections (3) and (4), a driver of

- (a) a vehicle carrying passengers for hire;
- (b) a school bus carrying a child; or
- (c) a vehicle carrying explosive substances or flammable liquids as cargo;

shall, before crossing a track of a railway, stop the vehicle not less than fifteen feet from the nearest rail and remaining stopped, shall listen and look in both directions along the track for an approaching train and for signals indicating approach of a train, and shall not proceed until he can do so safely.

(2) Except as provided in subsection (4), where a driver has stopped and is proceeding as required in subsection (1), he shall cross the railway track in a gear that he will not need to change while crossing the track, and he shall not shift gears while crossing.

(3) Subsection (1) does not apply where a traffic officer or traffic control device directs traffic to proceed.

(4) Subsections (1) and (2) do not apply to industrial spur railway crossings within a business district.

Stopping at intersections.

109. Except when a traffic officer directs otherwise, where there is a stop sign at an intersection, a driver of a vehicle shall stop

- (a) when there is no crosswalk, at a clearly marked stop line;
- (b) before entering the crosswalk marked out by lines, on the near side of the intersection; or
- (c) when there is neither a marked out crosswalk nor a stop line, at the point nearest the intersecting highway from which the driver has a view of approaching traffic on the intersecting highway.

SCHOOL VEHICLES.

110. Where a bus, van or other school vehicle operated for the transportation of school children that is clearly marked as such has stopped to receive or discharge passengers, no driver shall overtake and pass such bus, van or other school vehicle.

Not to pass stopped school bus.

PARKING AND LEAVING VEHICLES.

111. (1) Subject to subsection (3), where outside of a business or residence district it is practicable to stop, park or leave a vehicle off the roadway, no person shall stop, park or leave the vehicle either unattended or attended on the roadway.

Vehicles to be left off roadway where possible.

(2) Subject to subsection (3), no person shall park a vehicle so as to obstruct the free passage of traffic on the highway.

(3) Subsections (1) and (2) do not apply when a vehicle is so disabled that it is not practicable to avoid stopping and temporarily leaving it on a highway.

112. (1) Where a vehicle is standing or parked

Traffic officer has right to move vehicle.

(a) in violation of section 111;

(b) in a position that causes it to interfere with removal of snow from a highway by a person authorized to do so by the Commissioner or a municipality; or

(c) in a position that causes it to interfere with fire fighting; a traffic officer may move the vehicle or require the driver or person in charge of the vehicle to move it to a position determined by the traffic officer.

(2) When an unattended vehicle is

(a) parked in violation of section 111 or 114;

(b) apparently abandoned on or near a highway; or

(c) a motor vehicle, without proper registration plates;

a traffic officer may take the vehicle into his custody and cause it to be taken to and stored in a safe and otherwise suitable place.

(3) All costs and charges incurred in moving and storing a vehicle under subsection (1) or (2) are a lien on the vehicle and may be recovered by the person who did the moving or storing under the provisions of the *Mechanics Lien Ordinance* as though the costs and charges were a lien under section 31 of that Ordinance.

113. (1) Except when necessary to avoid conflict with traffic or to comply with the law or the directions of a traffic officer or traffic control device, no person shall stop, stand or park a vehicle

Parking restrictions.

(a) on a sidewalk;

(b) in front of a public or private driveway;

(c) within an intersection;

(d) within fifteen feet of a fire hydrant;

(e) on a crosswalk;

(f) within twenty feet of the approach side of a crosswalk;

- (g) within thirty feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway;
 - (h) between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone, unless a traffic authority indicates a different length by signs or markings;
 - (i) within one hundred feet of the nearest rail of a railway crossing;
 - (j) within twenty feet of a driveway entrance to a fire station, or on the side of a street opposite the entrance to a fire station within one hundred feet of the entrance when properly marked with signs;
 - (k) alongside or opposite a street excavation or obstruction when stopping, standing or parking obstructs traffic;
 - (l) on the roadway side of a vehicle stopped or parked at the edge or curb of a street;
 - (m) upon a bridge or other elevated structure upon a highway, or within a highway tunnel; or
 - (n) in a place in contravention of a traffic control device that gives notice that stopping, standing or parking is there prohibited or restricted.
- (2) No person shall move a vehicle that is not lawfully under his control into any of the places mentioned in subsection (1).

Parking at right-hand side of road.

114. Except when a traffic authority otherwise permits, a driver shall not stop, stand or park a vehicle other than on the right hand side of a highway and with the right-hand wheels parallel to that side, and where there is a curb, within eighteen inches of the curb.

PROHIBITIONS AND MISCELLANEOUS RULES.

Prohibitions.

115. No driver shall permit a motor vehicle to stand unattended or park without first having effectively set the brakes and, when standing on a grade, having turned the front wheels to the curb or side of the highway.

Backing a vehicle.

116. No driver shall back a vehicle unless the movement can be made with reasonable safety and without interfering with traffic.

Motorcycles.

117. (1) A person who is operating a motorcycle shall ride only upon the regular seat attached to it.

(2) No person, other than the operator, shall ride on a motorcycle unless

- (a) it is designed and equipped to carry more than one person; and
- (b) he rides on a seat attached to the motorcycle and designed to carry a passenger.

(3) No person who is operating a motorcycle shall permit another person to ride on it in violation of subsection (2).

118. (1) No person shall cause a vehicle to move on a highway if Duty not to move a vehicle when vision is obstructed.

(a) the control of the driver over the driving mechanism of the vehicle; or

(b) the view of the driver to the front or sides of the vehicle; is obstructed or interfered with by reason of the load or the number of persons in the front seat.

(2) A passenger in a vehicle shall not occupy a position in it that interferes with the driver's view ahead or with his control over the driving mechanism of the vehicle.

119. When travelling through defiles or canyons or on mountain highways, the driver of a motor vehicle shall hold the motor vehicle under control and as near the right-hand edge of the highway as reasonably possible and, upon approaching a curve where the view is obstructed within a distance of two hundred feet along the highway, shall give audible warning with the horn of the motor vehicle. Travelling on narrow roads.

120. When travelling down grade a driver shall not coast with the gears of the vehicle in neutral or the clutch disengaged. Down grade.

121. A driver other than that of an emergency vehicle shall not follow fire apparatus closer than five hundred feet or drive or park within five hundred feet of the place on the same street on which fire apparatus has stopped in answer to a fire alarm. Following an emergency vehicle.

122. Unless he has received consent of the fire department official in command, a person shall not drive a vehicle over an unprotected hose of a fire department when laid down on a street, private driveway at a fire or an alarm of fire. Driving over fire hose.

123. (1) No person shall throw or deposit upon a highway a glass bottle, glass, nails, tacks, wire, cans or other substance or thing likely to injure a person, animal or vehicle. Throwing glass on roads.

(2) A person who drops or throws upon a highway a substance or thing likely to injure a person, animal or vehicle shall immediately remove it or cause it to be removed.

(3) A person who removes a wrecked or damaged vehicle from a highway shall remove glass or other injurious substance or thing dropped upon the highway from the vehicle.

124. Except when entering or leaving a driveway lane or when entering upon or leaving land adjacent to a highway, a driver shall not drive upon a sidewalk. No driving on sidewalks.

125. No person shall use, interfere or tamper with any motor vehicle, or any of its accessories, or any thing placed therein or thereon, without the consent of the owner. Not to use, etc., without owner's consent.

Vehicles shall be properly equipped.

126. No person shall operate a motor vehicle on a highway unless all of the requirements of this Ordinance with respect to equipment are complied with.

No racing, etc.

127. No person shall race, drive furiously or drive on a bet or wager any animal or vehicle upon a highway.

128. Every motor vehicle or trailer shall be loaded in such a manner that no portion of the load may become dislodged or fall from the motor vehicle or trailer during transit.

Stopping when requested by officer.

129. (1) No driver shall refuse or fail to stop his vehicle when requested or signalled to stop by a traffic officer in uniform.

(2) No person who is stopped by a traffic officer under subsection (1) shall refuse or fail to answer all reasonable inquiries made of him by the traffic officer.

No to start until permitted by officer.

(3) No person who is stopped by a traffic officer under this section shall start his vehicle until he is permitted to do so by the officer.

No defacing of signs.

130. No person shall tear down, deface, injure or otherwise molest a sign or notice erected or posted up under lawful authority for the purpose of guiding or warning persons operating vehicles, pedestrians or others on a highway.

No sale where serial number defaced.

131. (1) Except with the permission of the Commissioner, no person shall sell or offer or expose for sale a motor vehicle or a part or accessory of a motor vehicle where the manufacturer's or maker's serial number has been removed, obliterated or defaced or is not clearly visible.

Defacing prohibited.

(2) No person shall remove, obliterate or deface the manufacturer's or marker's serial number on a motor vehicle or part or accessory thereof.

Exception of tires.

(3) Subsection (1) does not apply to the sale of second-hand tires.

132. No person shall carry on business as a liveryman without a valid and subsisting liveryman's licence issued under this Ordinance.

PART V.

RESPONSIBILITY FOR ACCIDENTS.

Owner deemed to be guilty for a violation of Ordinance.

133. (1) Where the driver of a vehicle violates a provision of this Ordinance or the regulations relating to the operation, use or presence of a motor vehicle on a highway or in a public place, the owner of the vehicle is deemed to be guilty of the violation and shall incur the penalties provided therefor, unless he proves that the violation was not committed by him or by a person who had possession of the vehicle with his consent either express or implied.

(2) This section does not relieve the driver of a motor vehicle of liability for a violation committed by him or while the vehicle was in his possession.

(3) If the owner of the motor vehicle is present in it at the time of the violation by another person operating the vehicle, the owner as well as the other person is liable for the violation.

134. (1) When a motor vehicle is operated in violation of a provision of this Ordinance or of the regulations by a person whose identity is unknown to the Commissioner, the registered owner of the vehicle on request of the Commissioner or of an officer shall, within forty-eight hours of the request, supply the Registrar or the officer with the name and address of the person in charge of the vehicle at the time of the violation. Owner to supply name of person.

(2) A registered owner, who refuses, fails, neglects or is unable to supply the name and address of the person in charge of the vehicle within forty-eight hours after being so requested, is liable to the penalty prescribed for the offence of the driver.

(3) In a prosecution under this section it is a defence if the registered owner proves that the vehicle was being operated at the time of the violation without his knowledge or consent, either express or implied.

135. (1) The owner of a motor vehicle is liable for injury, loss or damage sustained by any person by reason of negligence in the operation of the motor vehicle on a highway unless the motor vehicle was without the owner's consent in the possession of some person other than the owner or his chauffeur, and the driver of a motor vehicle, not being the owner, is liable to the same extent as the owner. Owner liable for injury caused by his vehicle.

(2) Subject to subsection (3), a person operating a motor vehicle, other than the owner thereof, is deemed to have possession of the vehicle with the consent of the owner until the contrary is established.

(3) Where the person operating a motor vehicle, other than the owner thereof, lives with the owner as a member of his family, he is deemed to have possession of the motor vehicle with the consent of the owner.

136. (1) Where injury, loss or damage is sustained by any person by reason of a motor vehicle on a highway, the onus of proof that the injury, loss or damage did not arise through the negligence or improper conduct of the owner or driver of the motor vehicle is upon the owner or driver. Onus of proof.

(2) This section does not apply in the case of a collision between motor vehicles on a highway or to an action brought by a person who is being transported in the vehicle without payment for that transportation.

137. (1) No action lies against the driver or owner of a motor vehicle for the death of or injury, loss or damage sustained or incurred by a person while a passenger in the motor Liability for gratuitous passengers.

vehicle without payment for the transportation or by him when entering or alighting from the motor vehicle unless the death, injury, loss or damage was caused or contributed to by gross negligence on the part of the owner or driver.

(2) This section does not relieve from liability a person transporting a passenger for hire or gain, or the owner or driver of a motor vehicle that is being demonstrated to a prospective purchaser.

Owner not
liable where
vehicle is
stolen.

138. Notwithstanding anything in this Ordinance, no owner of a motor vehicle or the owner of any surety for the owner is liable for injury, loss or damage caused by the negligent operation of the motor vehicle if it is proved to the satisfaction of the Court that at the time the injury, loss or damage was caused the motor vehicle was operated by or under the control or in the charge of a person who had stolen the motor vehicle.

Foreign
vehicles.

139. (1) Where a motor vehicle that is owned by a person who is not resident in the Territory is operated on a highway in the Territory by the owner or by a person who has possession of the motor vehicle with the consent of the owner or where a person who is not a resident of the Territory operates a motor vehicle on a highway in the Territory, the Commissioner is deemed to be the agent of the owner or operator who is not so resident for the service of notice or process in an action in the Territory for injury, loss or damage arising out of the presence, use or operation of the motor vehicle in the Territory.

(2) Service of notice or process on the Commissioner as such agent may be made by leaving a copy of it with him or at his office, together with a bond in form and with sureties approved by the Commissioner in the sum of two hundred dollars conditioned that on the failure of the plaintiff to succeed in the action the defendant will be reimbursed for expenses necessarily incurred by him in defending the action in the Territory.

(3) Service effected in accordance with subsection (2) is sufficient service if notice of the service and a copy of the notice or process are sent forthwith by registered mail to the defendant and the defendant's return receipt is filed with the clerk of the court in which the action or proceeding is brought.

(4) A judge of the court in which the action is pending may, on such terms as he considers just, order such continuance as he considers necessary to afford the defendant reasonable opportunity to defend the action.

Writ of
attachment.

140. (1) Where injury, loss or damage to person or property is caused by the negligent operation on a highway of a motor vehicle that is not registered under this Ordinance, the plaintiff in any action commenced to recover for that injury, loss or damage may make the vehicle, by its registration number or by a description of the vehicle sufficient to enable it to be identified, the defendant in the action and may obtain a writ of attachment of the motor vehicle under section 141.

(2) Any person claiming to be the owner or having an interest in the motor vehicle may enter an appearance in the action and the provisions of the *Judicature Ordinance* and the rules of the Court apply to him as if he had been made a party defendant.

(3) If no person claiming to be the owner or having an interest in the motor vehicle has entered an appearance in the action, the plaintiff may at any time after the expiration of thirty days from the date on which the motor vehicle was attached, upon proving damages, obtain judgment and execution against the motor vehicle.

141. (1) Where injury, loss or damage is incurred or sustained by a person by reason of the negligent operation of a motor vehicle upon a highway, the person incurring or sustaining the injury, loss or damage may, at or after the commencement of an action to recover damages for the injury, loss or damage, obtain from the Clerk of the Court a writ of attachment directed to the Sheriff commanding him to attach, seize, take and safely keep the motor vehicle causing the injury, loss or damage to secure the amount of damages that may be recovered in the action and the costs and to return the writ forthwith to the court out of which the writ is issued. Writs of attachment.

(2) A writ of attachment shall not be obtained or issued after the expiration of thirty days from the day on which the injury, loss or damage was incurred or sustained. Writ must issue within thirty days of accident.

(3) A person claiming to be the owner or having any interest in the motor vehicle may enter an appearance in the action and the provisions of the *Judicature Ordinance* and the rules of the Court apply to him as if he had been made a party defendant.

(4) No writ of attachment shall be issued unless the plaintiff or someone on his behalf files with the clerk an affidavit showing a cause of action, stating the time and place where the injury, loss or damage was incurred or sustained, the approximate amount of the damage and such information as will enable the motor vehicle to be identified, and files with the clerk a good and sufficient bond in favour of the Sheriff approved by the clerk conditioned for the payment of all costs and expenses incurred by the Sheriff in the seizing and holding of the motor vehicle in the event that the plaintiff does not prosecute his action or in the event the action is decided against him.

142. The Sheriff to whom a writ of attachment is directed shall immediately attach, seize, take and safely keep the motor vehicle to secure the amount of damages that may be recovered in the action and the costs of the action and those damages and costs constitute a first and paramount lien on the motor vehicle regardless of whether the defendant is the owner of the motor vehicle or has any interest therein. Sheriff to seize vehicle.

Financial responsibility.

143. (1) In an action where a motor vehicle has been seized under a writ of attachment issued under this Ordinance, the Sheriff having the motor vehicle in his custody shall

- (a) where the defendant is the registered owner of the motor vehicle and deposits with the Sheriff a certificate under the hand of the Commissioner that proof of financial responsibility had been filed by the owner under this Ordinance before the cause of action arose; or
- (b) where proof of financial responsibility had not been filed by the owner or where the defendant is not the owner of the motor vehicle but the owner or a person on his behalf files with the Sheriff a bond in favour of the plaintiff executed by two sureties satisfactory to the Sheriff or by an approved surety company and conditioned for the payment of all damages and costs that may be recovered against the defendant;

release the motor vehicle to the owner or his agent upon payment to the Sheriff of his fees and expenses in connection with the attachment.

Execution on judgment.

144. (1) Where a motor vehicle has not been released under section 143 and judgment is recovered by the plaintiff, the Sheriff shall retain the motor vehicle under the writ of attachment until execution is issued on the judgment and, if execution is issued within fifteen days from the date of the judgment, may sell the motor vehicle in the same manner as other goods are sold under execution.

(2) The Sheriff shall pay over to the plaintiff the money so recovered for a sufficient sum to discharge the amount directed to be levied, less the Sheriff's fees, commission and poundage expenses.

(3) If, after satisfaction of the amount together with Sheriff's fees, commission and poundage expenses, a surplus remains in the hands of the Sheriff, he shall pay the surplus to the person entitled thereto.

(4) Where money is levied upon execution, the provisions of the *Creditors Relief Ordinance* do not apply to such portion of such money as is obtained by the levying on and selling of the motor vehicle under the execution.

No right of person to bring action affected.

145. Except as herein expressly provided, no right of any person to bring or prosecute an action for damages for injury, loss or damage to person or property is affected.

PART VI.

SAFETY RESPONSIBILITY.

IMPOUNDING.

Impoundment of vehicles involved in accident.

146. (1) Where bodily injury to or the death of any person or damage in an amount apparently exceeding one hundred dollars to property results from an accident in which a motor vehicle is in any manner directly or indirectly involved, any

officer at the scene of the accident, or who arrives thereat while any or all of the motor vehicles so involved in the accident are still at the scene thereof, shall, subject to section 147, impound each motor vehicle so involved and require it to be taken

(a) if repairs are necessary and immediately desired by the owner, to such repair shop or garage as the owner may select, for the purpose of having it repaired, or Where repairs needed.

(b) if repairs are not necessary or are not immediately desired by the owner, to such garage or storage place as the owner may select, unless otherwise required by the officer, in which case the officer may direct it to be taken to a garage or storage place maintained by any police force or other public authority, if such is available, and otherwise to a privately maintained garage or storage place designated by the officer, there to be kept at the expense and risk of the owner of the motor vehicle. Where repairs not needed.

(2) Where, pursuant to subsection (1), a motor vehicle has been taken to a repair shop, garage or storage place selected by the owner, an officer in a locality in which the repair shop, garage or storage place is situated, on receipt of a written application by the owner, may, at the cost of the applicant, have the motor vehicle transferred to such other repair shop, garage or storage place as the applicant may select, and may give all necessary directions to that end, and shall in that case give to the owner, operator, manager or other person in charge of the repair shop, garage or other storage place to which the motor vehicle is transferred a notice as prescribed in subsection (7). Change of place of impoundment.

(3) In subsections (1) and (2) the word "owner" includes any person, firm or corporation that has sold the motor vehicle under the terms of a conditional sale agreement or lien or note upon which all or part of the purchase price remains unpaid, or to whom or to which a bill of sale by way of chattel mortgage thereon has been given in respect of which all or part of the moneys secured thereby remain unpaid, and also includes an assignee of such vendor or mortgagee. Meaning of "owner".

(4) Where any or all of the motor vehicles directly or indirectly involved in the accident are not impounded as provided in subsection (1), if the accident is reported to, or otherwise comes to the attention of an officer, he shall, subject to subsection (9) and to section 147, forthwith impound each motor vehicle so involved; and the officer impounding the motor vehicle shall require it to be disposed of as provided in subsection (1). Impoundment after accident.

(5) All costs and charges for the care or storage of a motor vehicle impounded under this section are a lien thereon in favour of the keeper of the repair shop, garage or storage place and may be recovered by him under the provisions of the *Mechanics Lien Ordinance* as though the cost and charges were a lien under section 31 of that Ordinance. Storage charges a lien.

Notice of impoundment. (6) Where a motor vehicle is impounded under this section, the officer who impounds it shall, directly or through his superior officer, if any, forthwith notify the Commissioner of such impoundment in writing on the prescribed form.

Notice to garage keeper. (7) Where a motor vehicle impounded under this section is placed in a repair shop, garage or storage place, the officer impounding the same shall notify in writing, on the prescribed form, the owner, operator, manager or other person in charge of the repair shop, garage or storage place that the motor vehicle is impounded and must not be removed or permitted to be removed or released from impoundment except upon order of the Commissioner or an officer to whom reference is made in subsection (2).

No removal from impoundment. (8) Subject to subsection (2), no person shall remove, or permit to be removed, from the place of impoundment or release from impoundment any motor vehicle impounded under this section except upon the written order of the Commissioner or a person authorized by him.

No impoundment of Crown vehicle. (9) This section shall not apply to authorize or permit the impounding of a motor vehicle that is the property of Her Majesty.

INSURANCE CARDS.

Effect of production of motor vehicle liability insurance card. **147.** (1) If the driver, owner or other person in charge of a motor vehicle that is in any manner directly or indirectly involved in an accident produces to an officer seeking to impound the motor vehicle pursuant to section 146 a motor vehicle liability insurance card issued in respect of such motor vehicle and in full force at the time of such accident, the officer shall not impound the motor vehicle unless it is required to be impounded by some other provision of this or any other Ordinance, or unless it is required by the Crown as evidence in the prosecution of a criminal offence.

Release under certain circumstances. (2) Where a motor vehicle has been impounded under section 146, and

- (a) the Registrar is satisfied that at the time of the accident the motor vehicle was a stolen motor vehicle;
- (b) the only damage resulting from the accident is to the person or property of the owner and of the driver; or
- (c) the driver, owner or other person in charge of the motor vehicle produces to an officer evidence that he is the holder of a motor vehicle liability insurance policy with liability coverage at least equivalent to that prescribed by section 8 in respect of the motor vehicle that is in full force;

the Registrar shall order the release of the motor vehicle from impoundment and may order the release of the motor vehicle from impoundment if he is satisfied that the driver, owner or other person in charge of the motor vehicle is the holder of a valid existing motor vehicle liability policy in full force at the time of the accident with limits of liability not less than the

several amounts set forth in section 8, unless it is required to be impounded by some other provision of this or any other Ordinance, or unless it is required by the Crown as evidence in the prosecution of a criminal offence.

148. Any person who

Offence.

- (a) violates any of the provisions of subsection (8) of section 146; or
- (b) produces to an officer or to the Commissioner, as provided in section 147, evidence that he is the holder of a motor vehicle liability insurance policy with liability coverage at least equivalent of that prescribed by section 8 purporting to show that there is in force a policy of insurance that is, in fact, not in force;

is guilty of an offence and liable, if not a corporation, to a penalty not exceeding two hundred dollars and to imprisonment for a term not exceeding thirty days, and, if a corporation, a penalty not exceeding one thousand dollars.

149. (1) Where the owner of a motor vehicle impounded pursuant to section 146 gives security or proof of satisfaction of claims for damages satisfactory to the Commissioner, the Commissioner shall, on application by the owner, order the release of the motor vehicle from impoundment; but if the motor vehicle is not, and is not required to be, registered under this Ordinance, the Commissioner shall order the release thereof upon the owner giving such security or such proof of satisfaction of claims for damages as the Commissioner may require.

Release from impoundment in case of residents and in case of non-residents.

(2) Where a motor vehicle is impounded pursuant to section 146 and the owner fails to give the security or proof of satisfaction of claims for damages and proof of financial responsibility, or security or proof of satisfaction of claims for damages and an undertaking as provided in subsection (1)

Release from impoundment.

(a) if six months have elapsed since the date of the accident and no certificate of *lis pendens* in a form set out in subsection (5), or otherwise to the satisfaction of the Commissioner, has been filed with the Commissioner; or

If no action.

(b) if such certificate has been filed with the Commissioner and proof has been given to his satisfaction that

If action taken.

- (i) the action against the owner of the motor vehicle has been decided in his favour and that no appeal against the judgment has been filed within the time fixed for the filing of such appeal,
- (ii) that any judgment recovered against the owner has been satisfied or settled,
- (iii) that the action has not been brought to trial within twelve months after it was begun, or
- (iv) that although judgment has been recovered against the owner, and no appeal has been filed by him within the time fixed, or any appeal by him has been dismissed, the motor vehicle has not, within

three months from the date of the judgment or the date of the dismissal of such appeal, been seized under an execution issued pursuant to the judgment; the Commissioner shall order the release of the motor vehicle from impoundment.

Release to execution creditors.

(3) If judgment has been recovered in an action against the owner of a motor vehicle impounded pursuant to section 146, and the motor vehicle has been seized under an execution issued pursuant thereto, the Commissioner shall order that the motor vehicle be released to the person making the seizure.

Release where vehicle a complete wreck.

(4) Where the Commissioner is satisfied by a certificate signed by a qualified mechanic, or by such other written or documentary evidence as he deems sufficient, that a motor vehicle impounded pursuant to section 146 is so damaged that it is impracticable to repair it so that it can be driven on a highway, he may order the release of the motor vehicle from impoundment.

Certificate of *lis pendens*.

(5) The certificate of *lis pendens* shall, on request therefor and payment of the proper fee, be issued by the clerk of the court in which an action is commenced claiming compensation for damages resulting from bodily injury to or the death of any person or damage in an amount exceeding one hundred dollars to property occasioned by or arising out of the ownership, maintenance, operation or use of a motor vehicle, and the certificate may be in the form following:

CERTIFICATE OF LIS PENDENS

Form.

I hereby certify that an action has been begun in this Court, in which action _____ is plaintiff and _____ is defendant, and a claim is made for compensation for damages alleged to have occurred at or near _____, in this Territory, on the _____ day of _____, A.D. 19____, in which accident it is alleged that there was (were) _____ involved

- (a) a motor vehicle alleged to be owned by _____ (and operated at the time of the accident by _____), the motor vehicle licence number being _____; and
(b) a motor vehicle alleged to be owned by _____ (and operated at the time of the accident by _____), the motor vehicle licence number being _____.

(NOTE: Strike out phrases in parentheses where not required or not applicable. Strike out (b) if only one motor vehicle involved. Add additional paragraphs if more than two motor vehicles involved. Give any further available description of the motor vehicles.)

(6) In this section, the word "owner" includes any person, firm or corporation that has sold the motor vehicle under the terms of a conditional sale agreement or lien note upon which all or part of the purchase price remains unpaid, or to whom or to which a bill of sale by way of chattel mortgage thereon has been given in respect of which all or part of the moneys secured thereby remain unpaid, and also includes an assignee of such vendor or mortgagee.

Meaning of "owner".

PART VII.

ADMINISTRATION.

REGULATIONS.

- 150.** (1) The Commissioner may make regulations
- (a) respecting the duties and powers of officers;
 - (b) respecting the persons who may issue permits and licences under this Ordinance;
 - (c) respecting the form of application for permits, licences and number plates and the form of any returns or reports required under this Ordinance together with the manner and time for making the same;
 - (d) respecting the requirements as to brakes, lights, reflectors and other equipment of vehicles and the inspection, testing, adjustment or repair thereof;
 - (e) respecting number plates, or other identification substituted for number plates;
 - (f) prescribing for and requiring the use of devices or other means to prevent accidents or thefts of motor vehicles;
 - (g) prescribing the form of permits or licences issued under this Ordinance;
 - (h) prescribing terms and conditions with respect to registration, use or operations of motor vehicles whether new or second-hand that are owned, kept or used by manufacturers, dealers, repairers or storers of motor vehicles or by parking lot operators or wreckers;
 - (i) prescribing generally for the control of or the restriction or prohibition of the erection, display, style, size, colour, material and number of any signs, signboards, markers or notices erected by any person in the vicinity of or on any highway;
 - (j) respecting
 - (i) the closing of a highway or part thereof, or
 - (ii) the restriction of traffic including the type, weight of load and speed of vehicles on a highway or part thereof,

Commissioner may make regulations.

whenever and for such period of time as he deems necessary to prevent serious damage to a highway or to insure the safety of persons using the highway;

- (k) prescribing terms and conditions with respect to registration and licensing of unregistered motor vehicles entering the Territory;
 - (l) with respect to the rate of speed and other conditions under which vehicles transporting explosives or other dangerous substances may be operated; and
 - (m) generally for carrying out the purposes and provisions of this Ordinance.
- (2) The Commissioner shall cause to be tabled all regulations made by him pursuant to this Ordinance at the session of Council next following the making of such regulations.

Traffic signs.

- 151.** (1) The Commissioner may mark or erect or cause to be marked or erected along any highway traffic signs or devices
- (a) prescribing rate of speed;
 - (b) regulating or prohibiting parking and designating parking areas;
 - (c) prescribing load limits for any vehicle or class of vehicles;
 - (d) prohibiting or regulating the use of any highway by any vehicle or class of vehicles;
 - (e) designating any highway as a one-way highway;
 - (f) for stopping vehicles;
 - (g) for regulating pedestrian traffic; and
 - (h) for directing or controlling in any other manner traffic on any highway.
- (2) Except as authorized by subsection (1), no person shall mark or erect any traffic sign or device along the highway.
- (3) No person shall, without the authority of the Commissioner, remove or deface any traffic sign or device along such highway.

APPOINTMENT, POWERS AND DUTIES OF OFFICERS.

Appointment by Commissioner.

- 152.** (1) The Commissioner may appoint a Registrar and persons to be officers to enforce and carry out the provisions of this Ordinance.

Members of R.C.M.P. are *ex officio* officers.

- (2) Members of the Royal Canadian Mounted Police are *ex officio* officers for the purpose of enforcing and carrying out the provisions of this Ordinance.

Power to stop, inspect and order proper equipping of vehicles.

- 153.** An officer may, at any time, stop and inspect a vehicle that is on a highway and may, if the vehicle is not equipped in accordance with the provisions of this Ordinance, require the driver or the owner to remedy the defect forthwith and to comply strictly with the equipment provisions of this Ordinance before any further use is made of the vehicle.

Power to seize abandoned motor vehicle.

- 154.** (1) Where an officer discovers an apparently abandoned motor vehicle on or near a highway, he may take the motor vehicle into his custody and may cause it to be stored in a suitable place.

(2) The costs of the removal, care and storage of a motor vehicle taken under subsection (1) shall be paid by the owner thereof and are a lien upon the motor vehicle. ^{Payment of expenses of seizure.}

(3) Where the owner of an abandoned motor vehicle taken pursuant to subsection (1) cannot be found or has left the Territory, the Commissioner may, after ninety days from the date the motor vehicle was taken into custody, dispose of the vehicle in such manner as he deems fit.

155. Notwithstanding anything in Part IV, the council of a municipality may, by by-law, make regulations with respect to ^{Municipal by-laws.}

- (a) rate of speed;
- (b) parking of vehicles;
- (c) obstruction of traffic;
- (d) one-way streets;
- (e) prescribing routes of travel;
- (f) pedestrian traffic;
- (g) loading zones and bus stops;
- (h) safety zones;
- (i) preventing drivers of motor vehicles from making unnecessary noise;
- (j) turning;
- (k) traffic on streets in the vicinity of public schools;
- (l) traffic at intersections;
- (m) traffic lanes;
- (n) the right of way of one vehicle over another or of a pedestrian over a vehicle or vice versa; and
- (o) the directions that vehicles must follow on certain streets; within the municipality, and may impose penalties for a violation of any such by-law; and if any by-law departs from the rules laid down in Part IV and the departure is indicated to drivers by means of signs or devices for controlling traffic or by traffic officers, every driver within the municipality shall conform to the by-law.

PART VIII.

ENFORCEMENT PROVISIONS.

PROCEDURE.

156. In describing an offence under subsection (1) of section 76, it is sufficient to charge an accused person with driving to the common danger; and the magistrate is entitled to receive evidence for the prosecution showing that acts or circumstances have constituted the offence charged; and the conviction of the magistrate is sufficient, if it sets forth that the accused person did drive to the common danger, without the necessity of setting forth the specific acts or circumstances that constituted the offence. ^{Driving to the common danger.}

Seizure of
licence
plates.

157. (1) Every officer may seize any licence plate if he finds it detached from a motor vehicle or trailer or displayed on a motor vehicle or trailer other than the one in respect of which it was issued.

(2) An officer may seize the licence plates in respect of a vehicle and hold them pending the receipt of instructions from the Commissioner as to their disposal

- (a) where the Commissioner has suspended or cancelled the certificate of registration; or
- (b) where the title or interest of the holder of the certificate of registration in the vehicle in respect of which the certificate of registration has been transferred.

Failure
to produce
licence.

158. Subject to subsection (3) of section 26, every person who while in actual physical control of a motor vehicle fails to produce his operator's licence or chauffeur's licence within a reasonable time after being asked to do so by an officer is guilty of an offence and liable on summary conviction to a fine not exceeding twenty-five dollars.

Vehicles
improperly
equipped.

159. Every person who operates on a highway a vehicle that is not equipped in accordance with the requirements of this Ordinance respecting equipment and every person by whose permission a vehicle is so operated is guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars.

Obstructing,
etc., an
officer.

160. Every person who obstructs, molests or interferes with an officer in the performance of his duties in respect to the enforcement and carrying out of this Ordinance is guilty of an offence and liable on summary conviction

- (a) for the first offence to a fine not exceeding one hundred dollars;
- (b) for a second offence to a fine not exceeding three hundred dollars; and
- (c) for a third or subsequent offence to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

False
statements.

161. Every person who knowingly makes a false statement of fact in an application, declaration, report or other document required by this Ordinance or by the Commissioner is guilty of an offence and liable on summary conviction in addition to any other fine or punishment to which he may be liable

- (a) for the first offence to a fine not exceeding one hundred dollars; and
- (b) for a second or subsequent offence to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding thirty days or to both fine and imprisonment.

162. (1) Every person who operates on a highway a motor vehicle that is not registered pursuant to this Ordinance and every person who is required to hold a chauffeur's licence or an operator's licence and who, while not so licensed, operates a motor vehicle on a highway is guilty of an offence and liable on summary conviction

Operation of unregistered vehicle and operation without licence.

- (a) for the first offence to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding thirty days; and
- (b) for a second or subsequent offence to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

(2) Every person who operates a motor vehicle on a highway after the suspension or cancellation of the certificate of registration thereof or after the suspension or cancellation of his chauffeur's licence or operator's licence, as the case may be, is guilty of an offence and liable on summary conviction to the penalties provided in subsection (1).

Operation after cancellation of licence, etc.

163. (1) Every person who drives a motor vehicle on a highway without due care and attention or without reasonable consideration for other persons using the highway is liable on summary conviction

- (a) for the first offence to a fine not exceeding one hundred dollars;
- (b) for a second offence to a fine not exceeding two hundred dollars; and
- (c) for a third or subsequent offence to a fine not exceeding three hundred dollars or to imprisonment for a term not exceeding thirty days or to both fine and imprisonment.

(2) Where a person is found guilty of a second or subsequent offence described in subsection (1), his chauffeur's or operator's licence may be suspended for a period not exceeding six months.

164. Every person who violates a provision of this Ordinance or the regulations for which no other penalty is provided is guilty of an offence and liable on summary conviction

General penalty.

- (a) for the first offence to a fine not exceeding fifty dollars;
- (b) for a second offence to a fine not exceeding seventy-five dollars; and
- (c) for a third or subsequent offence to a fine not exceeding one hundred dollars.

RECORDS.

165. The Registrar shall keep the following records:

Records.

- (a) a record of all motor vehicle accidents in the Territory reported to him or concerning which he procures information;

- (b) a record of all convictions for offences under this Ordinance or under the provisions of the *Criminal Code* relating to driving on highways reported to him pursuant to this Ordinance and of such other convictions as he may deem proper;
- (c) a record of all drivers' licences and certificates of registration issued, suspended, revoked, cancelled or revised under this Ordinance;
- (d) a record of all unsatisfied judgments rendered against persons holding certificates of registration or drivers' licences under this Ordinance or non-residents reported to him pursuant to this Ordinance;
- (e) an operating record of every chauffeur and operator, which record shall show all reported convictions of such chauffeur or operator for a violation of any provision of any law relating to the operation of motor vehicles; and all reported unsatisfied judgments against such person for any injury or damage caused by such person while operating a motor vehicle and all accidents in which the records indicate such chauffeur or operator has been involved, and such other information as the Commissioner may deem proper; and
- (f) such other records as in his opinion are necessary.

GENERAL.

166. All fees, fines or penalties payable under this Ordinance shall be paid into the Yukon Consolidated Revenue Fund.

SCHEDULE.

TARIFF OF FEES.

1. Annual licence fees are payable as follows:	
(a) Chauffeur's licence	\$ 5.00
(b) Operator's licence	2.00
(c) Dealer's licence	5.00
2. For each examination on application for an operator's or chauffeur's licence	2.00
3. For substitute operator's or chauffeur's licence or chauffeur's badge when original was lost	1.00
4. For duplicate certificate of registration of a motor vehicle or trailer	1.00
5. For each "In transit" permit	1.00
6. For the registration and licensing of a motor vehicle or trailer owned and used by the Government of Canada or of the Territory or by any municipality	1.00
7. For the issuance of a certificate of registration and licence plates for every motor vehicle except a truck or truck tractor, the fees shall be as set out in Table 1.	
8. For the issuance of a certificate of registration and licence plates for trucks the fees shall be as set out in Table 2.	
9. For the certificate of registration and licence plates for trailers, the fees shall be as set out in Table 3.	
10. For the issuance of a public service vehicle truck licence, the fees shall be as set out in Table 4.	
11. For the issuance of a public service vehicle trailer licence, the fees shall be as set out in Table 5.	
12. For the transfer of a public service vehicle licence from one vehicle to another	2.00
13. For the operation of passenger carrying vehicles (buses, but not including taxi cabs):	
(a) registration according to wheel base, the fee as in Table 1;	
(b) public service vehicle licence, minimum fee (up to 15 seats);	50.00
and	
(c) for each seating space in excess of 15	2.00
14. For certificate of registration and licence for every vehicle operated as a livery or taxi cab:	
(a) registration according to wheel base, the fees as in Table 1; and	
(b) for a liveryman's licence, in respect of each vehicle	20.00

15. For the transfer of a liveryman's licence from one vehicle to another	2.00
16. For certificate of registration and licence of motor vehicles kept for hire that may be rented for any period without a driver: (a) the fees as set out in Table 1 or Table 2; and (b) for a licence in respect of such vehicle	15.00
17. Where, in accordance with section 6, a public service vehicle licence has been granted on condition that the vehicle is to be used under a limited number of special or individual contracts or agreements and where the vehicle is not available for use by the general public, the fees for the licence shall be as in Table 6 or 7.	
18. Motor vehicles licensed without the Territory transporting passengers for hire	10.00
19. For certificate of registration and licence of truck tractor	25.00
20. Dealers number plates, per set	25.00

NOTE: In determining the weight of vehicles for the purpose of fixing fees under this Tariff, the weight of a vehicle shall be the load capacity of the vehicle as determined by the manufacturer's rating; and if the manufacturer's rating is unobtainable, the weight of a vehicle shall be fixed by the person authorized to issue licences.

TABLE 1.
Fees for Motor Vehicles.
(except trucks or truck tractors)

	Full Fee	Oct. 1 to Dec. 31	Jan. 1 to Mar. 31
Wheelbase 100" or less	12.00	6.25	3.00
Wheelbase 101" to 120"	15.00	7.50	4.00
Wheelbase 121" or more	20.00	10.00	5.00
Motorcycles and pedal bicycles with motor attachment	3.00	1.50	1.00

TABLE 2.
Trucks.

2000 lbs. or less	15.00	7.50	4.00
2001 lbs. to 6000 lbs.	30.00	15.00	7.50
6001 lbs. to 10,000 lbs.	50.00	25.00	12.00
10,001 lbs. to 20,000 lbs.	75.00	37.50	19.00
20,001 lbs. to 30,000 lbs.	130.00	65.00	32.00
Over 30,000 lbs.	175.00	87.50	44.00

TABLE 3.
Trailers.

2000 lbs. or less	3.00	1.50	1.00
2001 lbs. to 6000 lbs.	10.00	5.00	2.50
6001 lbs. to 10,000 lbs.	25.00	12.50	6.00
10,001 lbs. to 20,000 lbs.	50.00	25.00	12.50
20,001 lbs. to 30,000 lbs.	100.00	50.00	25.00
Over 30,000 lbs.	150.00	75.00	37.50

TABLE 4.
P.S.V. Trucks.

2000 lbs. or less	15.00	7.50	4.00
2001 lbs. to 6000 lbs.	30.00	15.00	7.50
6001 lbs. to 10,000 lbs.	40.00	20.00	10.00
10,001 lbs. to 20,000 lbs.	50.00	25.00	12.50
20,001 lbs. to 30,000 lbs.	75.00	37.50	19.00
Over 30,000 lbs.	75.00	37.50	19.00

TABLE 5.
P.S.V. Trailers.

2000 lbs. or less	40.00	20.00	10.00
2001 lbs. to 6000 lbs.	45.00	22.50	11.00
6001 lbs. to 10,000 lbs.	50.00	25.00	12.50
10,001 lbs. to 20,000 lbs.	75.00	37.50	19.00
20,001 lbs. to 30,000 lbs.	100.00	50.00	25.00
Over 30,000 lbs.	100.00	50.00	25.00

Motor Vehicles.

TABLE 6.

Limited P.S.V. Truck Licences.

	Full Fee	Oct. 1 to Dec. 31	Jan. 1 to Mar. 31
2000 lbs. or less	10.00	5.00	2.50
2001 lbs. to 6000 lbs.	20.00	10.00	5.00
6001 lbs. to 10,000 lbs.	27.50	14.00	7.00
10,001 lbs. to 20,000 lbs.	33.00	16.50	8.00
20,001 lbs. to 30,000 lbs.	50.00	25.00	12.50
Over 30,000 lbs.	50.00	25.00	12.50

TABLE 7.

Limited P.S.V. Trailer Licences.

2000 lbs. or less	27.00	13.50	7.00
2001 lbs. to 6000 lbs.	30.00	15.00	7.50
6001 lbs. to 10,000 lbs.	35.00	17.50	9.00
10,001 lbs. to 20,000 lbs.	50.00	25.00	12.50
20,001 lbs. to 30,000 lbs.	67.00	33.50	17.00
Over 30,000 lbs.	67.00	33.50	17.00

TABLE 8.

	Single trip
10,000 lbs. or less	5.00
10,001 lbs. to 20,000 lbs.	7.00
20,001 lbs. to 30,000 lbs.	10.00
Over 30,000 lbs.	15.00

TABLE 9.

	Single through trip (one way only)
10,000 lbs. or less	5.00
10,001 lbs. to 20,000 lbs.	7.00
20,001 lbs. to 30,000 lbs.	10.00
Over 30,000 lbs.	15.00

CHAPTER 78.

AN ORDINANCE RESPECTING THE IMPOSITION AND COLLECTION OF A TAX ON MOTOR VEHICLE FUEL

SHORT TITLE.

1. This Ordinance may be cited as the Motor Vehicle Fuel Tax Ordinance. Short Title.

INTERPRETATION.

- 2. In this Ordinance, Definitions. (a) "highway" includes a road, trail, street, avenue, lane, parkway, driveway, square, bridge, viaduct, trestle or other passageway designed and intended for or used for the passage of motor vehicles; "Highway." (b) "importer" means any person who brings motor vehicle fuel into the Territory for sale to or for the use of any other person; "Importer." (c) "motor vehicle" includes an automobile, bus, motorcycle, pedal bicycle with motor attachment, taxicab, truck, truck tractor or any other vehicle propelled or driven by the use of motor vehicle fuel, but does not include a tractor, high lift or power shovel, dragline or back hoe, motor grader or a vehicle that runs or is intended to run only upon rails or tracks; "Motor vehicle." (d) "motor vehicle fuel" means any liquid capable of being used for the generation of power in an internal combustion engine; "Motor vehicle fuel." (e) "prescribed" means prescribed by the regulations; "Prescribed." (f) "purchaser" means any person who within the Territory purchases or receives delivery of motor vehicle fuel for his own consumption or use; "Purchaser." (g) "tax" means the tax imposed by this Ordinance; and "Tax." (h) "vendor" means any person who sells or delivers motor vehicle fuel to a purchaser. "Vendor."

TAX AND COLLECTION.

3. (1) Subject to subsections (3) and (4), every purchaser shall, at the time of purchase or receipt of delivery of motor vehicle fuel, pay to the vendor for remission to the Territorial Treasurer a tax at the rate of six cents per imperial gallon. Purchasers to pay tax.

Vendors and importers to pay tax on self-consumed fuel. (2) Subject to subsections (3) and (4), every vendor and every importer shall, with respect to motor vehicle fuel used or consumed by themselves, their agents or their employees, pay a tax at the rate of six cents per imperial gallon and remit the same to the Territorial Treasurer as required by sections 4 and 5, respectively.

Exemptions. (3) No tax is payable in respect of motor vehicle fuel that is not used to propel a motor vehicle on a highway within the Territory, if

- (a) the purchaser of such motor vehicle fuel at the time of its purchase or receipt of delivery furnishes to the vendor a certificate, in a prescribed form, to that effect; or
- (b) the vendor or the importer with respect to motor vehicle fuel used or consumed by himself, his agents or his employees submits a certificate, in a prescribed form, to that effect in his returns under section 4 or 5, respectively.

Ibid. (4) No tax is payable in respect of motor vehicle fuel used or to be used in motor vehicles owned by

- (a) the Government of Canada,
- (b) a visiting force, as defined in the *Visiting Forces (North Atlantic Treaty) Act*, or
- (c) a municipality, as defined in the *Municipal Ordinance*, if the person who alleges that the motor vehicle fuel purchased or to be used by him is to be so used in such motor vehicles executes a certificate, in a prescribed form, to that effect.

Duties of vendor.

4. Every vendor shall,

Collecting tax.

(a) at the time of sale or delivery of motor vehicle fuel, levy and collect the tax thereon from the purchaser or, where the purchaser claims exemption for tax in accordance with subsection (3) or (4) of section 3, obtain the prescribed certificate in support of the exemption claimed;

Reporting and returns of tax.

(b) on or before the tenth day of each month, in respect of all sales or deliveries made by him during the immediately preceding month, send to the Territorial Treasurer

- (i) the total tax payable by purchasers and any tax payable on motor vehicle fuel delivered to or used by himself, his agents or employees,
- (ii) prescribed certificates executed by purchasers or by himself claiming exemption from tax in respect of all sales, deliveries or consumption upon which tax has not been paid, and
- (iii) a return, in a prescribed form showing, in respect of the said immediately preceding month, the total motor vehicle fuel on hand at its commencement, purchased or received during such month and on hand at the close of business on the last day of such month, together with such invoices, accounts or other documents or copies thereof as the Commissioner may require; and

- (c) in every invoice or account furnished by him with respect to any sale of motor vehicle fuel made by him, state the date of sale, the number of gallons sold, the price per gallon, the rate of tax per gallon and the total tax. Contents of invoice.

- 5. Every importer shall, on or before the tenth day of each month, in respect of the immediately preceding month, send to the Territorial Treasurer Duties of importer.
 - (a) a return, in a prescribed form, showing, in respect of the said immediately preceding month, the total motor vehicle fuel on hand at its commencement, purchased or received during such month, sold or delivered during such month and on hand at the close of business on the last day of such month, together with such invoices, accounts or other documents or copies thereof as the Territorial Treasurer may require; and Return showing stock during month.
 - (b) a return, in a prescribed form, showing details of motor vehicle fuel used or consumed by himself, his agents or his employees, together with the tax payable thereon or the prescribed certificates claiming exemption from tax. Return of taxes.

- 6. Every person, other than an importer or vendor, who in any day brings into the Territory a greater quantity than fifty gallons of motor vehicle fuel for his own use shall within ten days thereof submit a return to the Territorial Treasurer concerning the same together with the tax payable or the prescribed certificate claiming exemption from tax. Returns of tax by other persons.

- 7. Where the Commissioner is of the opinion upon evidence satisfactory to him, that any certificate under which exemption from tax is claimed is untrue or improper, he may direct the Territorial Treasurer to collect the tax for the motor vehicle fuel in respect of which the certificate was completed from the person who completed the certificate, and such direction shall be deemed to impose the tax on such person in respect of the motor vehicle fuel. Where certificates insufficient.

- 8. Every vendor, importer or person referred to in section 6 shall maintain books or records in respect of importation, sales and use of motor vehicle fuel in sufficient detail to permit examination and calculation of the tax and shall preserve such books and records for at least twelve months from the time the tax is collected. Records.

OFFENCES AND PENALTY.

- 9. (1) Every person who
 - (a) makes a false statement in any return, certificate or form used under this Ordinance; Offences and penalty.
 - (b) obtains or attempts to obtain or knowingly induces, assists or attempts to assist another person to obtain an unwarranted exemption from tax;

- (c) knowingly gives false information respecting any motor vehicle fuel transaction;
- (d) refuses to produce any records or documents respecting motor vehicle fuel or any container used for holding motor vehicle fuel that is in his possession or control;
- (e) refuses or neglects to pay or remit a tax where required to do so by this Ordinance or to execute prescribed returns, certificates or forms in connection with exemptions from tax where required to do so by this Ordinance; or
- (f) violates any other provision of this Ordinance or the regulations;

is guilty of an offence and liable, upon summary conviction, to a fine not exceeding five hundred dollars, with or without the additional amount of any tax not paid as a result of the offence, or to imprisonment for a term not exceeding three months or to both fine and imprisonment.

Prosecution does not affect other remedies.

(2) A prosecution under this section does not suspend or affect any remedy for the recovery of any tax or amount payable under this Ordinance.

Burden of proof.

10. In any prosecution for an offence under this Ordinance or in any action or other proceedings brought for the recovery of taxes, the burden of proving that he has paid, levied or remitted a tax or that he is exempted under this Ordinance from liability to pay, levy or remit a tax is on the accused or the defendant.

Prosecution to be brought within two years.

11. No prosecution for an offence under this Ordinance shall be commenced after two years from the date of the commission of the offence.

REGULATIONS.

Regulations.

12. The Commissioner may make regulations for carrying out the purposes and provisions of this Ordinance and prescribing forms for returns, certificates and other documents under this Ordinance.

CHAPTER 79.

AN ORDINANCE RESPECTING MUNICIPALITIES
AND TAXATION.

GENERAL.

1. This Ordinance may be cited as the *Municipal Ordinance*. Short Title.

2. (1) In this Ordinance, Definitions.
- (a) "assessor" means the person appointed by the council of "Assessor."
a municipality under section 227;
- (b) "clerk", "municipal clerk", "clerk of the Corporation" "Clerk".
or "clerk of the Municipal Council" means the official "Municipal
appointed and employed by the council as clerk or acting clerk", etc.
clerk;
- (c) "collector" means the person appointed by the council of "Collector."
a municipality under section 227;
- (d) "Commissioner" means the Commissioner of the Yukon "Com-
Territory; missioner."
- (e) "council" means a municipal council; "Council."
- (f) "householder" means the occupier of a house or of a self-
contained domestic establishment, but does not include "Householder."
any person who is a mere lodger or boarder in a house;
- (g) "improvements" means all buildings, structures, storage "Improve-
tanks for oil or gasoline, all machinery and fixtures annexed to any building or structure, all fences and all
machinery or other things affixed to the soil or improve-
ments."
ments made by clearing, dyking, draining, planting or
cultivating the soil, but the erection of temporary build-
ings and machinery and the construction of skid roads for
temporary use in connection with logging or woodcutting
operations or taking lumber off lands shall not be deemed
improvements for the purpose of this Ordinance;
- (h) "judge" means a judge of the Territorial Court; "Judge."
- (i) "land" means the ground or soil and everything annexed "Land."
to it by nature or that is in or under the soil except mines
and minerals, precious and base, belonging to the Crown
and includes the interest of a person in land held under
timber lease or timber licence;
- (j) "lot" means any one of the portions or subdivisions into "Lot."
which a block of land has been divided;
- (k) "mayor" includes acting mayor and reeve; "Mayor"

- "Municipality." (l) "municipality" means municipal area designated and incorporated as a municipal corporation under this Ordinance or which may be incorporated as a city, town or village under the provisions of any special Ordinance;
 - "Occupier." (m) "occupier" means one who is qualified to maintain an action for trespass;
 - "Owner." (n) "owner" in respect of any land, except as hereinafter provided, means the person who appears by the register of the Land Titles Office to be the registered owner of the land, unless there be in existence an agreement to sell such land, by the terms of which the purchaser agrees to pay the taxes thereon, in such case "owner" means such purchaser and, in the case of land held in the manner mentioned in sections 203, 204 and 205 "owner" means the holder or occupier as therein described;
 - "Real property." (o) "real property" means land and land covered with water and all improvements erected upon or affixed to the land and whatever is growing upon the land and all rights issuing out of, annexed to or exercisable within or about the same;
 - "Territorial Assessor." (p) "Territorial Assessor" means the person appointed by the Commissioner under the *Taxation Ordinance*; and
 - "Territorial Collector." (q) "Territorial Collector" means the person appointed by the Commissioner under the *Taxation Ordinance*.
- (2) In the case of land held under joint tenancy, the joint tenants are to be deemed the owners of equal undivided interests in the land.

Construction of words applying to officer by his name of office.

3. Words in this or any other Ordinance, or in any by-law or resolution of a municipal council, directing or empowering any officer of the municipality 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 and such person as the council may from time to time by by-law or resolution designate to act in his or their place or stead.

4. In this Ordinance, words importing the masculine gender include females, and words in the singular include the plural, and words in the plural include the singular.

APPLICATION OF ORDINANCE.

Application.

5.(1) This Ordinance extends and applies to all municipalities mentioned in this section except in so far as its application to any municipality is altered or modified by the provisions of a subsequent special Ordinance.

City of Dawson.

(2) This Ordinance applies to the City of Dawson being those subdivisions of Lots numbered one, two, three, four, five, six and twelve in Group numbered one thousand and fifty-two in the Yukon Territory known as the Government Reserve Addition, the Harper Estate, the Ladue Estate, the Smith Addition

and the Roman Catholic Mission Addition, the Day Addition, the Menzies Addition and the Government Addition in and to the Townsite of Dawson respectively.

(3) This Ordinance applies to the Townsite of Mayo being ^{Town of Mayo.} the subdivisions of Lots numbered four, five and eight in Group numbered one thousand and four in the Yukon Territory.

(4) This Ordinance applies to the City of Whitehorse, being ^{City of Whitehorse boundaries.} all those pieces or parcels of land in Group eight hundred and four in the Yukon Territory described as follows:

- (a) the whole of Lots one, two, three, four, five, six, eight and nineteen according to a plan of survey of record number eight thousand four hundred and six in the Legal Surveys and Aeronautical Charts Division of the Department of Mines and Technical Surveys at Ottawa;
- (b) the whole of Lot seven according to said plan eight thousand four hundred and six, saving and excepting therefrom that portion of said lot seven lying within the Whitehorse Airport Reserve;
- (c) all those pieces or parcels of land which lie between the easterly boundaries of Lots one, four, five and eight and the ordinary high water mark of the Yukon River;
- (d) all that parcel lying northeasterly of and adjoining boundaries of Lot three hundred and nine, said parcel being more particularly described as follows:

Beginning at a standard post, pits and mound marking the most northerly corner of said Lot; thence on a bearing of one hundred and fifty-nine degrees and twenty-one minutes along the easterly boundary of said Lot a distance of five hundred and eighty-seven feet and nine-tenths of a foot to the point of commencement; thence continuing along the last aforesaid course a distance of fifteen hundred feet, more or less, to a standard post, pits and mound; thence on a bearing of sixty-nine degrees and twenty-one minutes a distance of thirteen hundred and fifty feet, more or less, to a standard post, pits and mound; thence on a bearing of one hundred and fifty-nine degrees and twenty-one minutes along the most easterly boundary of said Lot a distance of five hundred feet to a point; thence easterly and perpendicular to the last aforesaid boundary a distance of eight hundred and fifty feet to a point; thence northerly and perpendicular to the last aforesaid course a distance of two thousand feet to a point; thence westerly in a straight line to the point of commencement; as said boundaries and posts are shown on a plan of record number forty-two thousand three hundred and ninety-nine in the Legal Surveys and Aeronautical Charts Division of the Department of Mines and Technical Surveys at Ottawa; said parcel containing by admeasurement eighty-five acres and five-tenths of an acre, more or less;

- (e) all that parcel lying westerly of and adjoining boundaries of Lot three hundred and nine, said parcel being more particularly described as follows:

Commencing at a standard post, pits and mound marking the most southerly corner of said Lot; thence on a bearing of three hundred and thirty-nine degrees and twenty-one minutes a distance of twenty-four hundred feet, more or less, to a standard post, pits and mound; thence on a bearing of two hundred and forty-nine degrees and twenty-one minutes a distance of six hundred feet, more or less, to a standard post, pits and mound; thence northerly along the most westerly boundary of said Lot to a point on the easterly ordinary high water mark of the Yukon River; thence southerly along said high water mark to a point on the westerly production of the most southerly boundary of said Lot, as said boundaries and posts are shown on a plan of record number forty-two thousand three hundred and ninety-nine in the Legal Surveys and Aeronautical Charts Division of the Department of Mines and Technical Surveys at Ottawa; thence easterly along said production to the point of commencement; said parcel containing by admeasurement approximately ninety-eight acres; and

- (f) the whole of Lots numbered three hundred and eight and three hundred and nine according to a plan of survey of record number forty-two thousand three hundred and ninety-nine in the Legal Surveys and Aeronautical Charts Division of the Department of Mines and Technical Surveys at Ottawa.

6. Nothing contained in this Ordinance shall be deemed to impair, restrict or otherwise affect the powers conferred on any municipality to which this Ordinance applies by any general or special Ordinance relating to any municipality.

Jurisdiction
of council.

7. The jurisdiction of every council shall be confined to the municipality the council represents, except where authority beyond the same is expressly conferred by this or some other Ordinance.

Settlements.

8. (1) The Commissioner shall exercise the powers and perform the duties of a municipal council for every settlement and district of the Yukon Territory not being designated as within one of the municipalities described in section 5.

(2) The Territorial Treasurer shall perform the duties of a municipal clerk for the settlements and districts mentioned in subsection (1).

City of
Dawson.

9. The inhabitants of the area described in subsection (2) of section 5 shall be a body corporate under the name of "The City of Dawson" and shall have perpetual succession

and a common seal, and shall be capable of suing and of being sued in all courts of justice, of purchasing, acquiring and holding lands, tenements and all kinds of real and personal property for the use of such city, and of making and entering into such contracts as are necessary for the exercise of its corporate functions.

10. The inhabitants of the area described in subsection (3) of section 5 shall be a body corporate under the name of "The Town of Mayo" and shall have perpetual succession and a common seal, and shall be capable of suing and of being sued in all courts of justice, of purchasing, acquiring and holding lands, tenements and all kinds of real and personal property for the use of such town, and of making and entering into such contracts as are necessary for the exercise of its corporate functions.

11. The inhabitants of the area described in subsection (4) of section 5 shall be a body corporate under the name of "The City of Whitehorse" and shall have perpetual succession and a common seal, and shall be capable of suing and of being sued in all courts of justice, of purchasing, acquiring and holding lands, tenements and all kinds of real and personal property for the use of such city, and of making and entering into such contracts as are necessary for the exercise of its corporate functions.

12. Each municipality shall have a common seal which shall be made of suitable metal and shall have such device engraved upon it as the council from time to time orders, and such seal shall be kept by the clerk of the municipality.

PART I.

GOVERNMENT AND PROCEDURE AND MUNICIPAL ELECTIONS.

DIVISION I. MAYOR AND MUNICIPAL COUNCIL.

13. The City of Dawson shall be governed by a council consisting of a mayor and three aldermen.

14. The Town of Mayo shall be governed by a council consisting of a reeve and two aldermen.

15. The City of Whitehorse shall be governed by a council consisting of a mayor and four aldermen.

16. No person shall be qualified to be a mayor of a municipality unless he is

(a) a British subject of twenty-one years of age or upwards;

- (b) a taxpayer of the municipality and has resided therein for at least six months next prior to his nomination for such office; and
- (c) taxed upon real property assessed at not less than one thousand five hundred dollars.

Qualifications of alderman.

17. No person shall be qualified to serve as alderman of a municipality unless he is

- (a) a British subject of twenty-one years of age or upwards;
- (b) a taxpayer of the municipality and has resided therein for at least six months next prior to his nomination for such office; and
- (c) taxed upon real property assessed at not less than one thousand dollars.

Election.

18. The mayor and council of every municipality shall be elected under the provisions of this Ordinance.

Mayorality term.

19. The mayor shall hold office for two years and until his successor is sworn into office, and shall be eligible for re-election.

Aldermanic term.

20. An alderman shall hold office for two years and until his successor is sworn into office, and shall be eligible for re-election.

Persons qualified as mayor or aldermen.

21. No person is qualified to be elected mayor or alderman who

- (a) has been decreed or adjudged a bankrupt or insolvent by virtue of proceedings taken under any Act of the Parliament of Canada relating to insolvency;
- (b) has made a general assignment of his property for the benefit of his creditors; or
- (c) suffers an order of commitment to be made against him under the Rules of Court made pursuant to the *Judicature Ordinance* respecting the arrest of defendants;

unless before being nominated he has procured a release or discharge from his creditors or from the Court having cognizance of the matter or cause.

Unqualified persons.

22. None of the following persons is qualified to be elected a mayor or alderman, or to be appointed to any office by the council or to hold any office under the council:

- (a) any sheriff of the Yukon Territory or his deputy;
- (b) any person who directly or indirectly, by himself or by or with any other person as co-partner or otherwise, enters into or is directly or indirectly interested in, any contract express or implied, for the supply of any goods or materials, or for the performance of any work or labour, to or for the municipality, but no person is disqualified under this provision by reason of his being a member of a joint stock company having a contract with or employ-

ment from the municipality, unless such person is president or managing director of, or has a controlling interest in, such joint stock company; or

- (c) any person who has been at any time convicted of any crime punishable with imprisonment in a penitentiary.

23. No person is qualified to be elected a mayor or alderman who holds any office under the municipal council to which a salary or remuneration payable out of the funds of the municipality is attached.

24. (1) Any mayor or alderman who becomes disqualified under any of the provisions of sections 21, 22 and 23 shall thereupon and thereby vacate his office, and the municipal council by resolution shall declare such office to be vacant. Vacation of office.

(2) If any person so disqualified is nominated for the office of mayor or alderman, such nomination shall be void. Void nomination.

(3) Any person who acts or sits as mayor or alderman after he becomes so disqualified is liable to a penalty of not less than fifty dollars for each time he so sits or acts. Penalty.

25. Any mayor or alderman who neglects or refuses to be sworn into office for thirty days after his election or who, without leave of the municipal council, absents himself from meetings of the council for three successive months, thereby shall vacate his office as such mayor or alderman, and such office shall be declared vacant by the council and such mayor or alderman shall be liable to a penalty of two hundred dollars. Office declared to be vacant. Penalty.

26. Any mayor or alderman at any time with the consent of the municipal council may resign his office by giving written notice to that effect to the municipal clerk whereupon such office shall be declared vacant by the council. Resignation.

DIVISION II. MUNICIPAL ELECTIONS.

27. (1) In each municipality, on or before the 1st day of November, 1951, and on or before the first day of each alternate November thereafter, the clerk shall prepare for each polling division therein an alphabetical list of electors. Voters' lists subsequent to first.

(2) Such list shall set forth the names of those persons qualified to vote under section 28 and rated on the revised assessment roll of the municipality with a short description of the property on which they are assessed.

(3) A copy of the list shall be posted in five conspicuous places within the municipality. Posting of.

(4) A copy of the list shall be kept in the clerk's office open to inspection of the public at all times during office hours.

28. (1) Every person resident within the municipality is qualified to vote at a municipal election who Qualification of voters.

- (a) is a British subject of the full age of twenty-one years;

- (b) has been rated upon the last revised assessment of the municipality in respect of property and has fully paid his rates and taxes of all kinds before the day of nominating candidates; or
 - (c) is a householder who has resided within the municipality for not less than twelve months previous to the day fixed for the revision of the voters' list and who pays a yearly rental of not less than two hundred dollars.
- (2) Every person resident within the municipality is qualified to vote at a municipal election who
- (a) is a British subject of the full age of twenty-one years; and
 - (b) is the husband or wife of a person qualified to vote at the same municipal election under the provisions of subsection (1).

Amending voters' list.

29. Any person who is a resident of the municipality in the then current year and who is otherwise duly qualified, whose name does not appear on the voters' list or whose name is put down in error, or whose name has been omitted from the last revised assessment roll but who has paid all rates and taxes imposed on the property in respect of which he claims a vote, either by himself or his agent may apply to have the list amended upon giving to the clerk a notice in the following form:

"To the Clerk of the.....of.....
 Take notice that I intend applying to the Council to have my name added to the voters' list (or corrected, as the case may be) for the following reasons

.....
 (Signature of applicant or agent)
 Applicant in person (or by his agent)"

When voter ceases to be qualified.

30. If a person has disposed of the property for which he was qualified as a voter under this Ordinance before the first day of November in the current year or if any person's name is wrongfully put down, he shall be deemed disqualified as a voter, and any person duly qualified as a voter may apply to the council to have the name of the person so, or otherwise, disqualified struck off the voters' list and the name of the proper person, if any, substituted therefor by giving notice in writing to the clerk of his intention of applying to the council for that purpose.

Service of notices.

31. Notices served upon the clerk under sections 29 and 30 shall be served in each year on or before the fifteenth day of November by leaving the same with him in his office at any time during office hours.

32. (1) On or before the twentieth day of November the clerk shall make a list of all applicants for amendments to the voters' list which shall state the name of each applicant and the nature and grounds of his complaint and shall post the same in a conspicuous place in his office. ^{List of amendments.}

(2) Immediately after the preparation and posting of the list described in subsection (1) the clerk shall mail notices to all persons named in such list of the time and place fixed by the council for hearing such applications. ^{Service of notice.}

33. (1) On or before the thirtieth day of November in each year the council shall meet as a Court of Revision on the voters' list and shall hear and determine all applications of which notice has been given to the clerk, as hereinbefore provided, and thereupon amend the voters' list in all cases provided for herein as may be deemed fit and right and the list so amended or as further amended on appeal to a judge as hereinafter provided shall be the voters' list of the municipality for the year next ensuing. ^{Revision of voters' list.}

(2) The council sitting as a Court of Revision on the voters' list as aforesaid shall have all the powers and privileges conferred by Part XII upon a Court of Revision sitting upon the municipal assessment roll as to the attendance of witnesses and the imposition and recovery of penalties and as to procedure.

(3) The council sitting as a Court of Revision on the voters' list shall hear and determine all complaints and revise and correct the list on or before the tenth day of December in each year.

34. (1) A voter or person entitled to be a voter may appeal from the decision of the council sitting as a Court of Revision of the voters' list to a judge. ^{Appeal to judge.}

(2) Every appellant shall leave with the clerk at his office within seven days from the revision of the voters' list by the council sitting as a Court of Revision a notice in writing of such appeal which shall state briefly the grounds for such appeal and be signed by the appellant and give an address for such appellant to which notices in respect of such appeal may be sent.

(3) Any voter or person entitled to be a voter may appeal to have the name of any other person added to or struck off the voters' list.

(4) The judge shall hold the Court for hearing appeals as aforesaid at such time and place as he appoints therefor.

(5) The clerk shall notify the appellants by mail of the time and place appointed for hearing such appeals as aforesaid.

(6) The judge shall hear and dispose of all such appeals and revise the voters' list accordingly.

(7) If on an appeal to strike off the voters' list the name of a person entered therein as a voter, the judge from the evidence adduced before him is of the opinion that the person is intitled to be on the list in any character or because of property or qualification other than that in which he is on the list, the judge

shall not strike the name of that person off the list, but shall make such correction in the list as the evidence, in his opinion, warrants with respect to the right, character and qualification of such person.

(8) The decision of the judge in regard to the right of any person to vote shall be final.

Judge to correct voters' list.

(9) The judge shall hear and determine all appeals from the council sitting as a Court of Revision on the voters' list and finally revise, correct and certify to the voters' list on or before the twentieth day of December in each year.

Judge to certify voters' list.

35. (1) If there are no appeals from the voters' list as revised by the council sitting as a Court of Revision within the time limited by section 34 the clerk shall forthwith apply to the judge to certify a copy of such list as being the revised list of voters for the municipality.

(2) If there are any such appeals the judge shall certify a corrected copy of the voters' list immediately after the list has been finally revised and corrected by him as being the revised list of voters for the municipality.

(3) The voters' list as certified by the judge shall be delivered to the clerk by the Clerk of the Territorial Court.

(4) Only persons who are qualified to vote at an election and

(a) whose names appear on the voters' list as certified by the judge, or

(b) who have complied with the requirements of section 64, may vote at the election.

Recovery of taxes from persons added to voters' list.

36. (1) If a person not assessed or not sufficiently assessed is found entitled to be a voter by reason of his being the person liable to be assessed in respect of the property of which the ownership qualifies him to vote, the municipality shall be entitled to recover taxes from him and to enforce payment thereof by the same means and in the same manner as if he had been assessed on the assessment roll for the amount found by the council sitting as a Court of Revision on the voters' list or by the judge on the hearing of appeals therefrom.

(2) In such case the council sitting as a Court of Revision on the voters' list and the judge on the hearing of appeals therefrom or, if there be no such appeals, at the time of certifying the voters' list shall each make an order setting forth the name of the person so liable and the sum for which such person should have been assessed and the property in respect of which the liability exists and the order shall be transmitted forthwith to the collector and shall have the same effect as if the said particulars had been inserted in the assessment roll.

By-law appointing R.O. and D.R.O's.

37. At least two weeks prior to the last Monday in December the council by by-law shall appoint a returning officer for the municipality and, if such are deemed necessary, define the districts or subdivisions within the municipality and the place

or places where the votes are to be polled, and appoint a deputy returning officer for each of the places where votes are to be polled.

38. (1) Every candidate for the offices of mayor or aldermen shall be nominated in writing by two voters of the municipality. Nomination of candidates.

(2) The nomination papers shall be delivered to the clerk between the hours of ten o'clock in the forenoon and five o'clock in the afternoon of the second day of January or if such day is a holiday then between the same hours of the next day thereafter which is not a holiday. Time of delivery.

(3) No nomination paper shall be accepted by the clerk unless it is accompanied by the consent in writing of the candidate to be nominated, signed by him before one witness. Consent of nominee.

(4) Every candidate for the office of mayor shall at the time of delivering his nomination paper to the clerk deposit in the hands of the clerk a sum of one hundred dollars in legal tender which sum shall be forfeited to the municipality if such candidate fails to receive one-half of the total number of votes received by the candidate elected. Mayoralty candidate's deposit.

(5) Every candidate for the office of alderman shall at the time of delivering his nomination paper to the clerk deposit in the hands of the clerk the sum of fifty dollars in legal tender which sum shall be forfeited to the municipality if such candidate for alderman fails to receive one-half of the total number of votes received by the candidate elected polling the lowest number of votes. Aldermanic candidate's deposit.

(6) The receipt of the clerk shall in every case be sufficient evidence of the delivery of the nomination paper and of the payment of the deposit mentioned in subsections (4) and (5). Evidence of receipt.

(7) The sum so deposited by any candidate for mayor shall be returned to him if he is elected or receives one-half of the total number of votes received by the candidate elected for mayor, and the sum so deposited by any candidate for alderman shall be returned to him if he is elected or receives one-half of the total number of votes received by the candidate elected for alderman polling the lowest number of votes. Condition of return of deposit.

39. All elections, subsequent to the first municipal election, held under the provisions of this Ordinance, shall be conducted by a returning officer and such deputy returning officers and poll clerks as are appointed by the council. Council to appoint election officials.

40. The returning officer before acting as such shall make and subscribe the oath in Form C in the Schedule. Oath of R.O.

41. Except as otherwise provided, the election of mayor and aldermen shall be held on the twenty-first day after the day for nominating candidates. Date of election.

Chap. 79.

Municipal.

Qualification of R.O. **42.** No person shall be appointed returning officer who is not qualified to vote in the municipal election.

R.O. may not vote. **43.** The returning officer shall not vote except in the case of a tie as hereinafter provided.

Substitute officials. **44.** If any person appointed returning officer, deputy returning officer or poll clerk neglects or refuses to act, the mayor shall appoint a substitute.

Posting notices by R.O. **45.** Notice of the time and place fixed for nominating candidates and of the time and place or places of holding the poll, if a poll is granted, and of the time and place of counting up the votes, shall be posted up by the returning officer in five of the most public places of the municipality for the days next previous to the time for the nomination of candidates.

By-election. **46.** (1) Subject to subsection (2), when a vacancy occurs in the office of mayor or alderman by resolution the council shall forthwith appoint a time for holding an election to fill such vacancy which shall be not less than twenty-one days after the passing of the resolution.

When may be dispensed with. (2) If such vacancy occurs within three months of the next regular municipal election, the council may leave the vacancy unfilled until such election.

Conduct of by-election. **47.** The election to fill a vacancy in the office of mayor or alderman shall be conducted in the same manner as a regular municipal election, except that the nomination papers shall be delivered to the clerk not later than five o'clock in the afternoon on the nomination day, which shall be twenty-one days previous to the day fixed by the council for the polling.

Unexpired term. **48.** A mayor or alderman elected to fill a vacancy caused by the retirement, death, resignation or removal of a mayor or alderman before his term of office has expired shall only serve for the unexpired term of the mayor or alderman whose office he was elected to fill.

Election of mayor by acclamation. **49.** (1) If only one candidate is nominated for mayor in a municipality within the time specified the returning officer at the hour when nominations close shall declare such candidate elected mayor.

Election of aldermen for City of Whitehorse by acclamation. (2) If, in the City of Whitehorse, no more than four candidates are nominated for aldermen, the returning officer at the hour when nominations close shall declare the four candidates elected as aldermen of the City of Whitehorse.

Election of aldermen for City of Dawson by acclamation. (3) If, in the City of Dawson, no more than three candidates are nominated for aldermen, the returning officer at the hour when nominations close shall declare such candidates duly elected as aldermen of the City of Dawson.

(4) If, in the Town of Mayo, no more than two candidates are nominated for aldermen, the returning officer at the hour when nominations close shall declare both candidates duly elected as aldermen of the Town of Mayo. Election of aldermen for Town of Mayo by acclamation.

(5) If there are more candidates than one for mayor or more candidates than four for aldermen in the City of Whitehorse a poll shall be granted in the City of Whitehorse. Poll in City of Whitehorse.

(6) If there are more candidates than one for mayor or more candidates than three for aldermen in the City of Dawson a poll shall be granted in the City of Dawson. Poll in City of Dawson.

(7) If there are more candidates than one for reeve or more candidates than two for aldermen in the Town of Mayo a poll shall be granted in the Town of Mayo. Poll in Town of Mayo.

50. (1) When a poll has been granted, the clerk shall cause to be printed a number of ballot papers not less than the number of voters in the municipality. Ballots.

(2) The ballot paper for mayor shall be a separate ballot paper from that for aldermen and shall be in Form D in the First Schedule and the ballot paper for aldermen shall be in Form DD in said Schedule. Form of.

51. (1) When a poll has been granted, the clerk shall furnish each deputy returning officer with Materials for D.R.O's.

(a) a list in alphabetical order of the persons qualified to vote in the municipality or in his polling subdivision,

(b) one ballot box,

(c) a sufficient number of ballot papers for mayor and aldermen, and

(d) the materials necessary for voters to mark the ballot papers.

(2) The clerk shall keep a record of the number of ballot papers which he furnished to each deputy returning officer. Record of material.

(3) The deputy returning officer shall keep the materials for marking the ballots in the polling place for use of the voters from the opening to the close of the poll. Care of material.

52. On polling day every deputy returning officer shall Polling hours.

(a) open the poll assigned to him at nine o'clock in the forenoon,

(b) keep the poll assigned to him open until six o'clock in the afternoon, and

(c) receive in the manner hereinafter prescribed the votes of all voters duly qualified to vote at such polling place.

53. The clerk shall furnish every polling place with a sufficient number of compartments in which voters can mark their ballots while screened from observation. Polling compartments.

Those eligible to be present at polling place.

54. (1) During the holding of the poll the following and no other persons shall be entitled or permitted to be present in the polling place:

- (a) the officers appointed to hold the election;
- (b) the candidates to be voted for in such polling place;
- (c) agents, not exceeding two agents for each candidate, authorized in writing by such candidate;
- (d) any voter actually engaged in voting; and
- (e) any constable or police officer whom the deputy returning officer may have requested to attend or have summoned to his aid for the purpose of maintaining order or preserving the public peace.

Removal of ineligible persons.

(2) The deputy returning officer may order the removal of any person from the polling place who is not entitled to be present or who being so entitled obstructs the voting and such order shall be executed by any constable or police officer without the same being in writing and without warrant.

Oath of agent.

55. When admitted to the polling place under the provisions of subsection (1) of section 54, every agent for a candidate shall take an oath, administered by the deputy returning officer in Form E in the First Schedule to keep secret the name of the candidate for whom any voter has marked his ballot in his presence.

Inspection of ballot box.

56. At the hour fixed for opening the poll the deputy returning officer shall show the ballot box to the candidates or their agents and to any persons present within the polling place so that they may see that it is empty and then shall immediately lock the ballot box and place it in view for the reception of ballot papers and keep it locked until the close of the poll.

Oath of D.R.O. and poll clerk.

57. At or before the opening of the poll the deputy returning officer and the poll clerk shall take an oath in Form E in the First Schedule which shall be administered by a police magistrate, the clerk of the municipality or a justice of the peace.

Declaration of candidates.

58. At the opening of the poll the deputy returning officer shall declare the names of the candidates.

Voting on certificate.

59. Any deputy returning officer, candidate, agent of a candidate or poll clerk, who belongs to a polling division other than the one in which he is performing the duties of such, may vote at the polling place where he is so engaged if he produces a certificate from the clerk of the municipality that he is a qualified voter in the municipality and the deputy returning officer shall attach such certificate to the voters' list.

Voters admitted singly.

60. Not more than one voter for each compartment shall at any one time enter the room where the poll is held.

61. (1) If so required by any candidate or agent of a candidate, before voting a voter shall take the oath in Form F in the First Schedule which shall be administered by the deputy returning officer. Oath may be required.

(2) Any voter who refuses to take the oath mentioned in subsection (1) shall not be permitted to vote.

62. When any person claiming to be entitled to vote presents himself at the polling place for the purpose of voting, he shall state his name, residence and occupation. Voter at polling place.

63. Where any person presents himself in accordance with section 62 for the purpose of voting, the deputy returning officer shall examine the copy of the list of voters for the polling division and if he ascertains that the name of such person appears on the copy of the list or that such person has complied with the requirements of section 64, he shall Procedure at polling place.

- (a) mark such person's name on the copy of the list of voters;
- (b) enter, or cause to be entered, in the poll book the name of such person; Entry in poll book.
- (c) if such person takes any oath or affirmation required to be taken by this Ordinance, enter or cause to be entered opposite such person's name in the poll book the word "Sworn" or "Affirmed" according to the fact; Entry when sworn.
- (d) if such person is objected to by any candidate or his agent, enter or cause to be entered opposite such person's name in the poll book the words "objected to" entering at the same time the name of the candidate by or on behalf of whom the objection is made; and Entry when objection taken.
- (e) if such person has been duly required to take any oath or affirmation prescribed by this Ordinance and has refused to take the same, enter or cause to be entered opposite the name of such person in the poll book the words "Refused to be sworn" or "Refused to affirm" according to the fact. If voter refuses to take the oath.

64. (1) A person who, under section 28, is qualified to vote at an election but whose name does not appear on the voters' list may vote at the election upon complying with the provisions of this section. Persons not named in voters' list.

(2) The deputy returning officer shall administer to the person applying to vote an oath in the following form: Oath to be administered.

"Do you solemnly swear (or affirm) that you are of the full age of twenty-one years; that you are a British subject; that you are otherwise qualified to vote within the meaning of section 28 of the *Municipal Ordinance*; that you have not before voted at this election and that you have not received or been promised any consideration whatsoever for voting at this election."

Person to be vouched for.

(3) The person applying to vote shall be vouched for by a person whose name appears on the voters' list and the person vouching shall take or shall have taken an oath to the effect that his name appears on the voters' list and that he knows the person applying to vote and verily believes he is qualified to vote under section 28.

Initialling and delivery of ballots.

65. (1) Where the deputy returning officer has ascertained that

(a) the name of a person presenting himself in accordance with section 62 for the purpose of voting appears on the copy of the list of voters for the polling division, or such person has complied with the requirements of section 64, and

(b) all proper entries in respect of such person have been made in the poll book in the manner prescribed by section 63, the deputy returning officer shall write his initials on the back of a ballot paper for mayor and a ballot paper for aldermen and shall deliver the same to such person.

(2) The deputy returning officer shall not deliver any ballot to or permit to vote any person who has refused to take any prescribed oath or affirmation and against whose name the entry described in paragraph (e) of section 63 has been made in the poll book and if the deputy returning officer receives such vote he is liable to a penalty of one hundred dollars.

Ballot must be initialed.

66. No ballot paper shall be delivered to a voter by the deputy returning officer or counted by him unless it is initialed by him as required by subsection (1) of section 65.

Prohibited entries.

67. A deputy returning officer or poll clerk shall not enter, or cause to be entered, on the poll book or elsewhere the name or names or anything to indicate the name or names of the candidate or candidates for whom the voter votes.

D.R.O. may explain voting.

68. The deputy returning officer may, and upon the request of any voter shall, either personally or through the poll clerk explain to the voter as concisely as possible the mode of voting, but neither the deputy returning officer or his poll clerk shall influence or shall attempt to influence the voter to vote for any candidate at the election.

Manner in which ballots are dealt with.

69. When he receives from the deputy returning officer the ballot papers, the voter forthwith shall proceed into one of the compartments of the polling place and forthwith shall mark therein his ballot papers by marking a cross with a pencil on any part of the ballot paper within the division containing the name, or names, of the candidate, or candidates, for whom he intends to vote and then shall fold the ballot papers in such a way as to show the initials of the deputy

returning officer and to conceal the names of the candidates and the marks upon the face of the ballot papers and leaving the compartment, without delay and without showing the ballot to anyone or so displaying the ballot papers as to make known the candidate for whom he voted, he shall hand the same to the deputy returning officer who shall deposit the ballot papers in the ballot box and then the voter shall leave the polling place.

70. While any voter is in any compartment for the purpose of marking his ballot paper, no person shall enter the compartment or be in any position from which he can observe the mode in which the voter marks his ballot paper. Secrecy of ballot.

71. Every person who takes a ballot which he has received from the deputy returning officer out of the polling place is liable to a penalty of one hundred dollars. Penalty.

72. Every person who receives a ballot from the deputy returning officer and leaves the polling place without first seeing the same deposited in the ballot box in the manner prescribed by section 69 shall forfeit thereby his right to vote at the election and the poll clerk shall make an entry in the poll book in the column for remarks to the effect that such person received a ballot 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 poll clerk immediately shall write the word "Declined" upon such ballot paper and shall preserve it and return it to the returning officer. "Declined" ballots.

73. (1) When any person claiming to be entitled to vote presents himself at the polling place for the purpose of voting and who orally makes an oath or affirmation in Form G in the First Schedule before the deputy returning officer that he is incapacitated by blindness or other physical cause from marking his ballot paper or that he is unable to read the deputy returning officer shall Incapacitated voters.

- (a) make the search of the voters' list and such entries as are enumerated in section 63 as the case requires,
- (b) cause to be stated by an entry opposite the name of such person in the poll book that the vote of such person is marked in pursuance of this section and the reason why it is so marked, and Entry in poll book.
- (c) in the presence of the candidates or their agents if they choose to be present, cause the vote of such person to be marked on his ballot in the screened compartment in the manner directed by such person and shall cause such ballot paper to be placed in the ballot box. Manner in which ballots of such are dealt with.

"Tendered" ballot.

74. (1) If a person representing himself to be a particular voter named on the list of voters applies for a ballot paper after another person has voted as such voter, the applicant shall, upon taking the oath prescribed by this Ordinance to be administered to voters at the time of polling, be entitled to mark a ballot paper, but such ballot paper shall be given to the deputy returning officer who shall place it in an envelope securely sealed and shall endorse upon the envelope the words "Tendered Ballot" and shall deposit the envelope containing such ballot paper in the ballot box and the deputy returning officer shall not count such ballot.

(2) The poll clerk shall enter the name of a person voting under subsection (1) in the poll book and opposite such name shall make an entry showing the circumstances of the case.

"Cancelled" ballot.

75. Any voter who has inadvertently dealt with a ballot paper in such manner that it cannot be conveniently used as a ballot paper may deliver to the deputy returning officer the ballot paper so inadvertently dealt with, and obtain from him another ballot paper and the deputy returning officer shall write the word "Cancelled" upon the ballot paper so delivered to him and preserve it and return it to the returning officer.

Examination of ballots.

76. Immediately after the close of the poll the deputy returning officer 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, shall open the ballot box and examine the ballots therein and proceed to count the votes.

Void ballots.

77. (1) Any ballot paper
(a) not initialled by the deputy returning officer,
(b) on which votes are given to more candidates than are to be elected,
(c) on which anything is written or marked appearing to have been designedly put thereupon for the purpose of enabling the same to be identified as the ballot of a particular voter,
(d) which is unmarked, or
(e) from which it is uncertain for which candidate or candidates the voter votes,
shall be void and shall not be counted.

To be endorsed.

(2) The deputy returning officer shall endorse "Rejected" on every ballot paper which he rejects as void.

Counted ballots.

(3) The deputy returning officer shall count the votes given for each candidate upon the ballot papers not rejected.

Summary of entries in poll book.

78. After the votes are counted the poll clerk shall make up and enter in the poll book a written statement containing the following particulars:

(a) number of votes for each candidate;

- (b) number of ballot papers rejected as voting for more candidates than are to be elected;
- (c) number of ballot papers rejected for having a writing or mark by which the voter could be identified;
- (d) number of ballot papers rejected as unmarked or void for uncertainty;
- (e) number of tendered ballot papers deposited;
- (f) number of spoiled ballot papers;
- (g) number of ballot papers, if any, taken from the polling place; and
- (h) number of unused ballot papers.

79. The deputy returning officer shall return all the ballot papers that have been used in the election to the proper ballot box with a written statement signed by him containing all the particulars mentioned in section 78 and shall cause the ballot box to be locked and sealed up and shall deliver the same, with the contents and the keys thereof, and the poll book to the returning officer. Return by
D.R.O.

80. After the declaration mentioned in section 83, the returning officer shall return the locked and sealed ballot box or boxes and contents and the keys thereof and the poll book, or poll books, to the municipal clerk. Return by
R.O.

81. Unless it is otherwise ordered by the Court or judge or unless a recount has been demanded, the ballot boxes shall remain locked and sealed as handed to the municipal clerk for the period of twenty-one days after the election and from thence until the determination of any legal proceedings which may be instituted to test the validity of the election. Custody of
ballot boxes.

82. Whenever on an election of a mayor or alderman or aldermen an equality of votes is found to exist between two or more candidates and the addition of a vote would entitle any one or more of such candidates to be declared elected, the returning officer, when he makes the declaration mentioned in section 83, shall give such casting or additional vote in favour of one or more of such candidates as the case requires. Casting vote.

83. At the time and place fixed in the proclamation, the returning officer shall open the poll books and add up the votes polled for each candidate and declare publicly the candidate or candidates for the office of mayor and aldermen having the highest number of votes to be duly elected and also shall declare publicly the number of votes given for each of the candidates for the office of mayor or alderman. Public
declaration of
result of poll.

84. Forthwith the returning officer shall report to the municipal clerk the result of the election for mayor and aldermen. Report
of R.O.

85. In so far as the provisions of this Ordinance permit, every election for a member or members of a municipal council shall be conducted in the same manner as by law is provided for an election of a member of the Yukon Council.

DIVISION III. OFFENCES.

Offences of election officials and others.

86. Every deputy returning officer, poll clerk, candidate or agent of a candidate, present within the room where an election is being held who, except as in this Ordinance is otherwise provided,

- (a) gives to any voter a ballot paper to vote with,
- (b) offers or gives to such voter any advice as to the person for whom he should vote,
- (c) otherwise interferes with the voter in the exercise of his franchise, or
- (d) divulges to any person the name of the candidate for whom any voter has voted,

Penalty.

is guilty of an offence and liable for every such offence to a penalty not exceeding two hundred dollars and in default of payment to imprisonment for a period not exceeding three months.

Offences and penalty of electors.

87. (1) Every person who,

- (a) not being entitled to vote, votes,
- (b) fraudulently tenders more than one ballot paper for mayor or more than one ballot paper for aldermen, when voting, or
- (c) attempts to vote under the name of any other voter,

is guilty of an offence and liable for every such offence to a penalty not exceeding one hundred dollars and in default of payment to imprisonment for a period not exceeding three months.

(2) No penalty or imprisonment nor the conviction for any offence mentioned in subsection (1) shall operate as a bar to any other penalty, prosecution or criminal proceedings whatever to which such person would otherwise be liable.

DIVISION IV. RE-COUNT.

Date of re-count.

88. If within three days after the day of election any candidate by himself or his agent requests a re-count of the votes of such election, the municipal clerk shall appoint a time within three days after such request to re-count the votes at his office.

Notice.

89. The municipal clerk, by himself or his agent, shall notify every candidate at the election of the request for a re-count and of the time and place appointed to re-count the votes.

90. The clerk may summon the deputy returning officers and poll clerks at the election to attend at the place and time appointed for a re-count of the votes of such election and may command any of them to bring with them any papers in their custody or possession relating to such election. Summons to attend.

- 91.** The following persons shall be present at the re-count: Whose attendance required.
- (a) the municipal clerk and any person he appoints to assist him, and
 - (b) each candidate and his agent appointed to attend the re-count, or if any candidate does not attend an agent of that candidate who served at the polling place, or if the candidates and their agents do not attend, then at least three voters of the municipality.

92. At the time and place appointed and in the presence of the persons described in section 91, the clerk shall proceed to recount the votes in the ballot boxes returned to him by the deputy returning officers and in so doing he shall decide upon the validity of every ballot. Procedure on re-count.

93. (1) As soon as he ascertains the result of the poll, the clerk shall declare to be elected the candidate having the highest number of votes. Declaration of result.

(2) In the event of a tie the casting vote shall be given and the result of the election determined in the manner described in section 82.

DIVISION V. CORRUPT PRACTICES.

94. The following persons shall be deemed guilty of bribery and shall be punished accordingly: Bribery defined.

- (a) every person who, directly or indirectly, by himself or any other person in his behalf, gives, lends or agrees to give or lend, or offers or promises money or valuable consideration, or gives or procures or agrees to give or procure or offers or promises any office, place or employment to or for any voter or to or for any person on behalf of any voter, or to or for any person in order to induce any voter to vote or refrain from voting at an election or upon a by-law for any purpose whatever or who corruptly does any act as aforesaid on account of a voter having voted or refrained from voting at an election or upon a by-law;
- (b) every person who, directly or indirectly, by himself or by any other person in his behalf, makes a gift, loan, offer, promise or agreement as mentioned in paragraph (a) to or for any person in order to induce such person to procure or to endeavour to procure the return of any person to serve in the council or to procure the passing of any by-law or the vote of any voter at an election or for a by-law;

- (c) every person who by reason of a gift, loan, offer, promise, procurement or agreement as described in paragraph (a), procures or engages, promises or endeavours to procure the return of any person in the election or to procure the passing of any by-law or the vote of any voter at an election or for a by-law;
- (d) every person who advances or pays or causes to be paid money to or for the use of any person with the intent that such money or part thereof shall be expended in bribery at an election or at any voting upon a by-law or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at an election or the voting on a by-law;
- (e) every voter who before or during an election or the voting on a by-law, directly or indirectly, by himself or any other person in his behalf, receives, agrees or contracts for money, gift, loan or valuable consideration, office, place or employment for himself or for any other person for voting for or agreeing to vote, or refraining from or agreeing to refrain from voting at an election or upon a by-law;
- (f) every person who after an election or the voting upon a by-law, directly or indirectly, by himself or any other person on his behalf receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting at any election or upon a by-law; and
- (g) every person who hires automobiles or other vehicles for the purpose of conveying voters to or from the polls and every person who receives any pay for the use of any automobile or vehicle for the purpose of conveying any elector to or from any polls.

Undue
influence
defined.

95. Every person who, directly or indirectly, by himself or by any other person in his behalf, makes use of or threatens to make use of force, violence or restraint or inflicts or threatens to inflict by himself or by or through any other person, any injury, damage or loss, or in any manner practises intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting or on account of such person having voted or refrained from voting at any election, or who in any way prevents or otherwise interfered with the free exercise of the franchise of any voter shall be deemed to be guilty of undue influence.

Lawful
expenses.

96. The actual personal expenses of a candidate, his expenses for actual professional services performed and bona fide payments for the fair cost of printing and advertising shall be held to be expenses lawfully incurred and the payment thereof shall not be a contravention of this Ordinance.

DIVISION VI. CONTROVERTED ELECTIONS.

97. If within twenty-one days after the election of any person to the office of mayor or alderman, an elector shows by affidavit to a judge of the Territorial Court reasonable grounds for supposing that the election was not legal, or was not conducted according to law, or that the person elected thereat was not duly elected, or was guilty of bribery or undue influence, and if the elector deposits with the Clerk of the Court two hundred dollars as security to prosecute the writ with effect or to pay the party against whom the same is brought any costs which may be adjudged to be paid by such elector, the judge shall direct a writ of summons to be issued to try the matters complained of.

When writ may issue.

98. In case the elector alleges that he himself or some other person has been duly elected, the writ shall be to try the validity both of the election complained of and the alleged election of the elector or other person.

Dual purpose.

99. In case the grounds of objection apply equally to two or more persons elected the elector may proceed by one writ against all such persons.

One writ only.

100. When more writs than one are brought to try the validity of an election or the validity of an election of more than one person, the judge may consolidate the actions and may give one judgment upon all or a separate judgment upon each or more of them as he thinks fit.

Discretion as to consolidation.

101. The writs shall be issued by the Clerk of the Territorial Court and shall be returnable before a judge in chambers at a place named in the writ upon the eighth day after service, computed exclusively of the day of service, or upon any later day named in the writ by order of a judge.

Return of writ.

102. The writ shall be served personally unless it is made to appear to a judge that the complainant is from any cause unable to effect prompt personal service, in which case the judge upon being satisfied thereof by affidavit or otherwise, may make an order for such substitutional service as he thinks fit.

Service.

103. If he thinks proper, the judge before whom the writ is made returnable or is returned may order at any stage of the proceedings the returning officer or any deputy returning officer to be made a party thereto.

Addition of parties.

104. The judge before whom the writ is returned may allow any elector to intervene and prosecute the action, and may grant a reasonable time for the purpose, and any intervening party is liable for or entitled to costs in the same manner and to the same extent as any other party to the proceedings.

Intervening party.

Form of hearing.

105. (1) The judge shall hear and determine the validity of the election in a summary manner upon statement and answer without formal pleadings.

(2) The judge by order may cause the assessment rolls, collector's rolls, voters' lists and any other records of the election to be brought before him and may inquire into the facts on affidavit or by oral testimony.

Forfeiture of seat.

106. Any candidate elected at any municipal election who is found guilty of any act of bribery or using undue influence shall forfeit his seat and is rendered ineligible as a candidate at any municipal election thereafter.

Penalty.

107. Any person who is adjudged guilty of bribery or using undue influence is liable to a penalty not exceeding five hundred dollars and is disqualified from voting at any municipal election or upon a by-law for the next succeeding four years.

Mode of recovery.

108. The penalties imposed by section 107 shall be recoverable with full costs of suit by any person who sues for the same in the Territorial Court and any person against whom judgment is rendered is disqualified either as a candidate or a voter until the amount which he has been condemned to pay is fully paid and satisfied.

Report to municipal clerk.

109. The judge who finds any candidate guilty of a contravention of sections 94 and 95 or who condemns any person to pay any sum for any offence against sections 94 and 95, shall report the same to the municipal clerk forthwith.

Clerk's entries.

110. The municipal clerk shall enter in a book kept for that purpose the names of all persons who have been adjudged guilty of an offence against sections 94 and 95 forthwith after he has been notified of the fact by the judge.

Power to subpoena.

111. Every person is bound to attend before any judge of the Territorial Court upon being served with a writ of subpoena or subpoena *duces tecum* so to attend at the time of any hearing held under the provisions of this Part and is liable to all the penalties for such non-attendance as in other cases in the Territorial Court.

Limitation as to time.

112. All proceedings for penalties for any violation of sections 94 and 95 shall be commenced within thirty days after the election at which the offence was committed or after the offence was committed or within thirty days after the day of voting upon a by-law on which the offence was committed.

Powers of Court.

113. In case the election complained of is adjudged invalid, the judge forthwith shall order the person found not to have been duly elected to be removed from office, and in case the judge determines that any other person was duly elected the

judge forthwith shall order such other person to be admitted to office, and in case the judge determines that no other person was duly elected instead of the person removed, the judge shall order a new election to be held.

114. (1) In case the election of all the members of a municipal council is adjudged invalid, the order for their removal from office and for the election of new members in their place or for the admission to office of others adjudged legally elected and on election to fill the remaining seats in the municipal council shall be directed to the municipal clerk. Direction as to new election.

(2) Upon receipt of the order described in subsection (1) the municipal clerk shall have all the powers for causing the election to be held which the municipal council has in order to fill the vacancies in the municipal council.

115. (1) Any person whose election is complained of, unless such election is complained of on the ground of corrupt practices on the part of such persons, may deliver, within one week after service on him of the writ, to the Clerk of the Court who issued the writ a disclaimer signed by him to the effect following: Provision for disclaimer.

“I
upon whom a writ of summons has been served for the purpose of contesting my right to the office of mayor (or alderman) of the..... of.....,
do hereby disclaim the said office and all defence of any right I may have to the same.

Datedday of.....

(Signature).....”

(2) The disclaimer described in subsection (1) shall be endorsed on the outside with the word “Disclaimer.” Disclaimer endorsed.

(3) The Clerk of the Court shall forthwith notify the clerk of the municipality concerned of the delivery of the disclaimer and such municipal clerk shall forthwith notify the municipal council of the disclaimer. Notice of.

116. In all cases under this Part costs shall be in the discretion of the judge. Costs.

117. In all cases under this Part the decision of the judge shall be final. Decision of judge final.

118. Immediately after his judgment, the judge shall return the writ and judgment with all things had before him touching the same, except such as he may otherwise order, into the Territorial Court, there to remain of record as a judgment of said Court, and as occasion requires he shall enforce such judgment by writ in the nature of a peremptory writ of mandamus and by writs of execution for the costs awarded. Returns to Territorial Court.

Enforcing judgment.

- 119.** (1) By rules the judge of the Territorial Court may
- (a) settle the forms of writs of execution and mandamus issued under this Ordinance;
 - (b) regulate the practice respecting the suing out, service and execution of such writs;
 - (c) regulate the punishment for disobeying the same or any other writ on order of the Court or judge made under this Part;
 - (d) regulate the practice generally in hearing and determining the validity of municipal elections or appointments; and
 - (e) provide a tariff of costs for hearings held under this Part.
- (2) The judge of the Territorial Court may rescind, alter or add to such rules from time to time.
- (3) All existing rules in force in the Territorial Court shall remain in force and apply to hearings held under this Part until rescinded, replaced or altered by rules made under subsection (1).

DIVISION VII. MEETINGS OF THE MUNICIPAL COUNCIL.

Subsequent meetings.

- 120.** (1) Regular meetings of the municipal council shall be held at such times and places as the council shall fix by by-law.
- (2) The mayor may call meetings of the municipal council as often as he deems necessary.

(3) When requested to do so in writing by two members of the council, the mayor shall call a meeting of the council within three days thereafter and, if he refuses or neglects to do so within twenty-four hours after such request is made, such two members may appoint a time and place for holding such meeting and shall notify the mayor and other members of the council thereof and the meeting so called shall have the same powers and authority as if the same had been a regular meeting of the council or had been summoned by the mayor.

Notice of meetings.

121. (1) Subject to subsection (2) the municipal clerk shall give written notice to all members of the council of all meetings other than regular meetings at least twenty-four hours previous to such meeting.

(2) When necessary the mayor may call an emergency meeting at notice shorter than twenty-four hours, but no business shall be transacted at an emergency meeting other than that indicated in the notice calling such meeting unless all the members of the council are present and no objection is taken to the discussion or transaction of business other than that stated in the notice calling the emergency meeting.

Appointment of presiding alderman.

122. (1) At each first meeting after each election, and from time to time as occasion requires, the council shall appoint one of their number to discharge the duties of mayor who shall be called the presiding alderman.

(2) The presiding alderman, during any vacancy in the office of mayor or during any absence or illness of the mayor, shall have all the powers and authority and shall exercise all the functions and shall discharge all the duties of the mayor.

123. A majority of the members of the council shall constitute a quorum. Quorum.

124. All meetings of the council shall be open to taxpayers of the municipality. Open meetings.

125. The mayor or presiding alderman shall preside at all meetings of the municipal council. Presiding officer.

126. When a majority of the members of the municipal council signify in writing a request that the mayor put to vote of the council any motion, not declared by the solicitor for the municipality to be illegal, the mayor shall forthwith put such motion to a vote of the council, or, if the mayor refuses or neglects to put such motion to a vote of the council, any member of the council may put such motion and vote himself thereon, and, if a majority of the council votes for such motion the same shall be recorded by the municipal clerk in the minutes of proceedings of the municipal council, and shall be valid and binding as a resolution of the council. Voting at meetings.

127. (1) Before entering upon the duties of their respective offices the mayor and alderman shall take and subscribe the oath of qualification in Form H and the oath of office in Form B in the First Schedule. Oath of office. Form.

(2) The oath of qualification and of office shall be administered to the mayor-elect by a judge of the Territorial Court or police magistrate of the Territory. Mayor.

(3) The oath of qualification and the oath of office shall be administered to the aldermen by a judge of the Territorial Court or a police magistrate of the Territory or the mayor. Aldermen.

(4) The municipal clerk shall enter in the minutes of proceedings a certificate or certificates of such oaths having been taken. Certificate.

DIVISION VIII. DUTIES OF MAYOR.

128. (1) The mayor shall be the chief executive officer of the municipality and shall have the following powers and discharge the following duties: Function of mayor.

- (a) to cause the law for the government of the municipality to be duly executed and put in force;
- (b) to inspect and order the work of all officers and employees of the municipality and to cause all negligence, carelessness and positive violation of duty to be prosecuted and punished and to communicate from time to time to the council all information received and action taken concerning municipal officers and employees; and

- (c) to recommend to the municipal council all such measures as tend to the improvement of the finances, police, health, security, cleanliness, comfort and appearance of the municipality.

DIVISION IX. POWERS AND DUTIES OF THE MUNICIPAL COUNCIL.

Ordinances to apply.

129. In each municipality, the municipal council exclusively shall have, enjoy and exercise within the municipality all jurisdiction, power and authority conferred upon the municipality by this Ordinance or any other ordinance of the Territory.

Streets and sidewalks.

130. (1) In each municipality, the municipal council shall have exclusive control and management of all streets, sidewalks and lanes which at any time were granted and conveyed or were originally laid out or allotted or dedicated to the use of the public within the municipality.

(2) All streets, sidewalks and lanes mentioned in subsection (1) shall become and be the public property of the municipality.

Standing committees.

131. The municipal council shall assist the mayor in the discharge of his duties and shall appoint standing committees from among its members for such purposes as the council by by-law determines.

To report to council.

132. The various standing committees shall report from time to time to the municipal council any special circumstances in respect to the services under their charge and further shall report to the municipal council in reference to any subject coming within their supervision whenever required by vote of the municipal council to do so.

Special committees.

133. By resolution the municipal council may appoint special committees for any particular purpose, matter or thing and such special committees shall report to the municipal council in writing upon the matters so committed to them.

PART II.

MUNICIPAL FINANCE.

Powers of council re finance.

134. In each municipality, the municipal council shall have exclusive power to vote, collect, receive, appropriate and pay out of the current revenues of the municipality all sums of money required by the municipality for the following purposes:

Salaries of mayor and aldermen.

- (a) the payment of salaries or compensation to the mayor or aldermen, but the salary for mayor shall not exceed one thousand dollars and the salary for alderman shall not exceed five hundred dollars for any one year;

Indigents.

- (b) the support and maintenance of the poor;

Civil servants.

- (c) the payment of salaries and compensations to the officers and servants of the municipality;

- (d) the purchase of land for a municipal hall, fire engine houses and necessary municipal buildings; Land purchases.
- (e) the erection of a municipal hall, buildings for the use of the fire department and other municipal buildings; City buildings.
- (f) the laying out, opening, building, making, repairing, lighting and cleaning of the streets, roads and bridges of the municipality; Streets, roads, bridges.
- (g) the construction, repairing and cleaning of the public sewers and drains of the municipality; Sewers and drains.
- (h) the equipment and maintenance of a fire department and the purchase, equipment, maintenance and repair of machinery and implements for extinguishing fires; Fire protection.
- (i) the care and improvement of the public grounds, squares and parks of the municipality or property held by trustees for the use of the public; Public parks.
- (j) the construction, maintenance, improvement and extension of water works and electric light plants and the maintenance of the water supply and electric light service for the municipality; Water and electricity.
- (k) the payment of principal and interest on money borrowed for the purposes of the municipality; and Retirement of loans.
- (l) other expenditure incurred in the due execution of the powers and duties by law vested in or imposed upon the municipality, its mayor, council and officers. Other expenditures.

135. (1) The council in the name of the municipality may from time to time effect temporary loans from any chartered bank or from any corporation or individual for the purpose of defraying the annual current expenditure of the municipality which has been duly authorized by the municipal council and rated upon the municipality as by law directed and the interest on such loans shall be provided for in the annual estimates. Temporary loans.

(2) The loan or loans effected under subsection (1) shall not in the whole be at any time more than fifty per cent of the taxes collected on the assessment for the preceding year, and when that amount has been borrowed, shall cease until such loans have been reduced, when the power may again be exercised to the limit aforesaid and such bank shall be repaid within the financial year. Limitation on borrowing power.

PART III.

HEALTH.

136. (1) For greater certainty but not so as to limit the general powers conferred by section 151, the municipal council may make by-laws for all or any of the following purposes: By-laws.

- (a) the making of provisions for the proper scavenging of the municipality, licensing and regulating scavengers and fixing a schedule of rates to be charged by scavengers;

- (b) establishing and maintaining a system for the collection, removal and disposal at the expense of the municipality, of garbage or of garbage and other refuse, or of ashes, garbage and other refuse; or defining and classifying garbage and providing for the collection, removal and disposal of garbage, or of garbage and other refuse or of ashes, garbage and other refuse, throughout the whole municipality or in defined areas of it at the expense of the owners and occupants of the lands in respect of which the service is rendered; and, in either case, compelling owners and occupants of land to provide such receptacles as may be specified in the by-law for the collection of ashes, garbage and other refuse, and erecting and maintaining such buildings, machinery and other plant as may be deemed necessary for the collection, removal and disposal of such ashes, garbage and other refuse or contracting with some person for the collection, removal and disposal by him of the ashes, garbage and other refuse, upon such terms and conditions as may be deemed expedient;
- (c) preventing and controlling the construction of privy vaults and providing for the keeping of the same in a proper state of cleanliness; and
- (d) charging to all assessed owners of land, whether otherwise exempt from taxation or not, upon which privies exist, whether used or not, a fixed sum for each privy annually, to cover the cost of removing the contents thereof.

(2) All charges made by the municipality for services rendered under the provisions of this section shall be added to the tax roll as a special assessment against the land of the owners in respect of which such services are rendered and shall be recoverable in like manner as other taxes or rates which are a lien upon land.

Regulations.

137. Sanitary rules, orders and regulations made under the powers conferred by the provisions of section 136 shall come into force immediately upon being made and shall remain in force until disapproval of by the council or repealed or altered by the council.

PART IV.

STREETS AND SEWERS.

Streets, etc.,
vested in
municipality.

138. All public streets, roads, highways, lanes, sidewalks, bridges, squares and thoroughfares, all public sewers, drains and ditches and all public wells in the municipality are hereby vested absolutely in the municipality and the municipal council shall have full control over the same.

139. All sums of money required for the street service of the municipality shall be taken from and borne by the general revenues of the municipality. Available fund.

140. Annually the municipal council shall appoint from among its members a standing committee on streets. Streets committee.

141. The municipal council shall have power to maintain, improve, repair, widen, extend, alter, stop up, light, water and oil the streets, roads, lanes, bridges and public squares in the municipality and shall have full power and authority to lay out, open and construct all such streets, roads, lanes, bridges and public squares as the council deems necessary or expedient and for such purposes, and also for obtaining materials for carrying out any such purposes, when necessary or expedient may enter upon and take any land required and remove any buildings, projections, walls, fences or other things or any portion thereof. Powers of council re streets.

142. When the municipal council proposes to lay out or open a street, road, lane or public square or to widen, divert or straighten any street, road or lane, the municipal council shall cause a survey and plan of such street, road, lane or square to be made and the plan when completed shall be filed in the municipal clerk's office. Filing plan of survey.

143. The municipal council shall not lay out or open or accept the dedication to the municipality of any street which is less than fifty feet in width. Minimum width.

144. (1) No person shall break up the soil of any street or erect or place in any street, sidewalk, road, lane, park or square within the municipality any telegraph, telephone, electric light or other poles without first making application in writing to the municipal council specifying the purposes for which such breaking up, erection or placing is required and obtaining their permission therefor in writing. Trespass and encroachment on streets.

(2) The municipal council may impose such terms upon the person applying under subsection (1) as the security of the public appears to them to require. Permission of council.

(3) Every person who violates the provisions of this section on the terms imposed by the council under subsection (2) is for every such offence liable to a penalty not exceeding twenty dollars and in default of payment to imprisonment for a period not exceeding twenty days. Penalty.

(4) This section does not apply to any property of which the control is vested in commissioners or trustees for any public use. Exception.

145. (1) No person shall move any building upon or over a public street without permission first obtained from the committee on streets or the council and payment of such sum for the privilege as the committee or council determines. Permission to move buildings.

Penalty.

(2) Every person who violates the provisions of this section is liable to a penalty of not more than twenty dollars and in default of payment to imprisonment for a period of not more than twenty days.

Obstructions.

146. (1) Every person who piles, deposits or places on any road, street, sidewalk, lane or other public place of the municipality, any manure, compost, earth, wood, lumber or other substance or material whatsoever, is liable to a penalty not exceeding ten dollars for each such offence and in default of payment to imprisonment for a period not exceeding ten days.

(2) Every twenty-four hours any such manure, compost, earth, wood, lumber or other substance or material remains piled, deposited or placed on a road, street, sidewalk, lane or other public place of the municipality in contravention of subsection (1) is a separate offence under this section.

Temporary use of street for building purposes.

147. Any person building or repairing a house or other building in the municipality may be permitted to use or occupy, for such time as the council or committee on streets deems necessary, a space of not more than twenty-five feet in width from the line of the street toward the center and extending the length of the house or building so being erected or repaired, for the purpose of piling lumber, stone, brick, sand or lime and for mixing lime and sand or doing such other work as is necessary for the erection or repair of such house or building, if he encloses the portion of the street so used and occupied by a substantial fence and if he provides a suitable path or sidewalk at least two and one half feet in width around such fence and keeps the same lighted.

Powers of council re sewers.

148. The municipal council shall have power and authority to lay out, excavate, dig, make, build, maintain, repair and improve all such drains, sewers and water courses as the council deems necessary or expedient and to make by-laws and regulations respecting the same and for the purpose of protecting and keeping the same free from obstruction.

Entry on land.

149. (1) When the municipal council deems it necessary for the public health or for any other purpose to construct a sewer or drain upon or across the land of any private person, or corporation, or number of persons, after resolution to that effect it may enter upon such property from time to time and as often as is necessary and do all acts necessary for the construction and repair of a suitable sewer or drain across such land.

Private sewers.

(2) Upon application by any private person, or corporation, or number of persons, by resolution the municipal council may empower and authorize such person, corporation or number of persons to construct such sewer or drain as the municipal council deems necessary for the public health or any other purpose, and

unless such resolution of the municipal council provides otherwise, the provisions of this Ordinance shall apply to the construction of a sewer or drain as herein permitted.

(3) Any sewer or drain laid out or constructed under this section shall be at least four feet below the surface and shall be covered with earth and stones. Construction of sewers.

PART V.

FIRE.

150. The provisions of the *Fire Prevention Ordinance* and the *Petroleum Products Ordinance* apply to municipalities in the Yukon Territory. Fire Prevention Ordinance to apply.

PART VI.

POWERS EXERCISED BY BY-LAW.

151. In addition to any powers by this Ordinance conferred upon the municipal council to make by-laws and ordinances, the municipal council shall have power to make by-laws in respect to all matters coming within the following classes of subjects, and may from time to time amend or repeal such by-laws: Powers of council.

- (1) regulating its own proceedings and preserving order at meetings of the municipal council; Council meetings.
- (2) the management of such real property as is required for the public use of the inhabitants of the municipality and other property of the municipal corporation; Real property.
- (3) regulating the management and providing for the security of public property of any kind belonging to the municipality; Other public property.
- (4) providing for the permanent improvement of the municipality in all matters as well ornamental as useful; Municipal improvement.
- (5) appointing municipal officers and servants with such names as the municipal council may deem necessary for carrying out the work of the municipality, defining their duties and the manner in which they shall account for money received by them and regulating the salaries, wages and emoluments to be paid to such officers and servants; City officials.
- (6) regulating the amounts in which bonds shall be given by municipal officers concerned in the collection, receipt or expenditures of money, the form thereof, the manner in which they shall be given, and the nature of the security to be given when not otherwise provided; Bonds of indemnity by city officials.
- (7) taking the census of the municipality; Census.
- (8) dividing the municipality into two or more polling divisions and for establishing polling places therein and varying the same from time to time; Polling divisions.

- Peace, health, good order. (9) preserving peace, health and good order within the municipality;
- Impounding dogs. (10) impounding dogs running at large contrary to any by-law;
- Dogs. (11) restraining and regulating the running at large of dogs and imposing a tax on the owners, possessors or harbourers of dogs;
- Dangerous dogs. (12) imposing fines upon the owners, possessors or harbourers of dogs which without provocation, injure any person or property, and restraining and killing dogs which are fierce and dangerous;
- Fire escapes. (13) compelling the owners or occupiers of houses to have ladders leading to and on the roofs of their houses;
- Firearms, fireworks, etc. (14) the prevention of the firing of guns or other firearms, or the setting off of squibs or other fireworks, or the burning of inflammable materials, the carrying of fire, lighted candles or lamps which are not adequately covered or secured;
- Explosives. (15) preventing and regulating the keeping and transporting of gunpowder or other explosive or dangerous substances;
- Open fires. (16) preventing or regulating the use of fire, open lights or candles in garages, shops and other places where combustible substances are kept and the preventing of smoking in such places;
- Fire hazards. (17) regulating the carrying on of businesses or trades with high fire hazards or which are otherwise prejudicial to the public safety;
- Chimneys. (18) regulating the time and mode of cleaning chimneys;
- Fire protection. (19) the prevention of the occurrence, increase or spreading of fires;
- Safety in building construction. (20) providing for the safety, security and advantage of the inhabitants by such rules, regulations and restrictions as are deemed expedient to be observed by all persons in the erection of buildings within the municipality;
- Cruelty to animals. (21) preventing cruelty to animals and the destruction of birds in a mode not inconsistent with any statute or Ordinance in that behalf;
- Driving of vehicles. (22) regulating the driving of vehicles within the municipality;
- Speed of vehicles. (23) regulating the speed of vehicles within the municipality;
- Fences. (24) prohibiting the building of barbed wire fences along the roads and streets of the municipality, and regulating the manner of building other fences for the purpose of preventing accidents or injuries therefrom to animals and persons;
- Sign boards. (25) prohibiting the use of swinging signboards or other signs or signboards of a dangerous nature;

- (26) providing sufficient yards and enclosures for the safe-keeping of such animals as it is the duty of the pound-keeper to impound; Pound.
- (27) restraining and regulating the running at large or trespassing of any animals, and providing for impounding them, and for causing them to be sold in case they are not claimed within a reasonable time, or in case the damages, penalty and expenses are not paid according to law; Running at large of animals.
- (28) for appraising the damages to be paid by owners of animals impounded for trespassing contrary to the by-laws of the municipality; Damage by animals.
- (29) for determining the fees to be allowed to poundkeepers and others in carrying out the provisions of any ordinance or by-law with respect to animals impounded in the municipality; Pound fees.
- (30) providing for the defraying out of the municipal funds, if it is necessary, the expense of lighting the municipality or any part thereof with gas, electricity, oil or by other means, and compelling the owners or occupiers of real property to allow such work to be done and permit such fixtures as are necessary for the lighting of the municipality to be placed in or about their premises at the cost of the municipality; Municipal lighting.
- (31) preventing the violation of or any unlawful interference with, cemeteries, graves, tombs, tombstones or vaults where the dead are buried; Cemeteries.
- (32) preventing the injury or destruction of trees or shrubs planted or preserved for shade or ornament, and the defacing of public or private property by printed or other notices; Protection of trees, etc.
- (33) making and regulating the use of public wells, cisterns and reservoirs; Public wells.
- (34) regulating the size and number and construction of doors in churches, theatres and halls or other places of public worship, public meetings or places of amusement, and the street gates leading thereto, and also the size and structure of stairs and stair railings in all such buildings and the strength of beams, joists and their supports therein; Public meeting places.
- (35) appointing and regulating a police force within the municipality; Policing.
- (36) the establishment, management, maintenance and regulation of gaols and detention homes; Gaols.
- (37) regulating the slaughter of animals and the sale of meat; Slaughter houses, etc.
- (38) seizing and destroying all tainted and unwholesome meat, fish, poultry or other articles of food; Tainted meat, etc.
- (39) contracting with any waterworks or water company for a supply of water for fire purposes and other public uses, for hydrants or otherwise, as the council may deem Contracting for water supply, etc.

- Hydrants and fire apparatus. advisable, and for the renting of any such hydrants for any number of years, not in the first instance exceeding three years, and renewing any such contract from time to time for such period, not exceeding three years, as the council may desire, and every municipal council also shall have power to purchase hydrants necessary for any of the uses or purposes aforesaid, and to erect the same and to purchase and to rent for a term of years or otherwise fire apparatus of any kind and fire appliances and appurtenances belonging thereto;
- Indecent placards. (40) preventing the posting of indecent placards, writing or pictures, or the writing of indecent words or making indecent pictures or drawings on walls or fences in streets or in public places;
- Punishment of vice, etc. (41) preventing and punishing vice, drunkenness, immorality and indecency on the public streets, highways and other public places of the municipality;
- Protection of streets. (42) the protection of and the prevention of injury to streets, squares, sidewalks and pavements, and of the posts, railings, trees and other defences and ornaments thereof;
- Obstruction of streets. (43) preventing the encumbering of streets, sidewalks, roads or highways or crossings within the municipality and protecting any such street, sidewalk, road or highway from encroachment and injury and providing for the confiscation, sale, removal or destruction of every encumbrance thereon;
- Removal of encumbrances. (44) providing for the removal of all fences, houses, steps, erections, projections or obstructions whatsoever, or any part or parts thereof, which now or at any time hereafter project over or into any street, road, sidewalk, lane or highway in the municipality at the expense of the owners or occupants of the property in connection with which such fence, house, steps, erection, projection or obstruction is used or found;
- Use of sidewalks. (45) preventing the leading, riding or driving of horses, cattle or dogs upon sidewalks or other places not proper therefor;
- Removal of snow and ice by owners. (46) compelling persons to remove all snow and ice from the roofs of the premises owned or occupied by them and to remove and clear away all snow, ice, dirt and other obstructions from sidewalks, streets and alleys belonging to such premises;
- Compelling such removal. (47) providing for the cleaning off and the removal of all snow, ice, dirt and other obstructions from the sidewalks and streets adjoining vacant property or the property of persons who for twenty-four hours neglect to remove the same at the expense of the owner or occupant of such premises and in the case of non-payment charging such expenses as a special rate upon such property to be recovered in like manner as other municipal rates and in any

- such by-law passed under this provision the municipal council may define the area or areas within the municipality within or over which the by-law shall be operative;
- (48) regulating the type of traction treads to be used and weights of loads to be carried on different classes of vehicles and automotive equipment and prohibiting the use of streets of the municipality or any of them to vehicles and automotive equipment having traction treads and carrying loads other than as prescribed by by-law; Traction treads.
- (49) regulating or prohibiting the erection and preservation of lamp posts, telegraph, telephone and electric light poles and signboards and awnings and other fixtures within the municipality; Poles, signs, etc.
- (50) preventing and abating public nuisances; Public nuisances.
- (51) providing for places for the deposit of ashes, cleanings of yards and streets and other filth and ordure, and compelling the owners or occupants of property within the municipality to remove all such ashes, cleanings, filth and ordure to such places of deposit; Nuisance grounds.
- (52) the removal of all filth and encumbrances on the streets, sidewalks, roads and alleys and public places within the municipality and places adjacent thereto; Street cleaning.
- (53) preventing persons from throwing any dirt, filth or rubbish on any street, road, lane, highway or public place; Dumping of rubbish.
- (54) regulating or preventing the erection and continuance of slaughter houses; Slaughter houses.
- (55) the regulation and prevention of unusual or unnecessary noises in the streets; Noise.
- (56) the prevention of persons loitering on or about any steps or entrances of stores or shops or on the streets or street corners; Loitering.
- (57) preventing children below a specified age from being on the streets or other public places in the municipality after a specified hour at night or at any time fixed by by-law and providing for a daily public curfew notice and for the imposition of a fine or other penalty upon any child or the parent or guardian of any child for the breach of such by-law; Curfew.
- (58) the establishing and regulating of markets, market houses, municipal scales and fairs; Markets and fairs.
- (59) regulating all vehicles, vessels and other things in which anything may be exposed for sale or marketed in any street or public place; Market stands.
- (60) regulating the manner of selling meat, fish, vegetables, fruit, grain, hay, straw and fodder; Sale of meats, etc.
- (61) restraining and regulating the manner of selling vegetables, fruit, country produce, poultry or animals openly exposed for sale or in market and all other articles and things by hucksters and runners; Sales by hucksters.

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Municipal.

- Bread. (62) regulating the weight of bread and providing for the seizure of bread made contrary to such regulations;
- Fuel. (63) the weighing and measuring of coal, wood, lumber, shingles, logs, timber, hay, straw and grain and fixing the charges therefor;
- Vehicle licences. (64) licensing persons using automotive equipment, bicycles and other vehicles;
- Trade licences. (65) licensing and regulating all persons carrying on within the municipality all or any of the trades, businesses, professions, occupations, callings, employments or purposes mentioned, designated or described in Division VI of Part XII with power to discriminate between those of such persons who are ratepayers of the municipality and those who are not as to the amount of licence fees to be charged;
- (66) raising revenue by the assessment of a tax on all or any of the businesses licensed under the provisions of section 292 which tax shall be in addition to any other fee, licence fees, rates or taxes imposed under the provisions of this or any other Ordinance;
- (67) classifying businesses according to the character and extent or the volume of business done or the area of the premises used for or in connection with such businesses to provide a method of assessment and collection of a business tax imposed under paragraph (66);
- Land nuisance grounds. (68) the purchase or otherwise acquiring and holding any lands situated outside the limits of the municipality which may be required for a nuisance ground for the purpose of disposing of the sewage and other refuse of the municipality;
- Hospitals. (69) the erection and regulation of hospitals or granting aid to hospitals;
- Telephone, electric light and power, gas and water plants. (70) building, erecting or buying or leasing, controlling and operating telephone systems, electric light and power plant, gas and water works plant, or purchasing stock in any incorporated company, carrying on or formed for the purpose of carrying on any of the said businesses, subject to the ratification of the ratepayers, and subject also as follows:
- (i) for all purposes connected with the carrying on of any of the works and utilities mentioned in this paragraph the municipality may purchase any lands either within or without the municipality and enter into any contract necessary for the proper carrying on of said works and utilities and generally to conduct said works and utilities and businesses arising in connection therewith, either by the municipal council or by commissioners or agents appointed by it for the purpose, as fully and freely and with
- Purchase of land.
- Contracting for utilities.

all the powers and rights it would have if specifically incorporated for the purpose of carrying on said business; and

- (ii) if the municipality engages in any of the businesses mentioned in this paragraph, the municipal council by by-law shall have power to appoint commissioners for the purpose of carrying on such business or any of them and all necessary contracts in connection therewith may be done and performed in the name of the said commissioners who shall be called "Electric Light Commissioners for the Municipality," or "Telephone Commissioners for the Municipality", or as the case may require, and by that name shall have all the powers for properly carrying on the businesses herein described; Appointment of public utility commissioners.
- (71) with the approval of the Commissioner and subject to the assent of a majority of the ratepayers who vote on the ratification of the by-law, entering into a contract with a person or persons undertaking to provide the residents of the municipality with electric light, electric power, natural gas, water and telephone services within the municipality and to outside points, and for the conferring of a special franchise upon that person or persons in respect of the subject matter of the contract for any period not in excess of twenty years with a provision for renewal for further terms of ten years each; Franchises.
- (72) sanctioning and permitting the track of any railroad, street railway or tramway to be laid in or along any street or avenue of the municipality, and to provide compensation for any damage that may be done to property on said streets or avenues and the amount of said damage, if any, shall be settled in the manner provided herein in regard to the expropriation of land; Sanctioning street railway system.
- (73) to regulate the use of locomotive engines and of steam or other motive power and any, or every, portion of any railroad within the municipality, and to provide and regulate the speed of cars upon any and every part of any railroad within the municipality and to impose a penalty, not exceeding five hundred dollars, for any breach of such by-law; Regulating use of trains.
- (74) subject to any Act of the Parliament of Canada respecting railways, to regulate the speed of railway trains and engines along or across any of the streets or avenues of the municipality and to prevent the obstruction of any streets or avenues by leaving, keeping or allowing to stand thereon any engine, train, car or cars or truck for a longer period than five minutes at a time, and to prevent the loading or unloading of any car or truck alongside or from any street-crossing or sidewalk in the municipality, and to prevent blowing of whistles or ringing of bells while the engine is going along or crossing a street; Regulating speed of trains.

- or avenue, except under conditions mentioned in such by-law, and imposing a penalty, not exceeding five hundred dollars, for any breach of such by-law; except that in any proceedings taken for the infraction of by-laws passed under paragraph (72) or (73) or this paragraph, service of the necessary documents upon any resident employee of the railroad shall be good service upon the owners of the railroad and both the owners of the railroad and the person in charge of the engine, car, truck or train are liable for the penalty provided in the by-law, and proceedings may be taken against either or both of them;
- Service of process.** (75) naming or numbering the streets or avenues and changing the name and numbers, or any of them, of streets and avenues now existing or hereinafter laid out within the municipality; and
- Naming and numbering streets.** (76) providing for any other purpose, matter or thing specially within the powers, duties or control of a municipal council.
- General powers.**
- By-laws to be consistent with Ordinances.** **152.** The by-laws for the purpose described in section 141, or any of them, shall not be inconsistent with any statute or Ordinance in force in the Territory.
- Proof of by-laws.** **153.** The production of a copy of any municipal by-law purporting to be certified by the municipal clerk under his hand and the seal of the municipality to be a true copy of the by-law passed by the municipal council shall be sufficient evidence of such by-law without proof of the official character of the municipal clerk or of the seal of the municipality.
- Penalty for infraction of by-laws.** **154.** (1) The municipal council may prescribe a penalty, not exceeding one hundred dollars, inclusive of costs, for the violation of any by-law, for which a different penalty is not prescribed under this Ordinance, and may provide that, in default of the payment of such penalty, the offender may be imprisoned, with or without hard labour, for such period not exceeding three months as the municipal council in such by-law prescribes.
- (2) The police or other magistrate may impose the whole or such part of the penalty or punishment fixed by a by-law as he deems fit.
- General penalty provision.** **155.** Every person who violates any by-law of the municipality, unless the penalty is otherwise fixed by the by-law, upon conviction thereof before a police or other magistrate, is liable to a penalty not exceeding fifty dollars, and in default of payment, to imprisonment for a period not exceeding thirty days.
- By-law enforcement.** **156.** When by by-law or otherwise the municipal council directs that any matter or thing shall be done, by the same or another by-law or otherwise, the municipal council in default

of its being done by any person or corporation required to do the same, may cause such matter or thing to be done at the expense of the person or corporation in default and may recover the expense thereof with costs from such person or corporation as a private debt.

157. No repeal, alteration or amendment of any by-law adopted by the municipal council shall be made unless two weeks' notice in writing of such intended repeal, alteration or amendment has first been given to the municipal council. Notice of repeal, alteration, amendment.

158. Any by-law regulating the procedure at meetings of the municipal council may be suspended, wholly or in part, by the unanimous consent of all the members of the municipal council present without the notice in section 157 provided. By-law re procedure.

159. The procedure and other provisions of the *Criminal Code* relating to summary convictions apply to every case in which any person commits or is suspected of having committed any offence for which a penalty is provided by this Ordinance or a by-law passed by a municipal council herein. Application of Criminal Code.

PART VII.

MUNICIPAL OFFICERS.

DIVISION I. INSPECTION OF MUNICIPALITIES.

160. (1) The Commissioner shall appoint an Inspector of Municipalities and until, or in default of such appointment, the Territorial Treasurer shall have the powers and perform the duties of the Inspector of Municipalities. Appointment.

(2) In addition to those prescribed under this Ordinance, the Inspector of Municipalities shall have such powers and duties as the Commissioner may assign to him and shall be attached to the office of the Territorial Treasurer and be under his control. Duties.

161. (1) Whenever the Inspector of Municipalities deems it expedient to cause inquiry to be made into or concerning any matter connected with any municipality or the conduct of any part of the business of the municipality, or whenever any complaint is made to the Inspector of Municipalities respecting any matter of municipal business or affairs, actual or projected, with the approval of the Commissioner, the Inspector of Municipalities, by himself, or by a deputy authorized by him, may hold an inquiry. Inquiry held.

(2) The inquiry held under the provisions of subsection (1) shall be open to the public. Inquiry public.

(3) Every order made by the person holding the inquiry described in subsection (1) and as a result of such inquiry, upon approval by the Commissioner, shall be binding upon the Order, effect of.

municipality in respect of which the order is made and upon the council and every elected or appointed official and servant of such municipality in the same way as if it were a provision of a by-law duly passed by the council of such municipality.

Powers on inquiry.

(4) The person holding an inquiry under this section shall have in respect of the same all the powers or privileges conferred by this Ordinance upon a Court of Revision sitting upon a municipal assessment roll as to the attendance of witnesses and the imposition and recovery of penalties and as to procedure.

DIVISION II. THE MUNICIPAL CLERK.

Clerk of City of Whitehorse.

162. The Council of the City of Whitehorse shall appoint an officer who shall be called the City Clerk who shall hold office during pleasure and perform the duties of a municipal clerk and treasurer for the City of Whitehorse.

City Clerk of Dawson.

163. The Council of the City of Dawson shall appoint an officer who shall be called the City Clerk and who shall hold office during pleasure and perform the duties of a municipal clerk and treasurer for the City of Dawson.

Clerk of Town of Mayo.

164. The Territorial Agent at Mayo shall be the municipal clerk and treasurer for the Town of Mayo.

Recording duties.

165. The municipal clerk shall truly record in a book all resolutions, decisions and other proceedings of the municipal council and, if so required by the aldermen present, shall record the name and vote of every alderman voting on any matter submitted, and shall keep the books, records and accounts of the municipal council and shall preserve and file all accounts acted upon by the municipal council and also the original and certified copies of all by-laws and of all minutes and proceedings of the municipal council, all of which he shall keep in his office or in the place appointed by by-law of the council.

As assessor and collector.

166. Until the municipal council otherwise prescribes by by-law, the municipal clerk shall perform the duties appertaining to the office of the municipal assessor and collector and any other duties that are from time to time required of him by the municipal council.

Deputy.

167. With the concurrence of the municipal council, the municipal clerk may appoint a deputy to perform any or all of his duties and he shall be responsible for the acts of such deputy.

Inspection of records.

168. The books, records and accounts of the municipal council, and of any committee appointed by the municipal council, and of the municipal clerk or clerk of any committee of the municipality shall be open, without fee, to the inspection of any tax payer of the municipality at all times during office hours.

169. (1) The municipal clerk shall be the treasurer of the municipality and as such shall receive and safely keep all moneys belonging to the municipality and shall pay out the same to such persons and in such manner as the laws of the Territory and the by-laws and resolutions of the municipal council, whose officer he is, direct. Municipal treasurer.

(2) No member of the municipal council shall receive any money from the municipal treasurer for any work performed or to be performed.

(3) The municipal treasurer is not liable to an action for moneys paid by him in accordance with any by-law or resolution passed by the municipal council unless another disposition of the moneys is expressly made by law.

170. (1) The municipal treasurer shall keep and make the necessary entries in all such books as shall from time to time be required by the municipal council, on recommendation of the auditor hereinafter provided for or otherwise. To keep books.

(2) The municipal treasurer shall open an account in the name of the municipality in such of the chartered banks of Canada, or at such other place of deposit as may be approved by the municipal council, and shall deposit to the credit of such account all moneys received by him and all cheques issued on such account shall be signed by the mayor and the municipal treasurer. Bank account.

(3) The various books required by the municipal treasurer shall be provided at the expense of and shall be the property of the municipality. Books to be property of municipality.

171. The municipal treasurer shall prepare and submit to the municipal council half-yearly a correct statement of the moneys at the credit of the municipality. Statement half-yearly.

172. In case any municipal treasurer is dismissed from office or absconds, it shall be lawful for his successor to draw any moneys belonging to the municipality. Power of successor.

DIVISION III. AUDIT OF MUNICIPAL ACCOUNTS.

173. (1) Subject to subsection (2), the financial year of the municipality shall end on the 31st day of March and all accounts of the moneys received and disbursed by the municipality for the year shall be made up by the municipal treasurer and submitted to the auditor not later than one week after the end of the financial year. Fiscal year.

(2) Notwithstanding subsection (1), a municipality shall, subject to the prior approval of the Commissioner, have the power to make a by-law changing the date of its financial year from the 31st day of March to the 31st day of December.

- Auditor.** **174.** (1) On or before the 31st day of March in each year the Commissioner shall appoint one auditor for each municipality.
- Duties of auditor.** (2) The auditor shall
- (a) examine and report upon all accounts affecting the municipality or relating to any matter under its control within its jurisdiction for the year in which he is appointed;
 - (b) prepare an abstract in triplicate of the receipts showing the different sources of the same and of the expenditures under the different heads thereof;
 - (c) prepare an abstract in triplicate of the assets and liabilities of the municipality;
 - (d) prepare a report in triplicate which shall contain a summary of all accounts of the municipality audited by him;
 - (e) forward one copy of each abstract and report prepared by him under this section to the Inspector of Municipalities; and
 - (f) file two copies of each abstract and report prepared by him under this section in the office of the municipal treasurer, on or before the fifteenth day of July in the year in which the audit is made.
- Auditor's report.** (3) The auditor shall not remove any books, vouchers or
- Copy to Inspector.** accounts from the office of the treasurer of the municipality.
- Copies to municipal treasurer.**
- Prohibition.** **175.** On and after the sixteenth day of July, any taxpayer of the municipality may examine one copy of the abstracts and reports prepared under the provisions of section 174, at the municipal treasurer's office during office hours, and by himself or his agent, at his own expense, may take a copy thereof or abstract therefrom.
- Taxpayer may examine auditor's reports.**
- Ineligible as auditor.** **176.** No person who at any time during the year in which an auditor is appointed is or has been a member of the municipal council or a contractor with or officer, other than an auditor, appointed by the council shall be appointed as auditor for the municipality.
- Passing accounts.** **177.** If upon the report of the auditor, the accounts of the treasurer are found to be correct to the satisfaction of the municipal council, the council shall pass and allow finally the accounts of the treasurer.
- Publication of auditor's report.** **178.** The municipal treasurer shall print and publish the auditor's report and abstracts in such form as the municipal council directs.

PART VIII.

VOTING ON MUNICIPAL BY-LAWS.

179. In case a by-law requires the assent of the voters of the municipality before the passing thereof the proceedings described in this Part shall be taken for ascertaining such consent. Application.

180. (1) By the by-law requiring assent of the voters, the municipal council shall fix a day and hour for taking the votes thereon at such places in the municipality as the council in their discretion deems best and shall name a returning officer and deputy returning officers to take the votes at each place where the votes are to be taken. Procedure when by-law requires electoral consent.

(2) The day fixed under subsection (1) shall not be less than three nor more than four weeks after the publication of the proposed by-law as hereinafter provided.

181. Before the voting on the by-law, the municipal council shall publish a copy of the by-law in some public newspaper published within the municipality, or if there is no such newspaper in some public newspaper published within the Territory and circulating within the municipality, which publication shall be continued in at least one number weekly of such newspaper for two consecutive weeks, and also shall cause to be posted up in four or more of the most public places of the municipality a copy of the by-law. Publication of by-law.

182. Appended to each copy of the by-law published under section 181 shall be a notice signed by the municipal clerk stating that such copy is a true copy of a proposed by-law, which will be taken into consideration by the municipal council after being voted on by the electors of the municipality and stating the date of the first publication and the day and hour and place or places fixed for taking the votes of the electors thereon. Publication of notice.

183. At the day and hour fixed under section 182 a poll shall be taken, and all proceedings thereat and for the purposes thereof, including a re-count, shall be conducted in the same manner as nearly as may be as at an election for mayor and aldermen. Polling procedure.

184. The ballot papers shall be printed with "For the By-law" and "Against the By-law" and shall be marked by the voter with a cross on the right side thereof opposite the words "For the By-law" or "Against the By-law" as he may desire to vote. Form of ballot.

185. In the by-law, the municipal council shall fix the time and place when and where the returning officer of the municipality shall sum up the number of votes given for and against the by-law. Time of return.

Representatives.

186. On the application of any person interested in promoting or opposing the passage of the by-law, the mayor shall authorize the attendance of one person on behalf of the person applying at each polling place and at the final summing up of the votes.

Qualification of voters.

187. Every person shall be entitled to vote on any by-law requiring the assent of the electors of the municipality, who, at the time of tendering the vote, is

- (a) a British subject of the full age of twenty-one years,
- (b) named on the last voters' list of the municipality,
- (c) a freeholder in his own right of real property within the municipality, and is rated on the last revised assessment roll as such freeholder for not less than four hundred dollars or is the wife or husband of such freeholder, and
- (d) neither directly nor indirectly in receipt of, nor in expectancy of receiving, any reward or gift for the vote which he tenders.

Oath may be required.

188. The deputy returning officer, or any person entitled to vote on the by-law, may require any person presenting himself to vote on the by-law to make, before his vote is recorded, the following oath or affirmation, or any part thereof:

"You swear (*or affirm*) that you are a British subject of the full age of twenty-one years; that you are the person named as on the voters' list, that you are a freeholder (*or the wife or husband of a freeholder*) in your (*or his or her*) own right of real property within the municipality and rated on the last revised assessment roll as such freeholder for not less than four hundred dollars; that you have not voted before on the by-law now before the electors; that you have not directly or indirectly received any reward or gift, nor do you expect to receive any for the vote which you tender."

Declaration of result of poll.

189. After he has received certified returns of the number of votes given at such polling place from the deputy returning officers, at the time and place appointed by the by-law, in the presence of the persons authorized to attend or of such of them as may be present, the returning officer shall

- (a) sum up from such statements the number of votes for and against such by-law;
- (b) declare the result of the vote then and there; and
- (c) certify under his hand to the council whether the majority of the electors entitled to vote, who have voted upon the by-law, approved or disapproved of the by-law.

Council must pass by-law within two weeks.

190. Within two weeks after a by-law is carried by the required majority of the duly qualified electors who have voted thereon, the municipal council which submitted the by-law to the electors shall pass the same.

PART IX.

APPLICATION TO QUASH BY-LAWS.

191. In case a resident of the municipality, or any other person interested in a by-law, order or resolution of the council thereof, applies to a judge and produces a certified copy of the by-law, order or resolution and shows by affidavit that the same was received from the municipal clerk and that the applicant is a resident or interested as aforesaid, the judge, after at least ten days from the service on the municipality of an order to show cause in this behalf, may quash the by-law, order or resolution, in whole or in part, for illegality and according to the result of the application award costs for or against the municipality.

Procedure for
an order to
show cause
on ground
of illegality.

192. No application to quash or annul any by-law, order or resolution of a municipal council, in whole or in part, shall be entertained by any judge unless such application is made within two months from the final passing of the by-law, order or resolution in question.

Time
limitation.

193. Any by-law, the passage of which has been procured through or by means of any corrupt practices as defined by this Ordinance, is liable to be quashed upon application to be made in conformity with this Part.

Corrupt
practices.

194. (1) Before determining any application for the quashing of a by-law upon the ground that the passing of the same has been procured by means of any corrupt practices as defined by this Ordinance and if it is made to appear to the judge that probable grounds exist for a motion to quash such by-law, the judge thereupon may make an order for an inquiry to be held, upon such notice to the parties affected as the judge may direct, concerning the said grounds, before himself as the Inspector of Municipalities or whom he may appoint to conduct such inquiry and may require that upon such inquiry all witnesses, both in support and against such by-law, be orally examined and cross-examined upon oath.

Judge may
order an
inquiry.

(2) Upon the taking or return of evidence, as the case may be, from the inquiry held under subsection (1), the judge, upon notice to such of the parties concerned as he thinks proper, may proceed to hear and determine the question and if grounds therefor appear to him to be satisfactorily established, he may make an order for quashing the by-law and order the costs attending such proceedings to be paid by the parties or any of them who have supported the by-law, but, if it appears that the application to quash the by-law ought to be dismissed, the judge may so order and, in his discretion, award the costs to be paid by the persons applying to quash the by-law.

Procedure.

Judge may
quash
by-law.

Costs.

Stay of proceedings pending hearing.

195. After an order has been made by a judge under section 194 directing an inquiry and after a copy of such order has been left with the municipal clerk, all further proceedings upon the by-law shall be stayed until after the disposal of the application in respect of which the inquiry has been directed but, if the matter is not prosecuted to the satisfaction of the judge, he may remove the stay of proceedings.

Action vs. municipality re illegal procedure.

196. In case a by-law, order or resolution is illegal, in whole or in part, and in case anything has been done under it which, by reason of such illegality, gives any person a right of action, no such action shall be brought until one month has elapsed after the by-law, order or resolution has been quashed or repealed, nor until one month's notice in writing of the intention to bring action has been given to the municipality, and every such action shall be brought against the municipality alone and not against any persons acting under the by-law, order or resolution.

No personal liability.

Tendering amends.

197. In case the municipality tenders amends to the plaintiff or his solicitor, if such tender is pleaded and, if traversed, proved, and if no more than the amount so tendered is recovered the plaintiff shall have no costs, but costs shall be taxed to the defendant and set off against the verdict, and the balance due to either party shall be recovered as in ordinary cases.

Proviso.

198. No by-law shall be set aside for corrupt practice if the passage thereof was not affected by such corrupt practices.

PART X.

POWER TO TAKE LAND FOR CERTAIN PURPOSES.

Entry on land and expropriation for water services.

199. Whenever in the judgment of the municipal council it becomes necessary to construct, enlarge, improve or repair any reservoir or to lay down, take up or repair any water pipes belonging to the municipality, the municipal council may enter upon and take the lands and property of any person, corporation or number of persons from time to time, and as often as is necessary for the purposes aforesaid, or any of them, and, when any lands or property are so taken, shall cause a plan of such lands or property, or so much thereof as is required for the purposes aforesaid, to be made, and shall notify the owner or owners of the lands or property which are proposed to be entered upon or taken of the project.

For civic buildings.

200. The municipal council may enter upon and take any land within the municipality required for the purpose of a municipal hall, fire hall, municipal market, lockup or other municipal building for any purpose whatever and may remove therefrom any buildings, projections, walls, fences or other things, or any portion thereof.

201. (1) Before entering upon or taking any land or removing any building, projection, wall, fence or other thing for any purpose under the authority of this or any other Ordinance of the Territory, the municipal council shall notify the owner of the said land, building, projection, wall, fence or other thing that such land or such removal is required by the municipality. Notice to owner.

(2) The notice, given under subsection (1), shall contain a description of the land proposed to be entered upon or taken, or of the building, projection, wall, fence or other thing proposed to be removed and a statement of the purpose for which the same is required or necessary.

202. (1) If the municipal council and the owner cannot agree upon the compensation to be paid to the owner for the land or for the damage that may be caused by entering upon the land or by removing the building projection or other thing, the municipal council shall appoint one arbitrator and shall notify the owner to appoint one arbitrator. Compensation may be determined by arbitration.

(2) If the owner neglects or refuses to appoint an arbitrator for ten days after the notice is served under subsection (1), the mayor shall appoint an arbitrator to act on behalf of the owner. Appointment of arbitrators.

(3) The award of the arbitrators, or of any two of them, shall be final and conclusive and binding upon all the parties interested. Award binding.

203. Upon the payment or tender to the owner of the amount so awarded, or upon the payment thereof to the clerk of the Territorial Court under this Part, the municipality shall become the owner in fee simple of the lands, if such lands have been taken, or shall be entitled to enter upon the lands for the purpose designated by the municipal council, or to remove the building, projection, wall, fence or other thing as is required. Right of municipality upon payment or tender.

204. (1) If the amount of the compensation awarded appears to the municipal council to be excessive when compared with the utility of the work contemplated, the municipal council may suspend or abandon such work at any time, and, if the lands concerned have not been entered upon, the municipal council, within one month after the making of the award, may notify the owner of such suspension or abandonment and in such case the municipality shall not be bound to accept such land or pay the amount of the compensation awarded. Council may suspend or abandon project.

(2) If the municipal council decides to proceed with such work, within six months after the arbitrator's award has been filed with the municipal clerk, it shall pay to the owner the amount of compensation awarded to him. Time limit on payment of compensation.

Payment into Court in certain cases.

205. (1) The municipal council may pay the amount awarded by the arbitrators into the office of the Clerk of the Territorial Court and deliver to said Clerk a copy of the award, in the following cases:

- (a) if there are any claims or encumbrances on the lands taken or entered upon;
- (b) if the owner of the land is unknown;
- (c) if the person to whom the compensation is awarded to be paid cannot be found;
- (d) if there is any dispute as to the ownership of the land, building, projection, wall, fence or other thing taken, damaged or removed;
- (e) if there is any dispute as to the person to whom compensation should be paid for the taking or removal; or
- (f) if for any other reason the municipal council deems it advisable.

Payment out of Court.

(2) The person or persons entitled to the amount paid under subsection (1), on establishing his or their right, on a summary application made to the Territorial Court or a judge thereof, shall be entitled to have the same paid over to him or them on order of the said Court or judge.

Award to be basis of vesting order.

206. The award shall contain a description of the land and a copy thereof certified under the hand of the municipal clerk shall be filed with the Clerk of the Territorial Court and thereupon an application shall be made to the said Court or a judge thereof for an order vesting the title to the said land in the municipality, and such order, on being granted, shall be registered in the Land Titles Office for the Yukon Land Registration District and a certificate of title issued thereon.

Publication of notice in certain cases.

207. If the owner of the land which it is proposed to enter upon or take, or of the building, projection, wall, fence or other thing which it is proposed to remove, is not known, or if there is a dispute as to the ownership thereof, the notices required to be given to such owner may be given by advertisement in a public newspaper published in the municipality, or, if there be no such newspaper, then in a public newspaper published in the Territory and circulating in the municipality.

Qualification of arbitrators.

208. The arbitrators appointed or chosen under this Part shall be taxpayers and may be residents of the municipality, but they shall not be interested in the land entered upon or taken, nor in the building, projection, wall, fence or other thing to be removed, nor in the lands lying along any street, road, lane or square proposed to be entered, opened or repaired pursuant to such entry, taking or removal.

Arbitrators' remuneration.

209. The arbitrators shall receive such compensation, which shall be paid by the municipality, as the municipal council determines.

PART XI.

ACTIONS BY AND AGAINST MUNICIPALITIES.

DIVISION I. ACTIONS.

210. (1) Every public road, street, bridge, highway, square, alley or other public place subject to the direction, management and control of the municipal council including all crossings, sewers, culverts and approaches, grades, sidewalks and other works made or done therein or thereon by the municipality or by any person with the permission in writing of the municipal council, shall be kept in repair by the municipality, and on default of the municipality to keep the same in repair, the municipality, besides being subject to any punishment provided by law, shall be civilly responsible for all damage sustained by any person by reason of such default. ^{Responsibility for repairs.}

(2) The provisions of this section and of section 213 shall not apply to any road, street, bridge, highway, square, alley, crossing, sewer, culvert, sidewalk or other work made or laid out by a private person until the same has been established as a public work by by-law or otherwise assumed for public use by the municipal corporation.

(3) The municipality shall not be liable for damages under this section unless the person claiming the same has suffered by reason of the default of the municipal corporation a particular loss or damage beyond what is suffered by him in common with all other persons affected by the want of repair.

(4) Nothing herein contained shall cast upon the municipality any obligation or liability in respect of acts done or omitted by persons exercising powers or authorities conferred upon them by law, and over which the municipality has no control, where the municipality is not a party to such acts or omissions and where the authority under which such persons proceed is not a by-law, resolution or licence of the municipal council.

211. Except in the case of negligence a municipal corporation shall not be liable for personal injury caused by snow or ice upon a sidewalk. ^{Snow and ice.}

212. No action shall be brought against a municipal corporation for the recovery of damages occasioned by default in its duty of repair as mentioned in section 210 whether the want of repair was the result of misfeasance or of nonfeasance, after the expiration of three months from the time when the damages were sustained. ^{Action within three months.}

213. No action shall be brought for the recovery of damages under sections 210 and 211 unless notice in writing of the claim and of the injury complained of has been served personally upon or sent by registered post to the mayor or municipal clerk within thirty days after the happening of the injury. ^{Notice of claim.}

In case of death.

214. In case of the death of the person injured failure to give or insufficiency of the notice required by section 213 shall not be a bar to the action, if the Court or judge before whom the action is tried is of the opinion that there is reasonable excuse for the want or insufficiency of the notice and that the municipality was not prejudiced thereby in its defence.

No liability on municipal officer.

215. (1) Where an action may be brought against the municipality by any person who has suffered damages by reason of the default of the municipality in keeping in proper repair any public road, street, bridge, highway, square, alley or other public place, no action shall be brought in respect of such damage against any member of the municipal council or officer or employee thereof personally, but the remedy therefor shall be wholly against the municipal corporation.

(2) This section does not affect the liability of a mere contractor with the municipality, nor of any officer or employee of such contractor, by reason of whose act or neglect the damage was caused.

Municipality's remedy over in action of damages.

216. Where an action is brought to recover damages sustained by reason of any obstruction, excavation or opening in or near to a highway, street, bridge, alley, square or other public place, placed, made, left or maintained by any person other than a servant or agent of the municipality, or by reason of any negligent or wrongful act or omission of any person other than a servant or agent of the municipality, the municipality shall have a remedy over against the other person for, and may enforce payment accordingly of, the damages and costs, if any, which the plaintiff in the action may recover against the municipality.

In same action.

217. The municipality shall be entitled to the remedy over described in section 218 in the same action if the other party is a party to the action and if it is established in the action against him that the damages were sustained by reason of an obstruction, excavation or opening placed, made, left or maintained by him.

Party defendant.

218. In an action brought to which section 216 applies, the municipality may have the other person added as a party defendant or third party, if he is not already a defendant, for the purposes of the remedy over, and the other person may defend such action as well against the plaintiff's claim as against the claim of the municipality to a remedy over and, upon the trial of the action, the judge may order costs to be paid by or to any of the parties thereto or in respect of any claim set up therein as in other cases.

In separate action.

219. If the person, against whom the municipality claims to have a remedy over, is not a party defendant or is not added as a party defendant or third party, or if the municipality has

paid the damages before an action is brought to recover the same or before recovery in an action against the municipality, the municipality shall have a remedy over by action against such person.

220. The person, against whom the municipality claims to have a remedy over, shall be deemed to admit the validity of the judgment, if any, obtained against the municipality only where a notice has been served on him pursuant to the *Judicature Ordinance* or of any rules of Court made thereunder, or where he has admitted or is estopped from denying the validity of such judgment. Admission of third party's liability.

221. Where such notice has been served and there has been no such admission or estoppel as described in section 220, and the other person has not been made a party defendant or third party to the action against the municipality, or when damages have been paid without action or without recovery of judgment against the municipality, the liability of the municipality for such damages, and the fact that the damages were sustained under such circumstances as to entitle the municipality to the remedy over, must be established in the action against such person to entitle the municipality to recover in the action. Non-admission of liability.

222. Except as herein otherwise provided, no action *ex delicto* shall be brought against the municipality, or against the municipal council or any member thereof, or against any committee thereof or any member thereof, or against any person acting under the authority of any such committee or member thereof, unless within six months next after the cause of action has accrued, and upon one month's previous notice thereof in writing served upon the defendant, or, in the case of an action against the municipality, upon the municipal clerk, in which notice the cause of action and the Court in which it is to be brought shall be explicitly stated and upon the back of the notice shall be endorsed the name and place of abode of the person intending to sue. Limitation of period of liability.

223. When duties, obligations or liabilities are imposed by law upon any person in favour of a municipal corporation as the inhabitants or some of the inhabitants of the municipality, or where contracts or agreements are or have heretofore been entered into imposing such duties, obligations or liabilities, the municipality shall have the right by action to impose the same and to obtain as complete and full relief and remedy as could have been obtained in an action by such inhabitants or one or more of them on his or their own behalf or on behalf of himself or themselves and of such inhabitants. Rights as in proceedings.

224. In cases not otherwise provided for, no action shall be brought against the municipality for the recovery of damages after the expiration of three months from the time the damages were sustained, unless upon application to a judge of the General limitation on period of liability.

Territorial Court made not later than one year from such date, and after seven days' notice to the municipality, the judge allows the claim to be made.

DIVISION II. EXECUTIONS AGAINST MUNICIPALITIES.

Procedure on writs of execution in sheriff's hands.

225. Any writ of execution against any municipality may be indorsed with a direction to the sheriff of the Yukon Territory to levy the amount thereof by rate and the proceedings thereon shall be as follows:

Copy of writ delivered to municipal clerk.

(a) the sheriff shall deliver a copy of the writ and indorsement to the municipal clerk with a statement in writing of the amount required to satisfy such execution, including the amount of interest calculated to some day as near as is convenient to the day of the service, and sheriff's fees;

Execution rate.

(b) if the amount with interest thereon from the day mentioned in the statement is not paid to the sheriff within thirty days after such delivery, the sheriff shall examine the assessment roll of the municipality and shall, in like manner as rates are struck for general municipal 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 the interest and his own fees up to the time when such rate will probably be available;

Sheriff's precept to municipal treasurer.

(c) the sheriff shall thereupon issue a precept under his hand and seal of office directed to municipal treasurer and shall annex thereto the roll of such rate, and shall by precept, after reciting the writ and that the municipality has neglected to satisfy the same and referring to the roll annexed to the precept, command the treasurer to levy such rate at the time and in the manner by law required in respect of the general annual rates;

Levy of special rate.

(d) at the time for levying the annual rates next after the receipt of such precept, the collector shall add a column to the tax roll headed: "Execution rate in versus the municipality of," as the case may be, adding a similar column if there are more executions than one, and shall insert therein the amount by such precept to be levied upon each person respectively, and shall levy the amount of such execution rate as aforesaid, and shall, within the time that he is required to make the return of the general annual rate, return to the sheriff the precept with the amount levied thereon; and

Surplus.

(e) the sheriff shall, after satisfying the execution and all fees thereon, return any surplus within ten days after receiving the same to the municipal treasurer for the general purposes of the municipality.

226. The municipal clerk, treasurer, assessor and collector shall, 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, be deemed to be officers of the Territorial Court and as such may be proceeded against by attachment, mandamus or otherwise to compel them to perform the duties hereby imposed on them.

Municipal
officers
officials of
Court.

PART XII.

MUNICIPAL ASSESSMENT AND TAXATION.

DIVISION I. MUNICIPAL ASSESSMENT.

227. (1) In every municipality, the council shall appoint an assessor and a collector.

Municipal
assessor and
collector.

(2) The offices of assessor and collector may be occupied by one and the same person or may be held by any other officer of the municipality.

228. (1) Every railway company shall transmit on or before the first day of September in each year to the assessor of every municipality in, into or through which such railway runs or in which such company owns such land or improvements, a statement showing

Annual
statement of
railway
companies.

- (a) the total number of miles of single track of railway including mainline, branches, sidings, spurs and switches of such company within such municipality;
- (b) the number of such miles of railway situate respectively upon public streets or highways, and rights of way or property of such company separately and respectively;
- (c) all bridges, coal bunkers, water tanks, signal or switching devices, station houses, engine houses, round houses, turn tables, docks, wharves, freight sheds, power houses, transmission stations, sub-stations and the separate equipment of each of them the property of such company within such municipality and the separate value of each;
- (d) every parcel of land owned by such company within such municipality and the value thereof and the improvements upon each parcel, if any, and the value thereof; and
- (e) an address to which all notices to be given on behalf of such municipality to such company may be addressed.

(2) Every railway company shall transmit on or before the first day of September in each year to the assessor of any municipality in which is situate any land held by such company a return showing all lands disposed of or alienated by such company by sale, agreement for sale or lease since the date of the last return, and each of such returns shall show in detail, and in tabulated form, a legal description of the land, number of acres sold or agreed to be sold or leased, date of transfer, agreement or lease and the real consideration therefor.

Annual
return of
alienated
railway lands.

Claim of
exemption.

(3) Every railway company entitled under any Act of the Parliament of Canada, or any Ordinance, to any exemption from the payment of municipal taxes or any portion thereof shall nevertheless transmit the statement required by subsection (1) and in addition shall indicate

- (a) under what Act or Ordinance exemption is claimed; and
- (b) the extent of such exemption as claimed.

Annual
statement
of utility
companies.

229. Every electric light, electric power, telephone and telegraph company shall transmit on or before the first day of September in each year to the assessor of every municipality in, into or through which such company carries any poles, wires or other equipment, or in which such company operates or carries on business, a statement showing

- (a) every parcel of land owned by such company within such municipality and the value thereof and the improvements upon each said parcel and the value thereof;
- (b) the number of miles of pole line, cables and wires the property of such company within such municipality whether the same is situate under, upon or above streets or public highways or otherwise; and
- (c) an address to which all notices to be given on behalf of the municipality to such company may be addressed.

Annual
statement
of water
companies.

230. Every water company shall transmit on or before the first day of September in each year, to the assessor of every municipality in, into or through which such water company has laid water pipes or other equipment or in which such water company shall operate or carry on business, a statement showing

- (a) every parcel of land owned by such company within such municipality and the value thereof and the improvements upon each said parcel and the value thereof;
- (b) the number of feet of water pipe laid in the municipality and the sizes thereof respectively laid in, upon or under a public street or highway, the right of way or property of such company, and any other property and the name of the owner thereof; and
- (c) an address to which all notices to be given on behalf of the person or municipality may be addressed to said company.

Penalty.

231. Any company failing to transmit its appropriate statement or return as provided in sections 228 to 230 at the time appointed therefor is liable to a penalty of fifty dollars for each day during which failure in transmitting such statement or return continues, to be recovered by proceedings at the instance of the assessor and in addition to such penalty to the payment of all taxes which would have been payable had such statement been duly transmitted.

232. The following classes of property are exempt from **Exemptions.**
taxation:

- (a) all property vested in Her Majesty or vested in any **Crown land.**
person for Imperial, Dominion or Territorial purposes
being either unoccupied or occupied by some person in
an official capacity except as otherwise provided in this
Ordinance;
- (b) every building set apart and in use for the public worship **Churches.**
of God, including the land upon which such building
actually stands and also including such area of the land
surrounding the building to the extent of not more than
one and one-half acres as may be determined by by-law
passed by the municipal council and the by-law shall **By-law**
describe the lands exempted and there shall be annexed **required.**
to the by-law a plan showing the lands exempted and
the by-law shall be filed in the Land Titles Office but
there shall be no exemption either of buildings or lands
under this paragraph unless the title to the lands is
registered in the name of the religious organization using
the building or the trustees for the use of that organiza-
tion, or in a religious organization granting a lease of
the building and lands to be used solely for the public
worship of God;
- (c) every burying ground and every cemetery in actual use **Cemeteries.**
solely as such;
- (d) the real property of every public institution of learning, **Public**
every public school house, town hall, court house, gaol **institutions.**
and lockup house;
- (e) all school lands; **School lands.**
- (f) every building set apart and in use by the owner thereof **Hospitals.**
solely as an hospital in which sick, injured, infirm or
aged persons are received, treated or maintained, and
the land actually in use in connection therewith, not,
however, exceeding twenty acres in the case of a public
hospital and ten acres in the case of a private hospital;
- (g) every building set apart and in use by the owner thereof **Orphanages.**
for the purpose of the care and charge of orphan or
destitute children and the lands actually in use in con-
nection therewith not to exceed five acres;
- (h) the buildings owned by and used solely by every horticult- **Horticultural**
ural or agricultural society incorporated under any **societies.**
Ordinance and the lands actually used in connection there-
with not exceeding five acres;
- (i) all lands and improvements the property of the municip- **Municipal**
ality except as otherwise provided in this Ordinance; **lands.**
- (j) lands and improvements exempted from municipal taxes **Special**
by any other Ordinance; **exemptions.**
- (k) subject to the approval of the municipal council, land on **Historical**
which any historical building is now erected and the build- **sites.**
ing thereon;

Libraries.

- (l) subject to the agreement of the municipal council, lands and improvements occupied and used by a library or other institution which the council deems conducted for the public benefit; and
- (m) subject to the approval of the municipal council, all lands and improvements occupied and used solely as a public recreational site, but this exemption applies only if and so long as from such occupation and use no profit is made by any person, firm or organization having an interest in the lands and improvements.

Assessment of land and improvements separate.

233. (1) For the purpose of taxation, land except as hereinafter provided shall be assessed at its actual value and improvements shall be assessed for the amount of the difference between the actual value of the whole property and the actual value of the land if there were no improvements, but land and improvements shall be assessed separately.

"Actual value."

(2) A reference in this section to the "actual value" of any property shall be construed as a reference to the actual value of that property determined in accordance with such rules, standards and methods for the determination of such value for the purposes of assessment and taxation as may be prescribed by the Commissioner from time to time by regulation.

Valuation of pole lines, etc.

(3) The pole line, cables and wires of any telephone, telegraph, electric light or power company within the limits of the municipality shall for the purposes of assessment and taxation be deemed to be land and the amount of assessment thereon shall be five hundred dollars per mile of pole line, cables and wires.

Valuation of railway track.

(4) The miles of single track of every railway company mentioned in paragraph (a) of subsection (1) of section 228 shall for the purposes of assessment and taxation be deemed to be land and the amount of the assessment thereon shall be at the rate of five thousand two hundred and eighty dollars per mile or fraction thereof of track whether the same be upon a public highway or privately owned right of way, and any privately owned right of way shall be assessed in addition and separately at its actual value as land.

Of right of way.

Water pipes, etc.

(5) The water pipes or other equipment of any water company on a public highway or road allowance shall be deemed to be land and shall be assessed as such at the rate of forty cents per running foot.

Taxation of lands the fee of which is in Crown.

234. (1) Lands of which the registered owner is Her Majesty or the Commissioner of the Yukon Territory, or the Controller of the Yukon Territory, or the Government of the Yukon Territory but which are held under preemption or lease or agreed to be sold or which have been sold, granted or conveyed, and any such lands which are held or occupied otherwise than by or on behalf of the registered owner, and lands which are held by any person by agreement to purchase under the *Veterans' Land Act*, shall with the improvements thereon be liable, while

so held or occupied or during existence of such agreement, to assessment and taxation in the manner provided in this section from the date of preemption record, lease or agreement to sell or sale, grant or conveyance or occupation as the case may be, but such taxation shall not in any way affect the rights of the registered owner as aforesaid in the lands, and such lands with the improvements thereon shall be entered in the assessment roll in the name of the holder or occupier thereof whose interest shall be assessed at the actual value of the lands and improvements.

(2) Subject to subsection (3), the taxes imposed on such lands and improvements shall be a liability only of the holder or occupier thereof recoverable in the manner set out in sections 273 and 274 and subject as aforesaid such lands and improvements shall not be liable to tax sale nor shall such taxes become a lien or charge on the lands or improvements, but the interest of any person in land held under timber lease or timber licence from Her Majesty in right of Canada shall while so held be liable to assessment and taxation in respect of the actual value of his interest only.

(3) Lands, together with the improvements thereon, which have been sold, granted or conveyed by the Government of the Yukon Territory, or the Commissioner of the Yukon Territory, or the Controller of the Yukon Territory, and in respect of which the transfer has not been registered, are liable to tax sale and the taxes imposed thereon shall become a lien and charge on the land and improvements and all the provisions of this Ordinance as to assessment, taxation, recovery of taxes and tax sale shall apply *mutatis mutandis* to the assessment, taxation, recovery of taxes and tax sale of such lands and improvements.

Taxation of lands comprised in an unregistered transfer from Territorial Government.

235. (1) Lands of which the municipality is the registered owner, but which are held under agreement for sale from the municipality, or which have been sold, granted or conveyed by the municipality are liable to assessment and taxation and the improvements thereon shall likewise be liable to assessment and taxation and the person to whom the municipality has given an agreement for sale or transfer shall be deemed, for the purposes of this Ordinance, to be the registered owner of the lands included in such agreement or transfer and of the improvements thereon until the assessor has been given notice by the transferee or purchaser of a further and later agreement for sale or transfer with respect thereto.

Taxation of lands comprised in an unregistered transfer or an agreement for sale from municipality.

(2) Lands of which the municipality is the registered owner but which are held by any person under a lease by which the lessee has covenanted to pay taxes, shall be liable, with the improvements thereon, to assessment and taxation in accordance with the terms of such lease; and such lands shall be entered in the assessment roll in the name of the lessee and the taxes imposed thereon shall be the liability of such lessee recoverable in the manner set out in sections 273 and 274.

Taxation of leased municipal lands.

Assessments
of interest
less than fee
simple.

236. Where any interest in, or occupation of land or improvements, other than the ownership of the fee simple, can be assessed within the municipality under this or any other Ordinance the same shall, except as provided in section 234, be assessed upon the basis of the value of such interest, such value being taken to be the sum which a willing purchaser would be expected to pay to a willing vendor for such interest and without including the value of the good will of any business connected with such interest.

Preparation
of annual
assessment
roll.

237. (1) The assessor in every municipality shall, before the twentieth day of September in every year prepare an assessment roll in which he shall set down with respect to each and every parcel of land within the municipality

- (a) a short description thereof by which the same can be identified in the register of the Land Titles Office;
- (b) the extent or area thereof;
- (c) the value thereof;
- (d) the value of all improvements thereon;
- (e) the name or names of the registered owners thereof or of the holders or occupiers under sections 234, 235 and 236;
- (f) the name or names of the holders of any mortgage or charge or encumbrance registered against the parcel of land in the Land Titles Office;
- (g) the name or names or any persons claiming notice of assessment and taxes under subsection (3);
- (h) the addresses of such persons as aforesaid;
- (i) the name and address of any person who has furnished to the assessor a statutory declaration showing that he is the holder of the last agreement to purchase the land by the terms of which he is liable to the taxes thereon;
- (j) the name of any person interested in any assessable land the fee simple of which is held in the name of Her Majesty in right of Canada, or of the Yukon Territory, the Commissioner of the Yukon Territory and the value of his interest; and
- (k) the particulars set out in the statements and returns made under sections 228, 229 and 230 with such values which the assessor deems fair and equitable notwithstanding the values which may be assigned in such statements respectively.

(2) The assessor shall exercise reasonable care in obtaining and setting down the names and addresses of the persons mentioned in subsection (1) and shall more particularly adopt the following alternatives in the order named:

- (a) the name and address as known to the assessor; and
- (b) the name and address as appearing in the records of the Land Titles Office as of the thirty-first day of August of each year.

(3) Any person claiming to be interested in any land may at any time give notice to the assessor of the nature of his said interest and claim to receive notice of assessment and all tax notices thereafter issued during the duration of his said interest as stated in the said notice, and shall give an address to which such notices may thereafter be sent.

(4) In case a building is situate upon two or more parcels of land under a single ownership, those parcels of land may be placed on the assessment roll as one parcel and may be so assessed and any taxes then existing upon any one of the several parcels imposed under this or any other Ordinance, and remaining unpaid, shall be deemed to be taxes upon all the lands so placed upon the assessment roll as one parcel.

(5) The assessment roll referred to in subsection (1) may consist of such system of written records or bookkeeping or set of books as shall be approved by the council; or, subject to the approval of the Inspector of Municipalities such system may include or consist of a card index or loose leaf ledger system; but where the Inspector of Municipalities has approved any such system of records for assessment roll purposes, no alterations or substitution of such system shall thereafter be made without the approval and consent of the Inspector of Municipalities.

238. (1) Any land of which a railway company is registered owner and which by any Ordinance or agreement in force in the municipality has been exempt from taxation until alienated or sold and which is held on an agreement for sale or lease, or which is occupied otherwise than by the railway company, is liable, while so held or occupied, to assessment and taxation.

Assessment of railway lands in name of holder or occupier.

(2) Such land shall be entered in the assessment roll in the name of the holder or occupier thereof and the taxes imposed thereon shall be a liability of such holder or occupier recoverable in the manner set out in this Ordinance.

239. (1) Notwithstanding any law to the contrary, the municipal council has power to enter into agreement with any person fixing upon a definite sum as the annual assessment for the purposes of municipal taxation of any land or of any existing improvements or of any land and of any existing improvements respectively within the boundary of the municipality or of any interest therein respectively for such period of years not exceeding ten as the council may determine; but the sum so fixed shall not be less than the amount of the assessment of the land or improvements respectively as shown in the last revised assessment roll and the value of all improvements made subsequent to the agreement shall be added to the sum so fixed by the agreement as the annual assessment of any improvements and the total thereof shall be set down in the assessment roll by the assessor as the value of the improvements.

Power to fix assessment on land for a period of years by agreement.

(2) The agreement shall be embodied in a by-law which before the final passing thereof has been submitted to the electors of the municipality for their assent and has received the assent of the electors in the manner provided in Part VIII.

Power to alter agreement.

(3) Where any municipal council has entered into any such agreement as is mentioned in subsection (1) in accordance with the provisions therein contained and during the term of such agreement the total assessed value of the other lands in the municipality has decreased below the amount of such assessed value at the date of the agreement the municipal council notwithstanding any law to the contrary has power without the consent of the electors of the municipality to enter into further agreement with any such person amending the former agreement by fixing a new sum or sums or rate of assessment as the annual assessment for the purpose of municipal taxation of the land mentioned in the said agreement for such period during the remainder of the term of such agreement as the council may determine; except that the lands mentioned in the said agreement shall not, during the period mentioned in the amended agreement, be assessed in any year at a lower sum per acre than a sum equal to seventy-five per cent of the average assessment per acre in such year of the remainder of the assessed lands in such municipality.

Property under control of trustee or executor to be assessed to him.

240. All property under the control of any person as executor, administrator, trustee, guardian or agent, the separate property of a married woman and the property of an infant shall be assessed and rated in the name of the person exercising control over such property, but such assessment and rating shall be kept separate and distinct from any assessment and rating of such person in his own right.

Notice of assessment.

241. (1) Every assessor before returning the assessment roll shall with respect to each parcel of land assessed, mail to the person or persons named in such assessment roll as the owner of such parcel of land or as entitled to notice under subsection (3) of section 237 at the address set out in the assessment roll a notice showing

- (a) a short description of the land;
- (b) the value at which the land is assessed;
- (c) the value at which the improvements thereon are assessed; and
- (d) the date of the first session of the Court of Revision for the consideration of such roll;

and a copy of section 243 shall be printed on such notice.

(2) Any number of parcels of land assessed in the name of the same owner or owners may be included in one notice.

(3) The assessor shall enter upon the roll, opposite the name of the person to whom notice has been sent, the date of the transmitting of such notice.

(4) Before returning the roll to the clerk or to the council as the case may be the assessor shall transmit by registered mail a true copy of any such notice to any person from whom he has received for the then current year a request in writing for such copy provided such request contains a short description covering the property in respect of which such copy may be required and is accompanied by a fee of twenty-five cents for each parcel of land.

242. The assessor shall return his roll in each year to the clerk of the municipality and if the assessor is the clerk of the municipality to the council of the municipality not later than the thirtieth day of September in each year, and on returning the roll the assessor shall make a statutory declaration in Form I which shall be annexed to the roll.

Return of completed assessment roll.

DIVISION II. MUNICIPAL COURT OF REVISION.

243. (1) If any person is of the opinion that an error or omission exists in, or upon, the assessment roll as prepared by the assessor in that the name of any person has been wrongfully inserted in or omitted from the roll or that any land or improvements within the municipality has or have been wrongfully entered upon or omitted from the roll or that any land or improvements has or have been valued at too high or too low an amount he may personally or by means of a written communication over his signature, or by a solicitor or by an agent authorized by him in writing to appear on his behalf, come before the Court of Revision and make a complaint of such error or omission and may in general terms state his ground of complaint and the Court shall either confirm the assessment or direct the alteration thereof.

Appeals to Court of Revision.

(2) The municipal council may by its clerk, solicitor or otherwise, make complaint against the said roll or any individual entry therein and upon any ground whatever, and the Court of Revision shall deal with the matter of such complaint and either confirm the assessment or direct the alteration thereof.

(3) Every complaint shall be made in writing and shall be delivered to the assessor at least ten days prior to the first annual meeting of the Court of Revision.

(4) Notwithstanding anything in this Ordinance no complaint to the Court of Revision as in this section provided and no appeal to a judge as hereinafter provided shall be sustained or allowed on the ground that any land has been valued at too high an amount in any case if the assessment of land complained of or appealed against is ten per cent, or more, less than the assessed value of the same land in and according to the revised assessment roll for the year immediately preceding, or on the ground that any improvements have been valued at too high an amount in any case if the assessment of improvements

complained of or appealed against is five per cent, or more, less than the assessment of the same improvements in and according to the revised assessment roll for the year immediately preceding.

Assessment roll open for inspection.

244. On and after the assessment roll is completed by the assessor and until ten days after such roll is revised and corrected by the Court of Revision the same shall be open for inspection in the office of the assessor in office hours when the Court of Revision is not sitting.

List of appeals to be posted up.

245. The assessor shall post up in some convenient and public place within the municipality a list of all complaints made by persons on their own behalf against the assessor's return and a list of complaints made on account of the assessment of other persons stating the name of each with a concise description of the matter complained against.

Power to exempt airports from taxation.

246. The council of any municipality by resolution passed unanimously by the members thereof, with the consent of the Territorial Treasurer may exempt from taxation in whole or in part for such period of years as the council by such resolution determines any land or lands and improvements within the limits of the municipality which are owned, operated or used for the purposes of an air base, sea plane base or landing area for aircraft, but such land or lands and the improvements shall be subject to such exemption only so long as they are used for those purposes.

Hearing of appeals in order of entry on list.

247. (1) The assessor shall enter the complaints on the list in the order in which they are received by him and the Court of Revision shall proceed with the complaints in the order as nearly as may be in which they are so entered.

(2) The Court of Revision may grant an adjournment or postponement of the hearing of any complaint.

Address for service of notice of decision.

248. Any person leaving a complaint as provided in section 243 shall leave with the assessor an address to which notices to that person in respect of the complaint may be sent and forthwith, after a decision has been made by the Court of Revision, the assessor shall forward to that person a notice setting out the decision of the Court of Revision.

Constitution, powers and procedure of Court of Revision.

249. (1) Every assessment shall be considered and dealt with by a Court of Revision which shall consist of the members of the municipal council or any three of them appointed for that purpose by resolution at the first meeting of the council in each year.

(2) Every member of the Court of Revision before entering upon his duties shall take and subscribe the following oath or affirmation:

"I.....do solemnly swear (or affirm) that I will, to the best of my judgment and ability, and without

fear, favour or partiality, honestly decide the complaints to the Court of Revision which may be brought before me for trial as a member of said Court."

(3) The powers of such Court shall be

(a) to meet on or before the second Tuesday in October in each year at some place within the municipality appointed by the council and to try all complaints lodged with the assessor in accordance with this Ordinance; and the Court may adjourn from time to time and from place to place;

(b) to investigate the assessment roll and the various assessments therein made, whether complained against or not, and so adjudicate upon the same that the same shall be fair and equitable and fairly represent the actual value of the land and improvements within the municipality;

(c) to direct such alterations to be made in the assessment roll as may be necessary to give effect to its decision; and

(d) to confirm the roll either with or without amendment.

(4) Any member of the Court of Revision may issue a summons in writing to any person to attend as a witness and any member of the said Court may administer an oath to any person or witness before his evidence is taken.

(5) No increase in the amount of assessment shall be directed until after three days' notice of the intention to direct such change and of the time and place of holding the adjourned sitting of the Court of Revision at which such direction is to be made has been given by the assessor by prepaid registered mail or personal service to the assessed owners of the land on which the assessments are proposed to be increased and any party interested or his solicitor or agent, if appearing, shall be heard by the Court of Revision.

(6) The Court of Revision shall appoint one of its members to be chairman who shall preside at the meeting of the Court and who, unless otherwise provided by the Court, shall have power to call meetings and regulate procedure.

(7) The assessor shall be the clerk of the Court of Revision and shall make and keep minutes of the proceedings of the Court of Revision and alter the assessment roll in accordance with the direction contained in such minutes.

(8) A majority of the members of the Court of Revision shall form a quorum.

(9) All questions before the Court of Revision shall be decided by a majority of the members present; the chairman shall vote as an ordinary member of the Court of Revision.

(10) If a complainant fails to appear the Court of Revision may proceed *ex parte*.

Penalty for failure of witness to attend.

250. Any person who has been summoned to attend the Court of Revision as a witness who, having been paid or tendered such fees as a witness as he would be entitled to in a civil case in the Territorial Court, without good and sufficient reason fails to attend is 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.

Expenses of Court of Revision.

251. The council may from year to year by resolution appropriate sufficient sums out of its revenue to pay the expenses of the Court of Revision.

Authentication of alterations in assessment roll.

252. (1) It shall be the duty of the chairman of the Court of Revision to see that alterations are made in the assessment roll in accordance with the directions contained in the minutes of the proceedings of the Court and to initial in red ink each alteration.

(2) It shall be the duty of the Court of Revision to identify, confirm and authenticate the roll by inscribing or endorsing thereon or attaching thereto a certificate in the following form which shall be signed by a majority of the members of the Court of Revision:

“The within roll (or the within roll as amended) is hereby confirmed by the Court of Revision of the municipality of, and, except as may be amended upon further appeal, is hereby certified to be the assessment roll of the municipality of, for the year.....

.....”.

Appeals from Court of Revision.

253. (1) If any person or the assessor is dissatisfied with the decision of the Court of Revision, subject to subsection (4) of section 243, he may appeal therefrom to a judge of the Territorial Court.

(2) Notice in writing of such appeal signed by the appellant or his agent or solicitor shall be given to the assessor or if the assessor is the appellant to the owner or owners of the property or any person claiming an interest therein or his or their agent or solicitor as the same are named in the assessment roll both before and after revision within two days after the said decision has been given.

(3) Upon any such notice of appeal being given the assessor shall apply to the judge to fix the time and place for hearing the appeal and notice of such hearing by the judge shall be given by publication once in a newspaper published in the municipality, or if there is no such newspaper, once in a newspaper published in the Territory and circulating in the municipality.

(4) The judge shall hear the appeal and the evidence adduced upon oath before him at the time and place appointed in a summary manner and may adjourn the hearing from time to time and defer judgment thereon at pleasure; but so that all appeals may be determined within one month from the final revision by the Court of Revision of the assessment roll; and if the appeal is not decided within the time herein limited the decision of the Court of Revision shall stand.

(5) The clerk or the assessor of the municipality shall on any appeal from the decision of the Court of Revision produce before the judge at the time and place appointed for hearing the appeal the assessment roll and all papers and documents in his possession in any way affecting the matter.

(6) The person appealing or any persons interested in such appeal may call and examine witnesses on oath or affirmation before the judge and if the appeal is on the ground that any land or improvements or land and improvements has been assessed at too high or too low a value he shall produce professional expert evidence to support his appeal.

(7) The judge or the person appealing or any persons interested in such appeal has power to issue subpoenas *ad testificandum* or *duces tecum* for the attendance of witnesses before the judge and any person served with 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 is liable to a penalty of not less than twenty-five dollars and not more than one hundred dollars and in default of payment to imprisonment for a period not exceeding ninety days.

(8) The costs of such appeal are in the discretion of the presiding judge who shall affirm the amount thereof not to exceed the sum of fifty dollars and disbursements, and order by and to whom the same shall be paid, and the payment thereof may be enforced by execution issued out of the Territorial Court upon an order of the said judge.

(9) The decision of the judge shall in all cases be final.

254. (1) The assessment roll as confirmed by the Court of Revision and authenticated as required by section 252 shall, except in so far as the same may be further amended on appeal under the provisions of section 253, be valid and bind all parties concerned notwithstanding any omission or any defect or error committed in or with regard to any such roll, or any defect, error or misstatement in any notice required, or the omission to transmit such notice; and the roll shall, except as provided in section 255 for all purposes be taken and held to be the assessment roll of the municipality until a new roll has been revised, confirmed or passed by the Court of Revision.

Validity of
assessment
roll as
confirmed
by Court of
Revision.

Alteration of assessment roll in accordance with decisions on appeal.

(2) It shall be the duty of the Court of Revision to see that alterations are made in the assessment roll in accordance with the opinion or directions or judgment of the judge upon appeal as aforesaid and, after the making of such alterations, to identify, confirm and authenticate the roll as so altered and amended by initialling each change so made by the chairman of the Court of Revision and if on several sheets by the signing of each such sheet by the said chairman of the Court of Revision and the addition of the date of such change being made.

DIVISION III. MUNICIPAL RATES.

Adoption of assessment roll of previous year.

255. (1) The council of any municipality may adopt by resolution if it thinks fit for any year the assessment roll of the previous year with such amendments and alterations as are by this section made permissible.

(2) The adopted assessment roll so amended and so altered shall upon the passing of such resolution, be deemed to be the assessment roll prepared by the assessor for the year under section 237, and shall be subject to the like incidents, powers of revision and appeal as hereinbefore mentioned.

(3) The assessor may before the passing of any resolution in pursuance of this section make in red ink, noting in each case upon the margin the date of making the same, upon the assessment roll so proposed to be adopted the following alterations:

- (a) where any parcel of land since the date of the preparation of the said assessment roll has changed ownership either by transfer or by devolution of interest, the name or names of the new owner or owners shall be substituted for the name or names appearing upon the said assessment roll;
- (b) where any manifest error or misstatement in the name of the person assessed or in the descriptions or particulars of the land or improvements assessed appears upon the said assessment roll, the correct name, description or particulars may be inserted; and
- (c) where since the preparation of the said assessment roll improvements to an extent exceeding two hundred dollars have been destroyed or depreciated by fire or otherwise and have not been reconstructed or have been reconstructed at a reduced cost and the reduction in cost exceeds two hundred dollars or an addition has been made to the improvements upon the lands assessed, the cost whereof has exceeded two hundred dollars, the reduction or increase in the assessable value of such improvements may be deducted or added.

Rates by-law.

256. (1) The municipal council shall pass on or before the first day of November in every year, subject to the provisions

and restrictions in this Ordinance contained, a by-law or by-laws for imposing upon all land and improvements, according to the assessed value thereof, a rate or rates as follows:

- (a) to provide for the amounts required under by-laws of the municipality, to meet payments of interest and principal of debts incurred by the municipality; and
- (b) to provide for all other lawful purposes of the municipality a rate not exceeding thirty-five mills on the dollar.

(2) The rates authorized by this section to be imposed upon improvements shall not be upon more and may, in the discretion of the council, be upon less than seventy-five per cent of the assessed value thereof or improvements may be entirely exempted from taxation.

(3) The minimum amount of taxation in any year upon any parcel of taxable land upon the assessment roll shall be the sum of one dollar.

(4) If at the time of the passing of such by-law any person has appealed under section 253 from the assessment upon any lands or improvements, and the said appeal has not been entirely disposed of, nevertheless the amount of the assessment upon such lands as fixed by the Court of Revision shall stand in fixing the rate to be levied by such by-law, and the same rate shall be imposed by such by-law upon such lands or improvements and when such appeal has been entirely disposed of and the alterations consequent upon the decision under appeal have been made then if it is found that the assessment is made different for reasons of such decision the collector shall reduce or increase the amount upon his roll to represent the amount of the assessment multiplied by the rate of taxation, and such amended amount shall be the amount of taxes deemed to have been imposed for the then current year upon such lands and improvements; and if the owner has paid any amount in excess of the amount so deemed to have been imposed the council shall make a rebate of such amount so paid in excess of the amount so deemed to have been imposed, and if the said owner has paid an amount less than the said amount so deemed to have been imposed, notwithstanding the terms of any receipt given by the collector, the same shall be deemed to have been paid upon account only and the balance shall be considered as taxes due and payable.

257. (1) Every rate or other charge due any municipality for supplying water or electricity or any service provided under a by-law passed pursuant to section 157 within the municipality, or for any service rendered or made available by the municipality with respect to the supply of water or electricity or any service provided under a by-law passed pursuant to section 157 shall be a special charge upon the land or lands and improvements on which or for the owner or occupant of which the water or electricity or any service provided under a by-law passed pursuant to section 157 is supplied or the service rendered or

Utility rates
a special
charge upon
land.

made available having preference over any claim, lien, privilege or encumbrance of any person except the Crown, and shall not require registration to preserve it.

(2) All such rates payable in any year pursuant to any by-law which remain unpaid on the thirty-first day of December in that year shall be deemed to be in arrears and the total of such rates shall be added to and be deemed to form a part of the taxes, if any, due upon the land or lands and improvements to or upon which the water or electricity or any service provided under a by-law passed pursuant to section 157 has been supplied or used; and if no taxes are in arrears upon the said land or lands and improvements the total of such rates shall be charged as aforesaid against the said land or lands and improvements shall be dealt with in the same manner as arrears of taxes.

(3) Any such rates which are so added or charged, remaining unpaid on the thirty-first day of December in the year following that in which such rates became in arrears shall be deemed to be delinquent on the said thirty-first day of December and for the purpose of enforcing payment of the same shall be deemed delinquent taxes.

(4) It shall be the duty of every municipality to cause notice to be served in the manner hereinafter provided upon the owner of every parcel of land or lands and improvements within the municipality with respect to which such rates are in arrears for a period of three months.

(5) The notice shall be in writing and contain particulars of the rates in arrears and the amount thereof and shall be deemed to be sufficiently served if mailed to the owner at his address as shown upon the assessment roll.

(6) The provisions of sections 273 and 274 apply to such rates.

(7) The provisions of the foregoing subsections of this section shall be in addition to any other remedies for the collection of the said rates.

(8) The council of any municipality may by by-law provide that the foregoing provisions of this section shall not apply in that municipality.

Taxes considered as imposed on January 1st of current year.

258. The taxes or rates imposed or levied for any year shall be considered to have been imposed on and from the first day of January of the then current year unless otherwise expressly provided for by the enactment or by-law under which the same are, or are directed, to be levied.

Special lien for taxes.

259. (1) Notwithstanding anything in the *Creditors Relief Ordinance*, the taxes accrued and to accrue on any land, and the taxes accrued and to accrue on the improvements thereon and any judgment obtained under section 273 with respect to such taxes, shall be a special lien on such land and on the improve-

ments thereon having preference over any claim, lien, privilege or encumbrance of any person except the Crown and shall not require registration to preserve it.

(2) If it shall be necessary or advisable to protect or enforce the said lien by any action or proceedings the same may be done by order of a judge of the Territorial Court upon application therefor and upon such notice thereof as to the said judge shall seem meet.

DIVISION IV. COLLECTION OF MUNICIPAL TAXES.

260. After the final revision of the assessment roll and the passage of a by-law under section 256 the clerk or some other person appointed by the council shall make out a collector's roll, which may be an extension of the assessment roll, in which he shall with respect to each parcel of land upon which taxes have been imposed set down the following information as it appears on the assessment roll:

- (a) the short description of the land;
- (b) the name and address of the assessed owner or owners;
- (c) the classification of the land;
- (d) the value at which the land is assessed; and
- (e) the value at which the improvements thereon, if taxed, are assessed;

and shall in addition thereto set down

- (f) the total amount of rates and taxes imposed for the current year;
- (g) the total amount of taxes in arrears;
- (h) the total amount of delinquent taxes; and
- (i) the total amount of all rates and taxes due.

261. (1) Upon the making out of the collector's roll as provided in section 260 the clerk shall transmit the said roll to the collector who shall forthwith proceed to collect the rates and taxes therein set out.

(2) The collector shall accept such payment as may be tendered on account of taxes due and the penalty, if any, thereafter to be added under sections 266, 268 and 269 shall be added upon any unpaid amount only, but nothing herein contained shall affect in any way the liability of any person to make full payment or the liability of the land for the amount or amounts of taxes unpaid, and the collector shall have no power or authority to waive full payment or to make any agreement for extension of time or postponement of the exercise of any proceeding to collect the taxes.

(3) The council may by by-law provide for the acceptance by the collector of moneys to be applied at a future date in payment of taxes and may in such by-law provide terms and conditions upon which such moneys shall be accepted and held and may allow interest thereon at a rate not exceeding five per cent per annum.

(4) The council may by by-law provide for the employment of persons to perform any work in and for the municipality upon the condition that the salary or wages payable to such persons shall be applied in payment of taxes due by such persons to the municipality.

Duty of collector to mail tax notice.

262. (1) The collector upon receiving his collector's roll, and not later than the tenth day of November in each year, shall with respect to each parcel of land upon the roll mail to or leave for the owner, or his duly authorized agent, and to the person or persons claiming notice under subsection (3) of section 237, a statement showing the taxes due upon each parcel of land, and upon the improvements thereon, in tabulated form as follows:

- (a) the short description of the land;
- (b) the classification of the land;
- (c) the value at which the land is assessed;
- (d) the value at which the improvements thereon are assessed if taxed;
- (e) the total amount of taxes imposed for the current year;
- (f) the total amount of arrears of taxes; and
- (g) the total amount of delinquent taxes and penalties.

(2) The notice herein provided shall show the several rates imposed under section 256.

(3) The notice herein provided may be served by mailing to the address as shown on the collector's roll or by personal service, and if service of such notice cannot be so effected, by conspicuously posting up the notice on the property affected.

(4) Any number of parcels of land assessed in the name of the same owner or owners may be included in one notice.

(5) The collector shall mail by registered post a true copy of the statement provided for in this section to every person from whom he has received during the then current year a request in writing for such copy; provided such request contains a description of the land in respect of which such copy may be required and shall be accompanied by a fee of twenty-five cents.

Duty to furnish on demand statement of taxes and other charges outstanding against land.

263. (1) The clerk or other proper official of any municipality shall on demand furnish or give to the owner of any land within the municipality a written statement of the arrears of taxes, rates or municipal charges, if any, charged against such land at that date; or to any person a certificate showing the arrears of taxes, rates or other municipal charges, if any, charged against any land within the municipality at that date; also showing whether such land has or has not been sold or advertised for sale for arrears of taxes within two years previous to the date of such certificate and if so sold within what time it may be redeemed and what amount is required to redeem it; and the municipality may charge a fee not exceeding one dollar for the making and delivering or mailing of each certificate, but no charge shall be made for a statement of arrears without a certificate.

(2) The said official shall further on demand without charge give to any rate payer who has paid his taxes, rates and assessments on lands or on lands and improvements a certificate that all municipal taxes, rates and assessments and charges charged, levied or assessed against the land or lands and improvements described in such certificate of such ratepayer have been fully paid and that all rates which have become due have been fully paid to the date of such certificate.

(3) No error in any statement or certificate so given under subsections (1) and (2) shall subject the municipality to damages.

264. All rates, taxes and assessments shall become due and payable within five days after the service, mailing or posting of such notice as provided by section 262 at the office of the collector. Date taxes due and payable.

265. Every collector shall at such times as may be directed by the council pay over the amounts as collected to the municipal clerk or deposit them to the credit of the municipality in a chartered bank designated by the council. Payment of amounts collected.

266. Upon all taxes remaining due and unpaid on the thirty-first day of December of the year in which such taxes were levied there shall be added an additional sum in the amount of a penalty of six per cent on such unpaid taxes. Penalty addition to unpaid taxes.

267. All persons paying taxes on or before the thirtieth day of November of the year in which such taxes are levied shall be entitled to a reduction of five per cent of the amount of such taxes. Discount.

268. The rates and taxes on lands and improvements together with the penalty in section 266 mentioned which are unpaid on the thirty-first day of December in every year shall be deemed taxes in arrears and shall bear interest from said date at the rate of six per cent per annum, and such interest shall be deemed to become part of the said arrears of taxes and the total amount of arrears of taxes shall be deemed to be a charge upon the parcel of land or improvements in all respects as if the said penalty or interest had originally formed part of the taxes assessed thereon. Penalty on taxes in arrears.

269. (1) All taxes on lands and improvements remaining unpaid on the thirty-first day of December in the year following that in which the taxes are imposed shall be deemed to be delinquent on the said thirty-first day of December. Delinquent taxes.

(2) All taxes which become delinquent at the date mentioned in subsection (1) shall thereafter bear interest at the rate of six per cent per annum until paid or recovered and such added interest shall be deemed to be part of the said delinquent taxes. Interest on delinquent taxes.

and a charge upon the parcel of land or improvements in all respects as if the said interest had originally formed a part of the taxes assessed thereon.

Application of tax payment.

270. Except as in this Ordinance otherwise provided no money received by the collector in payment of taxes due upon any parcel of land or the improvements thereon shall be applied to the payment of taxes of the then current year until all taxes which became due in previous years have been fully paid.

Rebate of penalty and interest additions.

271. The council of any municipality may by by-law provide that the owner of any land or land and improvements thereon on which taxes are delinquent or in arrears shall be entitled upon payment of the taxes prior to the date of the tax sale to receive a rebate or allowance of an amount not exceeding one-half of the total of the penalty added under section 266 and one-half of all interest added under section 269.

Recovery of taxes against Territorial lands where agreement holder has made default.

272. In any case in which the Government of the Yukon Territory or the Commissioner has agreed to sell lands situate within any municipality on conditions of deferred payment and in case the holders of such agreement of sale have defaulted in making payment for such lands or have abandoned such lands and the title thereto remains in the name of the vendor as aforesaid and in case the holders of such agreements have made default in the payment of any municipal taxes assessed against such lands by the municipality then in each such case the taxes assessed shall be a first charge against such lands and the Territorial Treasurer shall, at the time of selling such lands to another person, pay out of the proceedings of such sale to the municipality entitled to receive the same the amount of such taxes or fifty per cent of the amount received from such sale whichever is the lesser.

Liability of assessed owner and recovery by action.

273. (1) Any person whose name appears on the assessment roll of the municipality in any year as the owner of any land or improvements or any taxable interest therein within such municipality is liable to the corporation for

- (a) all taxes imposed by the corporation under this Ordinance upon such lands or improvements during such year and all taxes imposed in any previous year and remaining unpaid; and
- (b) all taxes or rates imposed under any by-law and falling due during such year and all such taxes or rates which have fallen due in any previous year and which remain unpaid.

(2) The liability imposed by this section shall be a debt recoverable by action brought by the corporation in the Territorial Court; a production of a copy of the whole or of so much of the collector's roll as referred to the taxes on lands payable by such person, written or printed without any erasure or inter-

lineation and certified as a true copy by the clerk of the municipality shall be prima facie evidence of the debt without proof of the signature of the clerk or the production of the original collector's roll or of the part of which such certified copy purports to be a copy.

(3) The liability imposed by this section shall not be enforced by action against any person whose name appears upon the assessment roll by reason of the fact that he is an executor, administrator or trustee of any estate except to the extent and value of the assets of such estate which shall have come into his hands.

274. (1) If any person fails to pay the collector the rates and taxes due and payable by him within thirty days after the same have become due and payable notwithstanding anything to the contrary contained in any Ordinance the collector may by himself or his agent levy the same with costs by distress of the goods and chattels of the person who ought to pay the same or of any goods and chattels in his possession wherever the same may be found within the municipality or of any goods or chattels found on the premises of such person the property of or in the possession of any other occupant of the said premises and the costs chargeable shall be those made payable by by-law passed by the municipal council and until or in default of the passing of such a by-law shall be those made payable in cases of distress for rents and penalties by the *Distress Ordinance*.

(2) If any person fails to pay to the collector rates and taxes due and payable by him within thirty days after the same have become due and payable, the assessor may give notice to any person from whom any debt is due or accruing due to such first mentioned person and the person served with such notice shall pay at once, or as soon as such debt accrues due, such rates and taxes to the collector to the extent of such debt or to the full amount of such rates and taxes whichever is the lesser and such payment shall be a discharge and release *pro tanto* of such debt to the extent of the amount of such payment to the collector and after such notice has been given and such debt is accrued due the assessor may levy distress of the goods of the person to the amount of such debt or so much as is sufficient to pay such rates and taxes and such distress shall be a discharge and release as aforesaid.

(3) No warrant shall be necessary to enable the collector to levy distress under this section or to justify him in so doing but it shall be sufficient for him to serve a notice personally or by prepaid registered mail on the person whose goods or on the goods in whose possession he is about to make distress of the amount claimed by him for rates and taxes and of the fact that he is about to make such distress.

(4) Goods distrained under this section 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 collector may leave any person or persons in charge of the same if he deems it necessary for their safe keeping.

Collector may
sell after five
days' notice.

275. The collector after giving five days' notice of sale by hand bills posted in at least five conspicuous places in the municipality 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 and taxes due and expenses incurred and shall pay the surplus, if any, to the owner of such goods if known to the collector or to the person in whose possession they were when the distress was levied.

Collector may
sue for taxes.

276. If a distress and sale of goods is made by the assessor under section 275 he may sue for any balance of rates and taxes due and unpaid after such sale in the manner provided by section 273.

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

277. (1) If any person, who is indebted to the municipality for rates and taxes due and unpaid and who has been served with a notice requiring him to pay the same, is about to leave the municipality the collector or clerk of the municipality may make an affidavit before a judge of the Territorial Court or before any police magistrate or justice of the peace that such person is indebted to the municipality for such rates and taxes and that he verily believes that such person is about to leave the municipality and that such rates and taxes will be lost unless the goods of such person are forthwith distrained or unless such person is forthwith arrested and thereupon such judge, police magistrate or justice of the peace, notwithstanding that the time in such notice has not expired, may by order direct the collector 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, police magistrate and justice of the peace seems proper.

(2) It shall not be necessary for the clerk or assessor to state in the affidavit mentioned in subsection (1) the grounds of his belief.

(3) Such order directing the assessor to levy distress shall authorize and justify the collector in making any distress which he could have made if such rates and taxes were due and payable.

(4) Such order that any person be arrested and held to bail shall be subject to all the Rules of Court made pursuant to the *Judicature Ordinance* respecting the arrest of defendants so far as the same relates to the execution of a special order and the imprisonment of any person thereunder.

278. In any action brought against any person for the recovery of rates and taxes due to a municipality where there is a defence pleaded, a certificate in writing purporting to be signed by the collector or clerk of the municipality that the defendant's name appears on the collector's roll of the municipality for the sum claimed from him for rates and taxes and that the said sum has not been paid shall without proof of handwriting be prima facie evidence in any court of such rates and taxes being due and unpaid.

Certificate of collector or clerk to be prima facie evidence of taxes due.

279. Any person absent or absconding from the municipality who is indebted for rates and taxes may be proceeded against for such rates and taxes under the Rules of Court made pursuant to the *Judicature Ordinance* respecting the attachment of personal property notwithstanding that the amount of such rates and taxes is less than one hundred dollars.

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

280. The rates and taxes 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 and taxes may be collected from such trustee or assignee in the same manner and by the same proceeding as if such rates and taxes had been rated on such trustee or assignee personally unless he satisfies the collector that sufficient money or property of such person to satisfy such rates and taxes has not come into his possession or under his control.

Taxes a lien against insolvent estate.

DIVISION V. SALE OF LANDS AND IMPROVEMENTS FOR
DELINQUENT TAXES.

281. (1) Within each year on a date fixed by the council by by-law or resolution passed before the twenty-eighth day of February in each year and, in default of such by-law or resolution, then on the fifteenth day of July in each year, at the council chamber of the municipality, at the hour of ten o'clock in the forenoon, the collector shall offer for sale by public auction all and every parcel of land and the improvements thereon upon which the taxes are delinquent.

Annual tax sale of lands for delinquent taxes.

(2) The collector may adjourn such sale until the same hour upon the following day and so from day to day until every such parcel is disposed of.

282. (1) The collector shall prepare a list of the lands to be sold as authorized by this Ordinance showing the respective owners thereof and the amounts 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 he shall cause the said list to be posted in a conspicuous place in his office and in three other public places within the municipality for four consecutive weeks before the day fixed for such sale and also

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

shall publish once, at least four weeks before the day fixed for the sale, a copy of said list in one or more newspapers published in, but, if no newspaper is published in the municipality, then in some newspaper published in the Territory and circulating in the municipality.

Heading. (2) The list described in subsection (1) shall be headed as follows:

“Sale of Lands inMunicipality
For Delinquent Taxes.

Notice is Hereby Given that the following lands in the
.....of.....will be offered for
sale for delinquent taxes on theday of
....., 19...., at ten o'clock in
the forenoon at”

Notice of sale. (3) Such posting and publication shall constitute good and effective service of said notice upon all persons named therein and all persons having any interest in the lands described therein.

Sale by auction. **283.** (1) At the time and place appointed for such sale the collector or his agent shall proceed to sell such lands and improvements at public auction to the highest bidder therefor.

Upset price. (2) From the proceeds of such sale the collector shall be authorized to receive a price equal to, or exceeding, the sum of the following amounts:

- (a) the total amount of delinquent taxes upon the land and upon the improvements thereon;
- (b) the total amount of taxes in arrears upon such land and upon the improvements thereon;
- (c) the total amount of the interest and penalty due to date;
- (d) the amount of the current year's taxes upon such land and improvements; and
- (e) a sum equal to the costs and expenses in and to such sale; which said sum shall be the upset price and shall be the lowest amount for which the land may be sold.

Conduct of sale. (3) If the price realized at the sale exceeds the sum of the amounts provided in subsection (2), the collector shall pay the balance to the owner of such land and improvements, if he is known to the collector, unless the said land and improvements are subject to a lien or encumbrance.

(4) If the owner of such land and improvements is not known to or cannot be found by the collector or if such land and improvements are subject to a lien or encumbrance, the collector shall pay such balance into the Territorial Court to abide the order of a judge thereof.

(5) Upon the sale of such land and improvements, the collector shall deliver to the purchaser a receipt for the price paid in Form J.

(6) Every purchaser at a tax sale, other than the municipality, at the time of such sale and before he is given a receipt in Form J, shall by himself or his agent sign a statement setting out his full name, occupation and post office address.

(7) In the event of there being no bid for or no bid equal to the upset price of any land and improvements, the municipality shall be declared to be the purchaser thereof.

(8) If the purchaser of any land or land and improvements fails to pay immediately to the collector the amount of the purchase money, the collector forthwith shall put up again the said land or land and improvements for sale.

284. Any mortgagee, judgment creditor or other person having an encumbrance or lien upon or against any land and improvements advertised for sale under this Ordinance may pay the sum provided in subsection (2) of section 283 and obtain from the collector a certificate to that effect and thereupon shall be entitled to add the amount so paid to the amount due on such mortgage, judgment, encumbrance or lien.

Mortgagee may pay amount due and add same to mortgage.

285. (1) No error, informality or irregularity on the part of the assessor, the Court of Revision, the collector or of any municipal 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 tax or rate levied, distrained for or collected.

Error to affect validity of assessment.

(2) The invalidity, irregularity or illegality of any individual assessment, tax or rate shall not extend to affect the validity of any general assessment tax or rate or of any other assessment, tax or rate.

286. (1) No application for an order for confirmation of a sale of lands or improvements for taxes made under this Ordinance shall be heard by a judge until three months have elapsed since the date of the sale to be confirmed.

Application to confirm sale of land not to be made until three months after sale.

(2) With leave of the judge, notice of such application may be given by one publication in a newspaper published in the municipality, or, if there is no such newspaper, in a newspaper published in the Territory and circulating in the municipality, at such time in advance of the day on which the application is to be made as the judge shall direct.

Notice of application.

(3) In such notice the names of all persons appearing by the records of the Land Titles Office on the date of the sale to be confirmed and of all persons appearing on the collector's roll to have any interest in the lands and improvements sold shall be set forth.

(4) The notice shall be given by summons of the judge obtained *ex parte* returnable in such time as the judge directs after service thereof.

Who may make application.

(5) The application to confirm a tax sale made under this Ordinance may be made by the collector making the sale, the solicitor for the municipality, the clerk of the municipality or any person interested in the sale.

Person interested may pay taxes and costs.

287. Any person having an interest in lands or improvements sold for taxes may redeem the same at any time before the time for hearing of the application for confirmation of the sale of such lands or improvements by paying to the purchaser or his assignee the amount of the purchase money paid therefor and any further sums charged against the said lands and improvements and lawfully paid together with twenty per cent of the said amount and sums and such costs as a judge may allow.

After payment of taxes, costs and interest, purchaser's interest to cease.

288. From the time of the payment to the purchaser or his assignee of the amount mentioned in section 287 all right and interest of the purchaser in said lands and improvements shall cease and determine and he shall give a receipt for such payment and the person making such payment shall advise the collector of such redemption.

Collector's receipt is prima facie evidence that Ordinance complied with.

289. (1) Subject to the foregoing sections, on any application for an order for the confirmation of such sale the production of a receipt for the price paid for the lands and improvements signed by the collector or his agent shall be prima facie evidence that all conditions have existed and all acts been performed and all requirements of this Ordinance in that behalf have been complied with which are necessary to entitle the applicant to the order of confirmation.

Receipt to be conclusive evidence if application to confirm not made for six months.

(2) If such application is 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 have been performed and all requirements of this Ordinance in that behalf have been complied with which are necessary to entitle the applicant to the order of confirmation, except on proof of any one or more of the following:

- (a) fraud or collusion;
- (b) that all taxes have been paid previous to the sale; or
- (c) that the land was not liable to assessment.

Collector to give transfer.

290. Forthwith upon the granting of an order of a judge confirming the sale, the collector shall in his own name as such collector execute and deliver to the purchaser a transfer in Form K which shall be as effectual to transfer and convey all the estate of the owner thereof in the land sold as if the same had been executed and delivered by such owner to such purchaser and as if such land was free of all liens and encumbrances.

291. No action shall be commenced for anything done in pursuance of any provisions of this Part after six months from the date of the act complained of and the place of trial of every such action shall be within the municipality where the lands or improvements, in respect of which the act complained of was committed, are situate. Action must be brought within six months.

DIVISION VI. MUNICIPAL TRADE LICENCES.

292. (1) It shall be lawful for the council of every municipality to pass by-laws for granting, suspending or cancelling licences for carrying on within the municipality all or any of the trades, businesses, professions, occupations, callings, employments or purposes hereinafter mentioned, and for inspecting, regulating, governing or controlling the conduct thereof, and the premises on which the same or any of them are respectively carried on, and for imposing and collecting licence fees from any and all persons holding or required to hold such licences as follows: Licensing powers respecting certain occupations and trades.

- (a) every person keeping any premises where a billiard-table or pool-table is used for hire or profit; Poolrooms.
- (b) any person keeping a bowling alley for hire or profit; Bowling alleys.
- (c) any person keeping a rifle gallery or shooting gallery for hire or profit; Rifle galleries.
- (d) any person carrying on the business of a wholesale or retail merchant or trader; Wholesale merchants.
- (e) any person of any of the classes of retail traders as classified under this paragraph; and for the purposes of this paragraph the council may classify retail traders according to the character or extent of the business or the number of distinctive lines of goods, wares or merchandise sold, and impose licence fees of different amounts for different classes, and may determine what shall constitute a distinctive line of goods, wares or merchandise; Retail traders.
- (f) any person of any of the classes of manufacturers or brewers as classified under this paragraph; and for the purposes of this paragraph the council may classify manufacturers and brewers according to the character or extent of the business or the number of distinctive lines of goods, wares or merchandise produced, processed, finished or manufactured and impose licence fees of different amounts for different classes and may determine what shall constitute a distinctive line of goods, wares or merchandise or a distinctive process of manufacture or production; Manufacturers and brewers.
- (g) any hawker, pedlar or huckster as classified under this paragraph; and for the purposes of this paragraph the council may classify hawkers, pedlars or hucksters according to the character or extent of the business or the number of distinctive lines of goods, wares, merchandise or food-stuffs sold or offered for sale by them, and impose licence Hawkers.

- fees of different amounts for different classes, and may determine what shall constitute a distinctive line of goods, wares, merchandise or foodstuffs;
- Street vendors of fuel. (h) any person who goes from place to place or house to house taking orders for or selling or offering for sale, or who takes orders for or sells or offers for sale or vends on any street, lane or public place in any municipality, any kind of fuel, whether in full loads or parts of a load, and whether such person is so acting on his own behalf or is a servant or employee of another;
- Agency of outside merchant. (i) any person who either on his own behalf or as agent for another, sells or solicits or takes orders for the sale, by retail, of goods, wares or merchandise to be supplied by any person not doing business in the municipality;
- Barbers or hairdressers. (j) any person who carries on the business of a barber or hairdresser;
- Laundry. (k) any person keeping or carrying on a public laundry;
- Pawn brokers. (l) any person carrying on the business of a pawnbroker;
- Second-hand dealers. (m) any person carrying on the business of a second-hand or junk dealer;
- Vehicles for hire. (n) any person owning or keeping cabs, carriages, carts, drays, trucks, motor cars, automobiles or other conveyance or vehicle for hire, whether with or without a driver;
- Drivers of vehicles for hire. (o) the driver, other than the owner, of any cab, carriage, cart, wagon, dray, truck, motor car, automobile or other conveyance or vehicle kept for hire;
- Livery stable. (p) any person keeping a livery stable;
- Second-hand automobile dealers. (q) any person carrying on the business of a dealer in second-hand or used automobiles or motor cars;
- New automobile dealers. (r) any person carrying on the business of a dealer in new automobiles or motor cars or a dealer in both new and second-hand automobiles or motor cars; the holder of any licence under this or paragraph (q) shall also be entitled to carry on the business of selling automobile accessories, gasoline, oil and supplies, and of repairing automobiles or motor cars without taking out any further licence therefor;
- Bankers. (s) any bank or person carrying on the business of a banker at one place of business;
- Restaurant. (t) any person carrying on the business of a restaurant providing full course meals for consumption in the premises of the licensee;
- Lunch counters. (u) any person carrying on the business of a lunch counter, ice cream parlour, refreshment room or other business providing food or beverages prepared for consumption in the premises of the licensee;

- (v) every person letting individual rooms, suites or rooms or lodgings for hire, either in a hotel, rooming house, apartment house, lodging house, auto camp or elsewhere and whether or not board or meals are supplied to the occupants thereof; except that persons having not more than two rooms available for letting shall not be required to take out or hold a licence under this paragraph; Hotel and lodging house keepers.
- (w) any person carrying on the business of manufacturing beverages for human consumption or of selling the same wholesale which shall be in addition to his licence fee for a wholesale merchant or trader; Beverage manufacturers.
- (x) every person carrying on the business of a shipbuilder or shipyard; Shipbuilders.
- (y) any person selling property by auction other than a Crown officer selling Crown property by auction, or a sheriff, sheriff's officer or bailiff selling lands, goods or chattels under a judgment or in satisfaction of rent or taxes; Auctioneers.
- (z) any transient trader doing business within the municipality; and in this paragraph the expression "transient trader" means a person who, on commencing the business of offering goods or merchandise of any description for sale by auction or otherwise in the municipality and being requested by the clerk, collector or licence inspector of the municipality to give security to the municipality in the amount of the licence fee required by the by-law that he will carry on business as a trader in the municipality continuously for not less than six months, refuses or neglects to give such security forthwith to the satisfaction of the clerk, collector or licence inspector; Transient traders.
- (aa) any transient real estate agent or land agent; and for the purpose of this paragraph the expression "transient real estate agent or land agent" means any person who, either on his own behalf or as agent for another, sells, solicits or takes orders or agreements for the sale or transfer of lands or any interest therein situate outside the municipality and is not a tenant or occupier of business premises within the municipality, or who, if such tenant or occupier on being required by a police officer or by the collector, licence collector or licence inspector of the municipality to give security to the corporation in the amount of five hundred dollars that he will carry on business as a real estate agent or land agent in the municipality continuously for not less than six months, refuses or neglects to give such security forthwith to the satisfaction of such collector; Transient real estate agents.
- (ab) any person who exhibits a public circus, menagerie, hippodrome, horse show, dog or pony show; Circuses and shows.
- (ac) from the proprietor, lessee or manager of any theatre, moving picture theatre, amusement hall, concert hall, music hall, rink, amusement park or other place of Theatres and amusement halls.

amusement, entertainment or exhibition; except that where one building contains more than one theatre, hall or other place of amusement within the scope of this paragraph a separate licence fee shall be payable in respect of each of them; provided further that no such licence is required in respect of any performance, concert exhibition or entertainment, the entire proceeds of which, over and above actual bona fide expenses, are devoted or given to any church, school, hospital, charitable war fund or patriotic purposes;

- Express companies. (ad) any person carrying on the business of an express company;
- Public utility companies. (ae) any telephone company, electric light company, gas company, street railway or tramway company, power company or water works company; and in the event of one company carrying on business of more than one of the kinds or descriptions hereinbefore in this paragraph enumerated, it shall be liable to hold and pay for a licence in respect of each kind or description of business so carried on;
- Trust and loan companies. (af) any person carrying on the business of a trust company, investment, loan or mortgage agency, society or company;
- Fur traders. (ag) any person carrying on the business of a fur trader;
- Waxworks and exhibitions. (ah) any person exhibiting for gain or profit waxworks, circus riding, rope walking, dancing, tumbling, wrestling, or other acrobatic or gymnastic performance, wild animals, trained animals, natural or artificial curiosities, legerdemain, juggling or other like tricks, glass-blowing, tableaux, or other performance, collection or exhibition when the same is exhibited elsewhere than in a theatre or other place duly licensed under paragraph (ac);
- Stevedoring. (ai) any person who carries on the business of a stevedore or who takes contracts to load or unload ships;
- Plumbing, heating and contracting. (aj) any person carrying on the business of a plumber, domestic, heating or sanitary engineer, building contractor or electrical contractor;
- Gasoline service stations. (ak) any person carrying on the business of a gasoline service station, but this paragraph does not apply to any person who operates a garage and pays a licence therefor;
- Storage garages. (al) every person who carries on the business of a garage for the sale or storage of automobiles or trucks;
- Delivery trucks. (am) the owner or driver of every truck plying for hire or used for the delivery of wood, coal, merchandise or other commodity;
- Collection trucks. (an) the owner or driver of any truck used for the collection of produce, wood, merchandise or other commodities from premises within the municipality not in the occupation of such owner or driver;
- Gasoline delivery trucks. (ao) the owner of every truck used for delivery of gasoline and oil to service stations;

- (ap) every person following within the municipality any profession, business, trade, occupation, employment or calling not hereinbefore enumerated, or who enters into or carries on any contract to perform any work or furnish any material; and it shall be competent for the council by by-law, in its discretion, more fully or expressly to enumerate, designate, distinguish, subdivide or classify any or all such professions, businesses, trades, occupations, employments or callings or contractors for the purpose of imposing licence fees in respect thereof; and
- (aq) any person who either on his own behalf or as agent for another solicits or takes orders for work or services to be performed outside of the municipality by a person not doing business within the municipality.
- (2) In every case where a person is a member of a partnership firm, it shall be sufficient compliance with this section if one licence is taken in the name of the partnership firm and one tax paid therefor.
- (3) Any person paying a licence fee under this section shall be entitled to change his place of business at pleasure, but not to carry on business at two places at the same time under one licence.
- (4) The provisions of this section shall not apply to bona fide commercial travellers, who sell goods, merchandise or any effects whatever or offer the same for sale to bona fide merchants, either wholesale or retail, within the municipality for resale by such merchants in the ordinary course of their respective businesses.
- (5) Notwithstanding anything in this or any other Ordinance, and notwithstanding any fee paid or licence issued under any other Ordinance, the council of any municipality may pass by-laws for imposing upon every person practising, following, engaging in or carrying on the profession, calling or occupation of a solicitor or barrister-at-law, physician, surgeon, medical practitioner or specialist, pharmacist or chemist, engineer, land surveyor, optometrist, refractionist, dentist, dental surgeon, osteopath, chiropractor, faith healer, mental healer or other healer of human diseases or ailments, or veterinarian.
- (6) It shall be lawful for the council of any municipality, by by-law passed by an affirmative vote of three-fifths of all the members present at the passing thereof, to enter into an agreement or agreements with any other municipality or municipalities within the Territory to provide that a trade licence issued to any or all classes of traders having a place of business in a municipality which is a party to such agreement shall entitle any trader or the class or classes named in such agreement to take orders for and to deliver goods, wares and merchandise in any other municipality which is a party to such agreement without obtaining a trade licence therein; but nothing in this subsection shall entitle any person to have a place of business at two places at the same time under one licence.

Professions
and
occupations
not herein
before
enumerated.

Agents.

Partnership
licence.

Place of
licensed
business.

Commercial
travellers.

Power to
impose tax on
persons
practising
professions.

Inter-
municipal
trade licences.

Power to refuse to grant licences.

(7) Notwithstanding anything in this Ordinance, or in the by-laws of the municipality, the council may by the unanimous vote of all members present refuse in any particular case to grant the request of an applicant for a licence under this section.

Taking out licence.

293. Every person engaging in, following, practising, carrying on or exercising within a municipality any trade, business, profession, occupation, employment, calling or purpose enumerated, described or named in section 292 shall take out a licence therefor, paying for such licence such fee as is fixed by by-law of the council, which said fee shall be paid in advance to the clerk of the municipality.

All licences under direction and control of municipal council.

294. (1) All licences shall be issued by the clerk of the municipality and the matter of applications for licences and their issue and all matters incidental thereto shall be under the direction and control and with the council of the municipality and all licence fees under this Ordinance shall be collected by the clerk of the municipality or some person appointed to assist him by the municipal council.

Application for licences.

(2) All applications for licences shall be in writing setting forth the following particulars:

- (a) the name, occupation and address of the applicant;
- (b) the nature of the licence applied for;
- (c) the place where the trade, occupation, business, profession, employment or calling, if licensed, will be carried on; and
- (d) further particulars as the council may require.

One licence for one place of business.

295. One licence shall be sufficient for any one place of business for a partnership or company.

All licences expire 30th April.

296. (1) Unless it is expressly issued for a lesser period and so endorsed, a licence shall be for the year current at time of issue thereof and shall expire on the thirtieth day of April next thereafter.

Annual fee.

(2) The fee payable in respect of any licence shall be an annual fee whether the licence is issued on the first day of May in any year or on any later day, unless it is expressly paid for a licence for a shorter period or a particular occasion or event and the licence is so endorsed.

Licences to be produced.

297. When required so to do by the municipal clerk, any member of the council, or any judge, police magistrate, justice of the peace or police officer, every licensee shall produce and show his licence or licences.

Transfer of licence.

298. (1) With the consent of the council, licences may be transferred if the applicant for such transfer of licence files with the municipal clerk an application in writing setting forth

- (a) the name, occupation and address of the applicant;

- (b) the nature and number of the licence to be transferred;
 - (c) the name and address of the licensee from whom the licence will be transferred;
 - (d) the place where the applicant will carry on business under the licence;
 - (e) the real consideration or reason for the transfer of the licence; and
 - (f) such other particulars as the council may require.
- (2) A fee of one dollar shall be paid to the municipal clerk upon the filing of every application for a transfer of licence.

299. Wherever by this Ordinance or any other Ordinance power is given to a municipality to grant or issue licences for any trade, business, profession, occupation, calling, employment or purpose, the council has power to revoke or suspend any licence so granted in the event of the holder of such licence being convicted of a breach of any law or by-law relating to the trade, business, profession, occupation, calling, employment or purpose in respect of which such licence has been granted or issued; and in such case the municipality is not liable to refund any part of the fee paid by the licensee in respect of such licence. Revocation of licence.

300. Within a municipality no person shall engage in, follow, practise, carry on or exercise any trade, business, profession, occupation, calling, employment or purpose enumerated, described or named in section 292 without having taken out and had granted to him a licence in that behalf, under a penalty, on summary conviction, not exceeding five hundred dollars for every such violation of this Ordinance together with the amount which should have been paid for such licence which said amount and penalty, for the purposes of recovery under this Ordinance, shall be held to be one penalty. Penalty.

DIVISION VII. LOCAL IMPROVEMENT AND ASSESSMENT.

301. (1) The term "local improvement" means the opening, widening, straightening, extending, grading, levelling, macadamising, paving or planking on any street or public lane, alley way or place, sidewalk or bridge forming part of a highway; or the curbing, sodding or planting of any street or public lane, alley, square or other public way or place; or the making, deepening, enlarging or prolonging of any common ditch, drain or sewer; or the reconstruction, but not the repair and maintenance, of any of the said works. "Local improvement" defined.

(2) The term "special frontage assessment" means a rate charged according to the lineal measure along the front of the several lands fronting on the street or place whereon or wherein the improvement is to be made for the purpose of paying for such local improvement which rate shall be computed by dividing the total charge to be provided by special frontage assess- "Special frontage assessment" defined.

ment on said lands by the number of lineal feet frontage of such lands on the street or place whereon or wherein the local improvement is to be made.

Power of council re local improvements.

302. A municipal council may pass by-laws

(a) for ascertaining and finally determining what portion, if any, of the cost of any local improvement should be borne by the municipality at large;

Special frontage rate.

(b) for assessing, by way of a special frontage assessment, the cost, or a portion of the cost, of any local improvement upon the lands fronting upon the street or place wherein or whereon the local improvement is to be made, and for levying such cost, or portion thereof, by a special rate upon such lands;

Payment of rates.

(c) for regulating the time or times and manner in which the rates for such improvements are to be paid; and

Borrowing for local improvements.

(d) for borrowing, by way of temporary loan upon the credit of the municipality at large, any moneys required to meet the cost of any local improvements, provided that such temporary loan shall mature within six months from the making thereof.

Action upon petition re local improvements.

303. An assessment or levy shall be made under a by-law passed under paragraph (b) of section 302, upon petition to the municipal council of at least two-thirds in number of the persons registered or assessed as owners of the lands fronting on the street or place wherein or whereon the improvement is proposed to be made, representing at least one-half of the value of such land, excluding improvements thereon.

Discretion re petition.

304. The request of the petition may be acceded to by the council, either in respect to the whole or a part of the street or place proposed to be improved.

Petition sufficient authority.

305. After the council has resolved to grant the request of any such petition, in whole or in part as aforesaid, it shall be lawful for the said council, in the same or the succeeding year, to carry on the proposed improvement or service to completion before making the assessment therefor, and such petition so presented shall stand good as authority for undertaking any such improvement, and making such assessment or assessments, and passing all necessary by-laws, whether the improvements shall have been or shall be undertaken and completed by the council to whom such petition is presented or by the council in the succeeding year.

Assessment without petition.

306. (1) A municipal council may by resolution direct that the cost of the construction of any sidewalk or portion thereof, which is hereafter constructed at the cost and expense of the municipality, shall by special frontage assessment be charged against the several lots of land opposite which the sidewalk or portion thereof is constructed as aforesaid, notwithstanding that the council has not been petitioned to do so.

(2) At the time for levying the annual rates and taxes next after the passing of any such resolution the collector shall add a column to the collector's roll headed, "Sidewalk Improvements" and shall insert therein opposite the respective lots of land directed to be charged as aforesaid, the respective amounts by such resolution directed to be charged against such lots of land, which amounts shall be a lien and tax against said lots of land; and shall levy the said amounts in the same manner and with the like penalties and remedies that other rates or taxes against land may be levied under Division I of this Part.

Sidewalk improvements assessment.

(3) The word "land" wherever used in sections 305 and 306 shall be construed to mean land adjoining the same side of the street as that on which the sidewalk or portion thereof is so constructed.

"Land" defined.

307. There shall be a right of appeal against every assessment and rating made under the authority of any by-law passed under the provisions of the sections of this Division to the Court of Revision appointed under section 249.

Right of appeal.

308. Notice of every proposed special frontage rate shall be given by the assessor to the persons registered or assessed as owners or addressed to the last post office address of each such owner known to the assessor, and to all interested persons claiming notice of assessment under subsection (3) of section 237 of every parcel of land to be charged therewith by registered letter, and according as the improvement has actually been made or is only contemplated, and the notice shall set forth

Notice of special rate to be given.

Contents of notice.

- (a) the probable lifetime of the proposed improvement as being the period over which the cost will be spread;
- (b) the probable or actual cost of the improvement;
- (c) the portion, if any, of the costs to be borne by the municipality at large;
- (d) the portion of the cost to be borne by special frontage assessment;
- (e) the frontage of the property upon which the special frontage assessment is to be levied stated in lineal feet;
- (f) the rates of special frontage assessment per foot of frontage;
- (g) the amount chargeable to each lot or parcel of land assessed according to the rate per foot frontage;
- (h) the value of the land chargeable with the special frontage rate, exclusive of all improvements thereon; and
- (i) the time fixed for sittings of the Court of Revision for the hearing of appeals in respect of the assessment and proposed special rate; such sittings to be not earlier than fifteen days from the date of mailing of the notices.

Proof of notice.

309. A memorandum by the assessor in any proper book or roll kept for that purpose of the mailing of such notices and the date thereof shall be prima facie evidence of the mailing of such notices in accordance with section 308 on the date mentioned in the memorandum.

Decision of Court of Revision final.

310. The decision of the Court of Revision shall be final and conclusive upon all matters respecting the assessment and special rate made and levied under this Division, and the Court of Revision shall have power, in the event of the special frontage assessment of any party being decreased or increased on appeal, to raise or lower proportionately the special frontage assessment of the other parties so assessed without further notice.

How by-law to be dealt with.

311. (1) Except as provided in subsection (2) no by-law passed under the provisions of this Division shall require the assent of the electors.

(2) If the council in any case of local improvements provides that more than one-third of the total cost of improvements shall be paid by the municipality at large and such sum shall be greater than can be properly paid out of the current revenues of the year during which the improvement is made, then, and in every case, the council shall pass a separate by-law for the portion of money to be provided by the municipality at large, and said by-law shall, before being finally passed, receive the assent of the electors in the manner prescribed by Part VIII.

PART XIII.

MISCELLANEOUS.

Proof of appointment of officers.

312. When, at the trial of any action or complaint in any Court, it is necessary to prove the appointment of any officer of the municipality, a certificate under the hand of the municipal clerk and seal of the municipality, stating the time and manner of the appointment of such officer and of his having been sworn into office, shall be sufficient proof of the appointment and of his having been sworn into office without any proof of the handwriting or signature of the municipal clerk or of the seal or of the official character of such municipal clerk.

Who may administer oaths.

313. (1) When no provision is made in this Ordinance for the administering of any oath or affirmation required to be administered or taken the same may be administered by the mayor, the police magistrate or any justice of the peace.

(2) When an oath or affirmation is directed to be administered by or taken before any officer or person, the authority to administer such oath or affirmation is included.

314. (1) A penalty or fine under any by-law of a municipality shall, if no other provision is made respecting it, belong to the municipality for the public use of the same and form part of its general revenue. Penalties collected under municipal by-laws.

(2) In the event of any person being committed to gaol by reason of a breach of a municipal by-law, there shall be chargeable to the municipality such part of the expenses paid by the Government of the Yukon Territory for the transport of such person to gaol and for his maintenance while there as may be designated by the Commissioner in Council. Expenses incurred in enforcing penalty under municipal by-law.

PART XIV.

ADMINISTRATIVE COMMISSION.

315. (1) In case a municipality for any reason fails to provide for the payment of either the principal money of or the interest on any debentures issued or guaranteed by the municipality, when the payment is due, any creditor or any elector of the municipality may apply to a judge of the Territorial Court for an order authorizing the appointment of an Administrator for the municipality to carry out the duties and functions provided for in this Part and upon such order being made the Commissioner in Council may appoint such an Administrator for that municipality. Appointment of Administrator.

(2) In the event that at any plebiscite held for the purpose of determining whether or not the electors of a municipality prefer to have that municipality governed by an Administrator appointed to carry out the duties and functions provided for in this Part three-fifths of all votes cast be in favour of such appointment, the Commissioner in Council may appoint such an Administrator for that municipality.

316. An Administrator appointed under this Part shall have all the powers and authority theretofore vested in or exercisable by the mayor or reeve, the council, the municipal clerk and other officers of the municipality and he shall be paid out of the municipal revenue collected by him such salary and other expenses incidental to his administration as may be authorized by the Commissioner in Council. Powers vested in Administrator.

317. (1) Upon the appointment of an Administrator for a municipality under this Part, the members of the council, the municipal clerk and all officers of the municipality shall be deemed to have retired from office, and all the rights, powers and authority theretofore vested in or exercisable by the mayor or reeve, the council, the municipal clerk and all other officers of the municipality by or under the provisions of this Ordinance or any other Ordinance shall be vested in and exercisable by the Administrator for the municipality.

(2) Nothing contained in this section shall operate to prevent the full exercise by the Administrator for the municipality of the powers exercisable by the council under paragraphs (5) and (6) of section 151.

By-law powers.

318. An Administrator appointed for a municipality under this Part shall have power to pass such by-laws as might be passed by the municipal council and shall submit the same for the approval of the Commissioner and, upon being approved, those by-laws as from the dates approved by the Commissioner shall come into force and be valid and binding in all respects as by-laws of the municipality.

Court of Revision, assessor and collector.

319. (1) All the powers vested in the municipal council as a Court of Revision and in the assessor and collector for the municipality shall be vested in the Administrator for the municipality.

(2) Nothing contained in this section shall operate to prevent the full exercise by the Administrator for the municipality of the powers exercisable under section 227.

Reports.

320. The Administrator for a municipality shall make a report to the Inspector of Municipalities whenever and upon such matters as may be directed by the Commissioner.

Substitution of appointee.

321. (1) The Commissioner in Council may at any time cancel the appointment of the Administrator for a municipality, whereupon all the powers vested in him under this Ordinance shall cease and determine, and may appoint another Administrator for the municipality in his place.

(2) When any Administrator for a municipality dies, the Commissioner may appoint an Acting Administrator in place of the Administrator who has died.

(3) An appointment made under subsection (2) shall be only for the period from the date of the death of the Administrator to the date of the appointment of his successor at the next session of the Council of the Territory.

Power of Commissioner in Council to provide for election where Administrator has been appointed.

322. At any time the Commissioner in Council by regulations may provide for the election in any municipality, for which an Administrator has been appointed under this Part, of a municipal council and, upon their election, may by order revoke the powers and authority vested in the Administrator for the municipality and thereupon the municipal council shall have and may exercise all the powers and authority conferred by Ordinance or by law upon municipal councils.

Regulation.

323. For the purpose of carrying into effect the provisions of this Part, the Commissioner may make such regulations not inconsistent with the spirit of this Ordinance as he considers necessary or advisable; and for that purpose may provide for

any proceeding, matter or thing for which express provision has not been made in this Ordinance, or for which only partial provision has been made including the removal of any difficulty which may arise in the administration by an Administrator for a municipality and the prescribing of such methods of procedure governing his administration as may be considered desirable.

324. (1) With the approval of the Commissioner, an Administrator for the municipality may appoint a person as Acting Administrator for the municipality who shall have and may exercise all the powers and authority of the Administrator for the municipality during the temporary absence of the Administrator for the municipality at any time or when he is for any reason unable to perform his duties.

(2) Where an Acting Administrator for a municipality appears to have acted in the exercise of any power or authority of the Administrator for the municipality, it shall be conclusively presumed that he so acted for one of the reasons mentioned in subsection (1).

325. Every assessment roll for any municipality for which an Administrator has been appointed under this Part, as determined or confirmed by the Court of Revision, or by the Administrator or by the Acting Administrator for the municipality purporting to sit as the Court of Revision, and as further determined and confirmed on appeal from the Court of Revision, shall be deemed to be valid and binding on the municipality and on all persons.

326. Notwithstanding any other provisions of this Ordinance, but without in any way affecting the provisions thereof in so far as they relate to complaints or appeals against assessments of improvements, no complaint to the Court of Revision and no appeal to a judge of the Territorial Court as in this Ordinance provided shall be sustained or allowed on the ground that any land in a municipality, the affairs of which are being administered by an Administrator appointed under this Part, has been valued at too high an amount in any case, if the assessment of land complained of or appealed against is not more than the assessed value of the same land in and according to the revised assessment roll for the year immediately preceding.

PART XVI.

SCHOOL LEVY

327. (1) There shall be levied by the Government of the Yukon Territory from each municipality in the Territory on the total annual assessment of such municipality, a rate not to exceed ten mills.

Chap. 79.

Municipal.

Levy to be prior charge.

(2) The rate imposed by this section shall be a first charge on the amount tendered by a ratepayer on account of his taxes and shall be paid in full to the Territorial Treasurer before any portion of said amount is applied against municipal rates due or accruing due.

Levy to be for school purposes.

328. The amount collected pursuant to the rate imposed by this Part shall form part of the Yukon Consolidated Revenue Fund and shall be used for school purposes within the Territory.

Payment by municipality.

329. The amounts collected in any one month pursuant to this Part shall be forwarded to the Territorial Treasurer on or before the fifteenth day of the month next following the month in which the collection was made.

Inspection of records.

330. The accounts and records of every municipality shall be available at any time for inspection by an official who may be designated by the Commissioner for that purpose.

Rate to be set annually.

331. In each year, the rate mentioned in section 327 shall be set by the Commissioner on or before the 31st day of December in the year next preceding the year in which such rate shall be imposed and collected.

FIRST SCHEDULE.

FORM A.

PROCLAMATION.

..... of

Public notice is hereby given to the electors of the
 of that if a
 poll shall be granted for the election now pending for the
 said such poll will be open on,
 the day of, 19.....,
 from the hour of nine o'clock in the forenoon till six o'clock
 in the afternoon at the polling stations hereinafter designated
 in and for each of the following polling divisions, that is
 to say:

For Polling Division No. 1, consisting of those electors
 whose surnames commence with the letters from
 to (or whose residences are in the area bounded
 as follows or as the division is otherwise
 designated) at (here clearly describe the
 polling place)

For Polling Division No. (and so continue for all
 the other polling divisions and stations in the municipality)

And I will at, 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 the of
 in the Yukon Territory, this day of,
 19.....

(signature)

.....
Returning Officer.

FORM B.

OATH OF OFFICE.

“I,, do swear that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of to which I have been appointed (*or* elected) in and for the of, in the Yukon Territory, and that I have not received any payment or reward, or promise of such, for the exercise of any partiality or neglect or undue execution of the said office, and that I have not, myself nor on behalf of any other person, either directly or indirectly any interest in any contract with or on behalf of the said municipality.”

FORM C.

OATH OF RETURNING OFFICER.

“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; and I will return to the municipal clerk a true and faithful account of the votes polled in this election; and I will faithfully discharge my duty at the election to the best of my knowledge and judgment.”

FORM D.

BALLOT PAPER FOR ELECTION OF A MAYOR.

FOR MAYOR
JONES, John
LOW, Sam
PATRICK, James

FORM DD.

BALLOT PAPER FOR ELECTION OF THE ALDERMEN.

FOR ALDERMEN
ABEL, James
BRUCE, Don
FERGUSON, John
MILTON, Tom
PETERS, James

FORM E.

OATH OF DEPUTY RETURNING OFFICER, POLL CLERK, CANDIDATE OR AGENT.

"I,, do swear that I will not at any time disclose to anyone the name of any candidate for whom any person has voted at the election to be held in the of, on the day of, 19....., and that I will not unlawfully attempt to ascertain the candidate or candidates for whom any elector has voted, and will not in any way aid in the unlawful discovery of the same; and that I will keep secret all knowledge which may come to me of the person for whom any elector has voted. So help me God."

FORM F.

OATH OF VOTER.

"You do solemnly swear that you are the person named, or purporting to be named by the name of on the voters' list now shown to you; that you have not before voted at this election and that you have not received or been promised any consideration whatsoever for voting at this election, and that before the day of nomination for this election you have paid all taxes in arrears due by you to the of, and that you are a British subject of the full age of twenty-one years. So help you God."

FORM G.

OATH OF ILLITERATE PERSON.

"I,, a voter named in the voters' list for Polling Subdivision No. of the of do hereby swear that I am unable to read (or that I am from physical incapacity unable to mark a ballot paper.) So help me God."

FORM H.

OATH OF QUALIFICATION.

"I,, do swear that I am a British subject of the full age of twenty-one years; that I had at the time of my election (or appointment) to the office of in the of and still have, in my own right, such an estate as does qualify me to act in the said office, and that such estate is , and is of the value of dollars over and above all charges, liens and encumbrances affecting same.

....."

FORM I.

DECLARATION OF MUNICIPAL ASSESSOR.

C A N A D A
YUKON TERRITORY
TO WIT:

I, (name of municipal assessor), do solemnly declare that the within roll has been prepared by me, under the provisions of the *Taxation Ordinance*, as the assessment roll for the of....., for the year....., and that I have therein set out to the best of my judgment and ability the true value of the land and improvements within the municipality in accordance with the said Ordinance; 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 the }
of..... in the Yukon Territory }
this day of....., 19..... }

.....
A Commissioner etc.

FORM J.

MUNICIPAL TAX SALE INTERIM RECEIPT.

The..... of....., Yukon Territory.
Tax Sale Interim Receipt No.
Roll No.

Received from..... (name)..... (address)..... (occupation), the sum of..... dollars, in payment of the following property purchased at tax sale on the..... day of....., 19....., (here describe land according to Lot, block, subdivision and townsite)....., in the Yukon Territory.

This receipt to be surrendered to the tax collector on delivery to purchaser of transfer of the above property under the *Taxation Ordinance*.

.....
Tax Collector for

FORM K.

MUNICIPAL TAX SALE TRANSFER.

I,, of, by virtue of authority vested in me to sell lands for arrears of taxes by the *Taxation Ordinance*, do hereby, in consideration of the sum of dollars paid to me by (name of transferee, his address and his occupation), transfer to the said (name of transferee) all that piece of land being (here describe land according to Lot, block, subdivision and townsite) in the Yukon Territory.
 Dated the day of, 19

Signed by the above named }
 }
 in the presence of } (*Signature of Collector with official seal*)

(NOTE: before this transfer is presented to the Registrar for registration in the Land Titles Office the following affidavit must be completed and sworn)

AFFIDAVIT OF VALUE ANNEXED TO TRANSFER.

C A N A D A
 YUKON TERRITORY
 TO WIT:

I, (name of transferee or agent) of (address) (occupation), make oath and say:
 That I am the transferee (*or* the agent of the transferee) named in the annexed instrument and as such have a knowledge of the property therein described.

That in my belief the said property with all improvements thereon and thereto is of the value of dollars and no more.

SWORN to before me at the }
 of in the Yukon }
 Territory, this day of }
, 19

.....
A Commissioner etc.

FORM L.

DECLARATION OF TERRITORIAL ASSESSOR.

C A N A D A
YUKON TERRITORY

TO WIT:

I, (name of Territorial Assessor), do solemnly declare that the within roll has been prepared by me, under the provisions of the *Taxation Ordinance*, as the assessment roll for the Yukon Territory, for the year....., and that I have therein set out to the best of my judgment and ability the true value of the land and improvements within the said Territory which are subject to Territorial assessment in accordance with the said Ordinance; 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 the.....
of.....in the Yukon Territory,
this.....day of....., 19.....

.....
A Commissioner etc.

FORM M.

TERRITORIAL TAX SALE INTERIM RECEIPT NO.....

Roll No.

Received from.....(name)....., (address)....., (occupation)....., the sum of.....dollars, in payment of the following property purchased at tax sale on the.....day of....., 19....., (here describe the land according to Lot, block, subdivision and townsite or Lot and Group as the case requires).....in the Yukon Territory.

This receipt to be surrendered to the Territorial Tax Collector on delivery to purchaser of transfer of the above property under the *Taxation Ordinance*.

.....
*Territorial Tax Collector (or
Agent of Territorial Tax Collector)*

FORM N.

TERRITORIAL TAX SALE TRANSFER.

I,, of, by virtue of authority vested in me to sell lands for arrears of Territorial taxes by the *Taxation Ordinance*, do hereby, in consideration of the sum ofdollars paid to me by..... (name of transferee, his address and his occupation)....., transfer to the said.....(name of transferee)..... all that piece of land being..... (here describe the land according to Lot, block, subdivision and townsite or Lot and Group as the case requires)....., in the Yukon Territory.

Dated the.....day of....., 19.....

Signed by the above named

in the presence of

}
 (Signature of Collector with
 official seal)

(NOTE: before this transfer is presented to the Registrar for registration in the Land Titles Office the following affidavit must be completed and sworn)

AFFIDAVIT OF VALUE ANNEXED TO TRANSFER.
 CANADA
 YUKON TERRITORY

TO WIT:

I,..... (name of transferee or agent)....., of..... (address).....,(occupation)....., make oath and say:
 THAT I am the transferee (or the agent of the transferee) named in the annexed instrument and as such have a knowledge of the property therein described.
 THAT in my belief the said property with all improvements thereon and thereto is of the value ofdollars and no more.

SWORN to before me at the.....
 ofin the Yukon
 Territory, thisday of
, 19.....

A Commissioner etc.

CHAPTER 80.

AN ORDINANCE RESPECTING NEWSPAPERS.

1. This Ordinance may be cited as the *Newspaper Ordinance*. Short Title.
2. In this Ordinance, Definitions.
 - (a) "Clerk" means the Clerk of the Court; "Clerk."
 - (b) "newspaper" means any paper sold and distributed to the public containing public news or observations on such news, published periodically at intervals not exceeding twenty-six days; and "Newspaper."
 - (c) "proprietor" includes any person financially interested, directly or indirectly, in a newspaper. "Proprietor."

3. (1) Every proprietor, editor and business manager of a newspaper published in the Territory shall not later than seven days after becoming such proprietor, editor or business manager file with the Clerk a declaration under oath setting forth the name, place of birth and nationality of the person filing the declaration, and the place where such newspaper is published, but no proprietor, editor or business manager need file a declaration if he has already filed one before the 17th day of November, 1955, under the provisions of *An Ordinance Respecting Newspapers*, chapter 67 of the Consolidated Ordinances of 1914. Declaration to be filed with Clerk.

(2) Every proprietor, editor or business manager of a newspaper who neglects to file a declaration in accordance with subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars for each day of such neglect. Offence.

4. A person who makes a declaration pursuant to section 3 shall pay to the Clerk a fee of five dollars with the declaration and no declaration shall be accepted by the Clerk unless such fee is paid. Fee.

5. On a declaration being filed with him pursuant to section 3 the Clerk shall forthwith send a copy thereof to the Commissioner. Clerk to transmit declaration to Commissioner.

CHAPTER 81.

AN ORDINANCE TO PREVENT
UNNECESSARY NOISE.

- Short Title. **1.** This Ordinance may be cited as the *Noise Prevention Ordinance*.
- No person to create unnecessary noise at night with loudspeaker. **2.** No person shall, between the hours of eleven o'clock in the afternoon and seven o'clock in the forenoon, use or operate any loudspeaker, public address system or amplifier in such a manner that sound therefrom can be heard outside the premises or vehicle in or on which it is situate or affixed.
- No owner of premises to allow noise at night with loudspeaker, etc. **3.** No owner or occupier of premises or a vehicle where any loudspeaker, public address system or amplifier is situated or affixed shall permit any person to use or operate such loudspeaker, public address system or amplifier between the hours of eleven o'clock in the afternoon and seven o'clock in the forenoon in such a manner that sound therefrom can be heard outside such premises or vehicle.
- Offence and penalty. **4.** Every person who contravenes this Ordinance is guilty of an offence and liable on summary conviction to a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.
- Not to bar civil action. **5.** Nothing in this Ordinance limits or interferes with the right of any person to bring and maintain a civil action for damage occasioned by any noise or sound from a public address system, loudspeaker or amplifier or by any nuisance arising from such noise or sound.

CHAPTER 82.

AN ORDINANCE TO PROVIDE FOR OLD AGE ASSISTANCE AND ALLOWANCES TO BLIND PERSONS.

1. This Ordinance may be cited as the *Old Age Assistance and Blind Persons Allowance Ordinance*. Short Title.

2. In this Ordinance,
- (a) "allowance" means a blind person's allowance provided under this Ordinance and regulations hereto to the persons and under the conditions specified in the Federal Act; Definitions.
"Allowance."
 - (b) "application" means an application for allowance or an application for assistance as the case may require; "Application."
 - (c) "assistance" means old age assistance provided under this Ordinance and regulations hereto to the persons and under the conditions specified in the Federal Act; "Assistance."
 - (d) "Commissioner" means the Commissioner of the Yukon Territory; "Com-
missioner."
 - (e) "Director" means the Director of Old Age Assistance and Blind Persons Allowance; "Director."
 - (f) "Federal Act" means "Federal
Act."
 - (i) with reference to assistance, the *Old Age Assistance Act* enacted by the Parliament of Canada together with any regulations made thereunder, and
 - (ii) with reference to allowances, the *Blind Persons Act* enacted by the Parliament of Canada together with any regulations made thereunder; and
 - (g) "recipient" means a person to whom assistance has been granted or a person to whom an allowance has been granted, including an applicant for assistance or allowance, as the case may be. "Recipient."

3. (1) The Commissioner may, on behalf of the Yukon Territory, enter into an agreement with the Minister of National Health and Welfare of Canada on behalf of the Government of Canada to provide a general scheme of assistance in accordance with this Ordinance and the Federal Act to persons who have attained the age of sixty-five years, and for the payment by the Government of Canada to the Yukon Territory in respect of any recipient of an amount equal to not less than fifty per cent of fifty-five dollars monthly or the amount of the assistance paid out monthly for assistance, whichever is the lesser. Agreement
respecting
assistance.

Agreement
respecting
allowances.

(2) The Commissioner may, on behalf of the Yukon Territory, enter into an agreement with the Minister of National Health and Welfare of Canada on behalf of the Government of Canada to provide a general scheme of allowances in accordance with this Ordinance and the Federal Act to blind persons who have attained the age of eighteen years, and for the payment by the Government of Canada to the Yukon Territory in respect of any recipient of an amount equal to not less than seventy-five per cent of fifty-five dollars monthly or of the amount paid out monthly for allowances, whichever is the lesser.

Variations
and
amendments.

(3) An agreement made under this Ordinance may be varied or amended from time to time by agreement between the Minister of National Health and Welfare and the Commissioner.

Payments
and amounts.

4. From and out of the Yukon Consolidated Revenue Fund there may be paid

- (a) to a recipient whose application has been approved, assistance not exceeding fifty-five dollars monthly under the conditions specified in this Ordinance and the regulations and the Federal Act;
- (b) to a recipient whose application has been approved, an allowance not exceeding fifty-five dollars monthly under the conditions specified in this Ordinance and the regulations and the Federal Act;
- (c) to a recipient whose application for assistance or allowance has been approved, a supplementary allowance not exceeding ten dollars per month; and
- (d) the expenses incurred in the administration of this Ordinance.

Director
appointed by
Commissioner.

5. (1) The Director shall be appointed by the Commissioner.

(2) The Director shall

- (a) receive applications, and
- (b) determine the eligibility of each applicant for assistance or allowance and approve the application for the grant of assistance or allowance.

Duties of
Director.

(3) The Director may

- (a) call for any additional proof that may be prescribed in the regulations or the Federal Act; and
- (b) confirm, amend or reverse any direction or determination made by him under this Ordinance;

and, subject to his right to amend or reverse any direction or determination, every direction or determination given or made by the Director is final and is not subject to review by any Court or otherwise.

Payment
where
recipient
dies.

6. Notwithstanding any other law or Ordinance, in the case of the death of a recipient, payment of assistance or allowance for the month in which the death occurs may be made to such person as the Director may direct.

7. Any assistance or allowance granted under this Ordinance is exempt from taxes levied under any Ordinance, is not subject to garnishment, attachment or seizure and is not assignable. Exempt from taxes and seizure.

8. The receipt of assistance or allowance does not, by itself, disqualify any person from voting at any election held in the Yukon Territory under any Ordinance or other law. Does not affect right to vote.

9. (1) Notwithstanding any other provision of this Ordinance any sum of money or other payment improperly paid by way of assistance or allowances to or on behalf of a recipient, whether as a result of non-disclosure of fact, innocent or false representations or other cause, is a debt due to the Government of the Yukon Territory, and may be recovered at any time. Recovery of improperly paid assistance or allowances.

(2) An action or other proceeding for the recovery of a debt due to the Government of the Yukon Territory may be instituted in the name of the Commissioner. Proceedings in name of Commissioner.

10. Unless the consent of the Commissioner has been obtained no action or other proceeding shall be brought against the Director or an officer, clerk or servant for anything done or omitted in the exercise or purported exercise of any duty or power under this Ordinance. No action against Director, etc.

11. The Commissioner may make such regulations, not inconsistent with this Ordinance and the Federal Act, respecting the schemes of assistance and allowance as he considers necessary for the proper administration of this Ordinance and, without restricting the generality of the foregoing, may make regulations Regulations.

- (a) governing the manner of making application for assistance or allowance;
- (b) respecting the suspension or cancellation of assistance or allowance;
- (c) providing for the making of investigations respecting persons to whom assistance or allowance may be paid or who are in receipt of assistance or allowance or by whom or on whose behalf application has been made for assistance or allowance;
- (d) prescribing the material in support of or proof of any fact, including evidence under oath, that shall be furnished as a condition precedent to the payment of assistance or allowance;
- (e) respecting the mode of payment of assistance or allowance; and
- (f) prescribing forms for use under this Ordinance.

12. (1) No person shall knowingly obtain or receive assistance or allowance to which he is not entitled under this Ordinance, the regulations and the Federal Act. Unqualified persons not to receive.

Chap. 82.

Old Age and Blind Persons.

Not to aid
or abet
improper
receipt.

(2) No person shall knowingly aid or abet another person to obtain or receive assistance or allowances to which he is not entitled under this Ordinance, the regulations and the Federal Act.

Offence and
penalty.

(3) Every person who violates this section is guilty of an offence and liable, upon summary conviction, to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment.

Time for
prosecution.

13. No prosecution for any offence against this Ordinance shall be commenced after the expiration of five years from the date of the commission of such offence.

CHAPTER 83.

AN ORDINANCE RESPECTING THE
PRACTICE OF OPTOMETRY.

SHORT TITLE.

1. This Ordinance may be cited as the *Optometry Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance,
- (a) "licence" means a valid and subsisting licence issued under this Ordinance to practise optometry in the Territory; Definitions.
"Licence."
- (b) "optometrist" means a person who is entitled to practise optometry in the Territory under this Ordinance; "Optometrist."
- (c) "optometry" means "Optometry."
- (i) the investigation of the functions of the human eye by means of test lenses, test cards, trial frames or other instruments or devices designed for the purpose of such investigation, or
- (ii) the prescription or adaption of lenses, prisms or ocular exercises, or the use of orthoptic instruments of any kind for the purpose of improving or correcting the visual function, or for adapting the visual function to the requirements of a special occupation; and
- (d) "register" means the Optometrists Register referred to in section 3. "Register."

REGISTRATION AND LICENSING.

3. The Territorial Secretary shall keep a register, called the Optometrists Register, and shall enter therein the names, addresses and qualifications of all persons who are, pursuant to this Ordinance, entitled to be registered in the Optometrists Register and he may issue licences to such persons. Optometrists
Register.

4. (1) A person who Qualifications
for
registration.
- (a) on the 17th day of November, 1955, was entitled by law to practise optometry in the Territory, or
- (b) produces to the Commissioner a certificate under the hand of a proper authority showing that he is registered as an optometrist in any province of Canada, and satisfies the Commissioner that he is the person named in the certificate,
- and who pays the fees required by this Ordinance is entitled to be registered in the register.

Registration fee.

(2) Every person who applies for registration shall, with his application for registration, send to the Territorial Secretary a registration fee of twenty-five dollars payable to the Territorial Treasurer.

Licence fee.

5. Every person who is registered in the register shall send to the Territorial Secretary at the time his name is registered in the register and subsequently on or before the 31st day of March in each year an annual licence fee in the sum of twenty-five dollars.

Validity of licences.

6. No licence is valid unless

- (a) the licence fee in respect of the year for which the licence is issued has been paid, and
- (b) the holder of the licence has been registered pursuant to section 3.

Expiration of licence.

7. A licence expires on the 31st day of March next following the day upon which it came into force.

PRACTICE OF OPTOMETRY.

Practice limited to holders of licences.

8. No person is entitled to recover a fee, reward or remuneration for professional services rendered or material or appliances provided by him in practising optometry unless he holds a licence under this Ordinance at the time the services are rendered or materials or appliances are provided.

Licencee's right to practise and to recover fees.

9. A person who holds a licence is entitled to practise optometry in the Territory and to bring an action before a judge for the recovery of reasonable charges for professional aid, advice and visits and the costs of any materials or appliances supplied by him to his patients.

Limitation of actions for malpractice.

10. No optometrist is liable to an action for negligence or malpractice by reason of professional services requested or rendered unless the action is commenced within one year from the day when, in the matter complained of, the professional services terminated.

OFFENCES AND PENALTIES.

Offences for unlicensed practice.

11. (1) A person who is not the holder of a licence under this Ordinance and who, in the Territory

- (a) publicly or privately for hire, gain or hope of reward practises optometry;
- (b) appends to his name the title of optometrist or any word indicative of such title or used in substitution or abbreviation thereof;
- (c) holds himself out in any way to be a duly qualified optometrist; or

(d) assumes any title or description implying or designed to lead the public to believe that he is duly qualified to practise as an optometrist; is guilty of an offence.

(2) A person who advertises prices, charges, credit or terms of credit, in respect to eye-glasses, spectacles, lenses or optometric services is guilty of an offence. Offences.

(3) A person who commits an offence against this Ordinance is liable upon summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment. Penalty.

12. In the case of an offence against this Ordinance a complaint shall be made, or the information laid, within one year from the time when the matter of the complaint or information arose. Time for prosecution.

13. In a prosecution for an offence against this Ordinance the onus of proof that the person against whom the charge is laid is the holder of a licence is upon the person against whom the charge is laid. Onus of proof.

INVESTIGATION AND REMOVAL.

14. (1) Subject to subsection (2), the Territorial Secretary shall remove from the register the name of a person registered therein who fails to comply with the provisions of this Ordinance with respect to licence fees and the licence issued to that person is invalid until such time as he is again registered in the register. Removal for non-payment of fees.

(2) Where reasons satisfactory to the Commissioner are advanced to him as to why the licence fee has not been paid at the required time or within the required period, the Commissioner may grant an extension for payment of fees before having the name of the person on whose behalf they are paid struck off the register, but he shall in no case grant an extension of time exceeding sixty days. Extension of time.

(3) A person whose name is removed from the register pursuant to subsection (1) is entitled to have his name restored to the register if he pays a fee of ten dollars in addition to the fee in respect of which his name was removed from the register. Reinstatement.

15. (1) The Commissioner may appoint two or more persons to act as a Board of Inquiry for the purpose of investigating any complaint made against an optometrist with respect to an alleged contravention of this Ordinance or any complaint of malpractice or infamous, disgraceful or improper conduct on the part of the optometrist. Board of Inquiry.

(2) The Board of Inquiry appointed pursuant to subsection (1) may make rules and regulations under which the inquiry is to be held and has power Powers of Board.

(a) to summon and bring before it any person whose attendance it considers necessary to enable the Board properly to inquire into the matter complained of;

- (b) to swear and examine all such persons under oath;
- (c) to compel the production of documents; and
- (d) to do all things necessary to provide a full and proper inquiry.

Security for costs.

(3) A Board of Inquiry may direct that the person who made the complaint it is appointed to investigate shall deposit with the Board, as security for the costs of the inquiry and to the person complained against, a sum not exceeding five hundred dollars.

Frivolous and vexatious complaint.

(4) Where the Board of Inquiry finds that a complaint is frivolous or vexatious, it may cause to be paid to the Territorial Secretary out of the deposit for security mentioned in subsection (3) such portion of costs of the inquiry and to the person complained against as it deems advisable, and where the Board does not so find or where there is any balance of the deposit remaining the deposit or balance thereof shall be returned to the person who deposited it.

Quorum.

(5) A majority of the members of the Board of Inquiry is a quorum.

Findings and recommendations.

(6) A Board of Inquiry shall, after investigation of a complaint pursuant to this section, make a finding and shall immediately report its finding to the Commissioner, and where it finds that the person complained against is guilty of a contravention of this Ordinance or of malpractice or of infamous, disgraceful or improper conduct, may, in its report to the Commissioner, recommend that such person be

- (a) reprimanded;
- (b) fined in an amount named by the Board, such amount not to exceed five hundred dollars;
- (c) struck off the register and his licence cancelled; or
- (d) struck off the register and his licence suspended for a definite period named by the Board.

Notification to the person complained against.

(7) The Board of Inquiry shall, at the time it sends its report to the Commissioner pursuant to subsection (6), notify the person complained against of its finding and of the recommendations for punishment, if any, made by it in such report.

Offences.

- (8) Every person who
 - (a) fails, without valid excuse, to attend an inquiry as required under this section;
 - (b) fails to produce any document, book or paper in his possession or under his control, as required under this section; or
 - (c) at an inquiry under this section
 - (i) refuses to be sworn or to affirm, or to declare, as the case may be, or
 - (ii) refuses to answer any proper question put to him by the Board of Inquiry;

is guilty of an offence.

Appeal to judge.

16. (1) A person against whom a finding has been made by a Board of Inquiry may, within thirty days after the finding has been made, appeal from such finding to a judge.

(2) The judge before whom an appeal is made under subsection (1) may hear the appeal at such time and in such manner as he deems just and he may, by order, quash, alter or confirm the finding of the Board of Inquiry. Powers of judge.

17. (1) Where an optometrist has been found guilty of a contravention of this Ordinance or of malpractice or of infamous, disgraceful or improper conduct by a Board of Inquiry and no appeal has been taken from the finding or the time for appeal has expired, the Commissioner shall, after receiving the report from the Board, impose the penalty recommended by it, and Commissioner powers on recommendation by Board.

- (a) in the case of a reprimand, reprimand the optometrist in writing and note the reprimand in the register;
- (b) in the case of a fine, make an order fining the optometrist, which order shall be filed in the appropriate court and have the same effect as an order of that court;
- (c) in the case of a recommendation to strike off the register and cancel his licence, have the name of the practitioner struck off the register and cancel his licence; and
- (d) in the case of a recommendation to strike off the register and suspend his licence, have the name of the optometrist struck off the register and suspend his licence for such time as the Board has recommended.

(2) Where a judge on appeal confirms or alters the finding of a Board of Inquiry, his order in the case of a fine shall be carried out in the usual way and in the case of any other punishment referred to in subsection (1) shall be directed to the Commissioner and carried out by him in the same manner as provided by subsection (1). Commissioner to enforce order of judge.

18. (1) An optometrist whose name has been struck off the register and whose licence has been cancelled or suspended pursuant to section 17 may Application for reinstatement.

- (a) where he had not taken any appeal from the finding within one year from the date of the finding of the Board of Inquiry, apply to the Commissioner to have his name restored to the register, or
- (b) where he had appealed from the finding within one year from the date of an order under subsection (2) of section 16, apply to a judge for an order directing the Territorial Secretary to have his name restored to the register.

(2) The Commissioner or judge may, upon application under subsection (1), order the Territorial Secretary to reinstate an optometrist on the register and renew his licence and restore his rights and privileges in such manner and upon such conditions as the Commissioner or judge may decide. Order by Commissioner or judge.

(3) The Territorial Secretary shall, upon receiving an order under subsection (2) to do so, reinstate an optometrist on the register and renew his licence and restore his rights and privileges in such manner and upon such conditions as the order directs. Territorial Secretary to reinstate.

CHAPTER 84.

AN ORDINANCE RESPECTING PARTNERSHIPS.

SHORT TITLE.

Short Title. 1. This Ordinance may be cited as the *Partnership Ordinance*.

INTERPRETATION.

Definitions.

2. In this Ordinance,

“Business.” (a) “business” includes every trade, occupation or profession;

“Registration clerk.” (b) “registration clerk” means a registration clerk under the *Bills of Sale Ordinance*; and

“Registration district.” (c) “registration district” means a registration district under the *Bills of Sale Ordinance*.

PARTNERSHIPS GENERALLY.

NATURE OF PARTNERSHIP.

Partnership defined. 3. (1) Partnership is the relation that subsists between persons carrying on a business in common with a view of profit.

(2) The relation between members of any company or association who constitute a body corporate under any law in force in the Territory is not a partnership within the meaning of this Ordinance.

Rules for determining existence of partnership. 4. In determining whether a partnership does or does not exist, regard shall be had to the following rules:

- (a) joint tenancy, tenancy in common, joint property, common property or part ownership does not of itself create a partnership as to any thing so held or owned, whether the tenants or owners do or do not share any profits made by the use thereof;
- (b) the sharing of gross returns does not of itself create a partnership, whether the persons sharing such returns have or have not a joint or common right or interest in any property from which or from the use of which the returns are derived;
- (c) the receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the business, but the receipt of such a share, or of a payment contingent on or varying with the profits of a business, does not of itself make him a partner in the business; and in particular
 - (i) the receipt by a person of a debt or other liquidated amount by instalments or otherwise out of the accruing profits of a business does not of itself make him a partner in the business or liable as such;

- (ii) a contract for the remuneration of a servant or agent of a person engaged in a business by a share of the profits of the business does not of itself make the servant or agent a partner in the business or liable as such;
- (iii) a person being the widow or child of a deceased partner, and receiving by way of annuity a portion of the profits made in the business in which the deceased person was a partner, is not by reason only of such receipt a partner in the business or liable as such;
- (iv) the advance of money by way of loan to a person engaged or about to engage in any business on a contract with that person that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits arising from carrying on the business, does not of itself make the lender a partner with the person or persons carrying on the business or liable as such, if the contract is in writing, and signed by or on behalf of all the parties thereto; and
- (v) a person receiving by way of annuity or otherwise a portion of the profits of a business in consideration of the sale by him of the goodwill of the business is not by reason only of such receipt a partner in the business or liable as such.

5. Where a person to whom money has been advanced by way of loan upon a contract mentioned in section 4, or any buyer of a goodwill in consideration of a share of the profits of the business makes an assignment for the benefit of his creditors, enters into an arrangement to pay his creditors less than one hundred cents in the dollar, or dies in insolvent circumstances, the lender of the loan is not entitled to recover anything in respect of his loan, and the seller of the goodwill is not entitled to recover anything in respect of the share of profits contracted for, until the claims of the other creditors of the borrower or buyer for valuable consideration in money or money's worth have been satisfied.

In case of assignment for benefit of creditors, etc., postponement of rights of person lending or selling in consideration of share of profits.

6. Persons who have entered into partnership with one another are for the purposes of this Ordinance called collectively a firm, and the name under which their business is carried on is called the firm name.

Meaning of "firm" and "firm name".

RELATIONS OF PARTNERS TO PERSONS DEALING WITH THEM.

7. Every partner is an agent of the firm and his other partners for the purpose of the business of the partnership; and the acts of every partner who does any act for carrying on in the usual way business of the kind carried on by the firm of which he is a member, bind the firm and his partners, unless the

Power of partner to bind the firm.

partner so acting has in fact no authority to act for the firm in the particular matter, and the person with whom he is dealing either knows that he has no authority, or does not know or believe him to be a partner.

Partners bound by act on behalf of firm.

8. (1) An act or instrument relating to the business of the firm and done or executed in the firm name, or in any other manner showing an intention to bind the firm, by any person thereto authorized, whether a partner or not is binding on the firm and all the partners.

(2) This section does not affect any general rule of law relating to the execution of deeds, instruments or documents affecting land or negotiable instruments.

Partner using credit of firm for private purposes.

9. Where one partner pledges the credit of the firm for a purpose apparently not connected with the firm's ordinary course of business, the firm is not bound, unless he is in fact specially authorized by the other partner or partners; but this section does not affect any personal liability incurred by an individual partner.

Effect of notice that firm will not be bound by acts of partner.

10. Where it has been agreed between the partners that any restriction shall be placed on the power of any one or more of them to bind the firm, no act done in contravention of the agreement is binding on the firm with respect to persons having notice of the agreement.

Liability of partner.

11. Every partner in a firm is liable jointly with the other partners, for all debts and obligations of the firm incurred while he is the partner; and after his death his estate is also severally liable, in the due course of administration, for such debts and obligations, so far as they remain unsatisfied but subject to the prior payment of his separate debts.

Liability of firm for wrongs.

12. Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the firm or with the authority of his co-partners, loss or injury is caused to any person not being a partner in the firm, or any penalty is incurred, the firm is liable therefor to the same extent as the partner so acting or omitting to act.

Misapplication of money or property received for or in custody of firm.

13. In the following cases, namely,

(a) where one partner acting within the scope of his apparent authority received the money or property of a third person and misapplies it, and

(b) where a firm in the course of its business receives money or property of a third person, and the money or property so received is misapplied by one or more of the partners while it is in the custody of the firm,

the firm is liable to make good the loss.

14. Every partner is liable jointly with his co-partners and also severally for everything for which the firm while he is a partner therein becomes liable under either section 12 or 13. Liability for wrongs, joint and several.

15. (1) Where a partner, being a trustee, improperly employs trust property in the business or on the account of the partnership, no other partner is liable for the trust property to the persons beneficially interested therein. Improper employment of trust property for partnership purposes.

(2) This section does not affect any liability incurred by any partner by reason of his having notice of a breach of trust.

(3) Nothing in this section prevents trust money from being followed and recovered from the firm if still in its possession or under its control.

16. (1) Subject to subsection (2) every one who by words spoken or written or by conduct represents himself, or who knowingly suffers himself to be represented, as a partner in a particular firm, is liable as a partner to any one who has on the faith of any such representation given credit to the firm, whether the representation has or has not been made or communicated to the person so giving credit by or with the knowledge of the apparent partner making the representation or suffering it to be made. Persons liable for "holding out".

(2) Where after a partner's death the partnership business is continued in the old firm name, the continued use of that name or the deceased partner's name as part thereof does not itself make his executors or administrators, estate or effects liable for any partnership debts contracted after his death.

17. An admission or representation made by any partner concerning the partnership affairs, and in the ordinary course of its business, is evidence against the firm. Admissions and representations of partners.

18. Notice to any partner who habitually acts in the partnership business, of any matter relating to partnership affairs operates as notice to the firm, except in the case of a fraud on the firm committed by or with the consent of that partner. Notice to acting partner to be notice to firm.

19. (1) A person who is admitted as a partner into an existing firm does not thereby become liable to the creditors of the firm for anything done before he became a partner. Liability of incoming and outgoing partners.

(2) A partner who retires from a firm does not thereby cease to be liable for partnership debts or obligations incurred before his retirement.

(3) A retiring partner may be discharged from any existing liabilities by an agreement to that effect between himself and the members of the firm as newly constituted and the creditors, and this agreement may be either expressed or inferred as a fact from the course of dealing between the creditors and the firm as newly constituted.

Revocation of continuing guaranty by change in firm.

20. A continuing guaranty given either to a firm or to a third person in respect of the transactions of a firm is, in the absence of agreement to the contrary, revoked as to future transactions by any change in the constitution of the firm to which, or of the firm in respect of the transactions of which, the guaranty was given.

RELATIONS OF PARTNERS TO ONE ANOTHER.

Variation by consent of terms of partnership.

21. The mutual rights and duties of partners, whether ascertained by agreement or defined by this Ordinance, may be varied by the consent of all the partners, and such consent may be either express or inferred from a course of dealing.

Partnership property.

22. (1) All property and rights and interests in property originally brought into the partnership stock or acquired, whether by purchase or otherwise, on account of the firm, or for the purposes and in the course of the partnership business are called in this Ordinance partnership property and must be held and applied by the partners exclusively for the purposes of the partnership and in accordance with the partnership agreement.

(2) The legal estate or interest in any land that belongs to the partnership shall devolve according to the nature and tenure thereof, and the general rules of law thereto applicable, but in trust, so far as necessary, for the persons beneficially interested in the land under this section.

(3) Where co-owners of an estate or interest in any land, not being itself partnership property, are partners as to profits made by the use of that land or estate, and purchase other land or estate out of the profits, to be used in like manner, the land or estate so purchased belongs to them in the absence of an agreement to the contrary, not as partners, but as co-owners, for the same respective estates and interests as are held by them in the land or estate first mentioned at the date of the purchase.

Property bought with partnership money.

23. Unless the contrary intention appears, property bought with money belonging to the firm is deemed to have been bought on account of the firm.

Land held as partnership property to be treated as personal estate.

24. Where land or any interest therein has become partnership property, it shall, unless the contrary intention appears, be treated as between the partners, including the representatives of a deceased partner, as personal or movable and not real estate.

Procedure against property for a partner's separate judgment debt.

25. (1) A writ of execution shall not issue against any partnership property except on a judgment against the firm.

(2) The Court may on application by summons by any judgment creditor of a partner, make an order charging that partner's interest in the partnership property and profits with payment of the amount of the judgment debt and interest thereon, and may by the same or a subsequent order appoint a

receiver of that partner's share of profits, whether already declared or accruing, and of any other money that may be coming to him in respect of the partnership, and direct all accounts and inquiries, and give all other orders and directions that might have been directed or given if the charge had been made in favour of the judgment creditor by the partner, or that the circumstances of the case may require.

(3) The other partner or partners are at liberty at any time to redeem the interest charged, or in case of a sale being directed, to purchase the same.

26. The interests of partners in the partnership property and their rights and duties in relation to the partnership shall be determined, subject to any agreement express or implied between the partners by the following rules: Rules as to interests and duties of partners subject to special agreement.

- (a) all the partners are entitled to share equally in the capital and profits of the business, and must contribute equally towards the losses, whether of capital or otherwise, sustained by the firm;
- (b) the firm is bound to indemnify every partner in respect of payments made and personal liabilities incurred by him
 - (i) in the ordinary and proper conduct of the business of the firm, or
 - (ii) in or about anything necessarily done for the preservation of the business or property of the firm;
- (c) a partner making, for the purpose of the partnership, any actual payment or advance beyond the amount of capital that he has agreed to subscribe, is entitled to interest from the date of the payment or advance;
- (d) a partner is not entitled, before the ascertainment of profits, to interest on the capital subscribed by him;
- (e) every partner may take part in the management of the partnership business;
- (f) no partner is entitled to remuneration for acting in the partnership business;
- (g) no person may be introduced as a partner without the consent of all existing partners;
- (h) any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners, but no change may be made in the nature of the partnership business without the consent of all existing partners; and
- (i) the partnership books are to be kept at the place of business of the partnership, or the principal place, if there is more than one, and every partner may when he thinks fit, have access to and inspect and copy any of them.

27. No majority of the partners can expel any partner unless a power to do so has been conferred by express agreement between the partners. Expulsion of partner.

Retirement from partnership at will.

28. Where no fixed term has been agreed upon for the duration of the partnership or where a partnership is continued after a fixed term has expired, any partner may determine the partnership at any time on giving notice of his intention so to do to all the other partners, and where the partnership has originally been constituted by deed, a notice in writing, signed by the partner giving it, is sufficient for this purpose.

Where partnership for term continued over, continuance on old term presumed.

29. (1) Where a partnership entered into for a fixed term is continued after the term has expired and without any express new agreement, the rights and duties of the partners remain the same as they were at the expiration of the term so far as is consistent with the incidents of a partnership at will.

(2) A continuance of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is presumed to be a continuance of the partnership.

Partners to render accounts, etc.

30. Partners are bound to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives.

Accountability of partners for private profits.

31. (1) Every partner is bound to account to the firm for any benefit derived by him without the consent of the other partners from any transaction concerning the partnership, or from any use by him of the partnership property, name or business connection.

(2) This section applies also to transactions undertaken after a partnership has been dissolved by the death of a partner, and before the affairs thereof have been completely wound up, either by any surviving partner or by the representatives of the deceased partner.

Partner competing with firm to account, etc.

32. Where a partner, without the consent of the other partners, carries on any business of the same nature as and competing with that of the firm, he is bound to account for and pay over to the firm all profits made by him in that business.

Rights of assignee of share in partnership.

33. (1) An assignment by any partner of his share in the partnership, either absolute or by way of mortgage, encumbrance or redeemable charge, does not, as against the other partners, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to require any accounts of the partnership transactions, or to inspect the partnership books, but entitles the assignee only to receive the share of profits to which the assigning partner would otherwise be entitled, and the assignee is bound to accept the account of profits agreed to by the partners.

(2) Where a partnership is dissolved, whether as respects all the partners or as respects the assigning partner, the assignee is entitled to receive the share of the partnership assets to which

the assigning partner is entitled as between himself and the other partners, and, for the purpose of ascertaining that share, to an account as from the date of the dissolution.

(3) In this section "assignee" includes "mortgagee" or "encumbrancee".

DISSOLUTION OF PARTNERSHIP, AND ITS CONSEQUENCES.

34. Subject to any agreement between the partners, a partnership is dissolved Dissolution by expiration or notice.

- (a) where it was entered into for a fixed term, by the expiration of that term,
- (b) where it was entered into for a single adventure or undertaking, by the termination of that adventure or undertaking, and
- (c) where it was entered into for an undefined time, by any partner giving notice to the other or others of his intention to dissolve the partnership; and in such case the partnership is dissolved as from the date mentioned in the notice as the date of dissolution, or, if no date is so mentioned, as from the date of the communication of the notice.

35. (1) Subject to any agreement between the partners, every partnership is dissolved as regards all the partners by the death of any partner, or by his assignment of his property in trust for the benefit of his creditors. Dissolution by death, assignment in trust or charge.

(2) A partnership may, at the option of the other partners, be dissolved when any partner suffers his share of the partnership property to be charged under this Ordinance for his separate debt.

36. A partnership is in every case dissolved by the happening of any event that makes it unlawful for the business of the firm to be carried on or for the members of the firm to carry it on in partnership. Dissolution by illegality of partnership.

37. On application by a partner the Court may decree a dissolution of the partnership in any of the following cases: Dissolution by the Court.

- (a) when a partner is shown to the satisfaction of the Court to be of permanently unsound mind, in which case the application may be made as well on behalf of that partner by his guardian or next friend or person having title to intervene as by any other partner;
- (b) when a partner, other than the partner suing, becomes in any other way permanently incapable of performing his part of the partnership contract;
- (c) when a partner, other than the partner suing, has been guilty of such conduct as, in the opinion of the Court, regard being had to the nature of the business, is calculated prejudicially to affect the carrying on of the business;

- (d) when a partner, other than the partner suing, wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable for the other partner or partners to carry on the business in partnership with him;
- (e) when the business of the partnership can only be carried on at a loss; and
- (f) whenever in any case circumstances have arisen that, in the opinion of the Court, render it just and equitable that the partnership be dissolved.

Rights of persons dealing with firm against apparent members of firm.

38. (1) Where a person deals with a firm after a change in its constitution he is entitled to treat all apparent members of the old firm as still being members of the firm until he has notice of the change.

(2) The filing of a declaration under section 58 and the publication of the same once in each week for two consecutive weeks in the *Yukon Gazette* is notice of dissolution to persons who had not dealings with the firm before the date of filing such declaration and publication.

(3) The estate of a partner who dies or who assigns for the benefit of his creditors, or of a partner who, not having been known to the person dealing with the firm to be a partner, retires from the firm, is not liable for partnership debts contracted after the date of the death, assignment or retirement respectively.

Rights of partner to give notice of dissolution.

39. On the dissolution of a partnership or retirement of a partner any partner may publicly give notice of the same, and may require the other partner or partners to concur for that purpose in all necessary or proper acts, if any, which cannot be done without his or their concurrence.

Continuing authority of partners for purposes of winding up.

40. After the dissolution of a partnership the authority of each partner to bind the firm, and the other rights and obligations of the partners, continue notwithstanding the dissolution so far as may be necessary to wind up the affairs of the partnership, and to complete transactions begun but unfinished at the time of the dissolution, but not otherwise.

Rights of partners as to application of partnership property.

41. On the dissolution of a partnership every partner is entitled, as against the other partners in the firm, and all persons claiming through them in respect of their interests as partners, to have the property of the partnership applied in payment of the debts and liabilities of the firm, and to have the surplus assets after such payment applied in payment of what may be due to the partners respectively after deducting what may be due from them as partners to the firm; and for that purpose any partner or his representatives may on the termination of the partnership apply to the Court to wind up the business and affairs of the firm.

42. Where one partner has paid a premium to another on entering into a partnership for a fixed term, and the partnership is dissolved before the expiration of that term otherwise than by the death of a partner, the Court may order the repayment of the premium, or of such part thereof as it thinks just, having regard to the terms of the partnership contract and to the length of time during which the partnership has continued, unless

Appointment of premium when partnership prematurely dissolved.

- (a) the dissolution is, in the judgment of the Court, wholly or chiefly due to the misconduct of the partner who paid the premium; or
- (b) the partnership has been dissolved by an agreement containing no provision for a return of any part of the premium.

43. Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled

Rights when partnership dissolved for fraud or misrepresentation.

- (a) to a lien on, or right of retention of, the surplus of the partnership assets, after satisfying the partnership liabilities, for any sum of money paid by him for the purchase of a share in the partnership and for any capital contributed by him;
- (b) to stand in the place of the creditors of the firm for any payments made by him in respect of the partnership liabilities; and
- (c) to be indemnified by the person guilty of the fraud or making the representation, against all the debts and liabilities of the firm.

44. (1) Subject to subsection (2) where any member of a firm has died or otherwise ceased to be a partner, and the surviving or continuing partners carry on the business of the firm with its capital or assets without any final settlement of accounts as between the firm and the outgoing partner or his estate, then, in the absence of any agreement to the contrary, the outgoing partner or his estate is entitled at the option of himself or his representatives to such share of the profits made since the dissolution as the Court may find to be attributable to the use of his share of the partnership assets, or to interest on the amount of his share of the partnership assets.

Rights of outgoing partner in certain cases to share profits made after dissolution.

(2) Where by the partnership contract an option is given to surviving or continuing partners to purchase the interest of a deceased or outgoing partner, and that option is duly exercised, the estate of the deceased partner, or the outgoing partner or his estate as the case may be, is not entitled to any further or other share or profits; but where any partner assuming to act in exercise of the option does not in all material respects comply with the terms thereof, he is liable to account under this section.

Retiring or deceased partner's share to be a debt.

45. Subject to any agreement between the partners, the amount due from surviving or continuing partners to an outgoing partner or the representatives of a deceased partner in respect of the outgoing or deceased partner's share is a debt accruing at the date of the dissolution or death.

Rules for distribution of assets on final settlement of accounts.

46. In settling accounts between the partners after a dissolution of partnership, the following rules shall, subject to any agreement, be observed:

- (a) losses, including losses and deficiencies of capital, shall be paid first out of profits, next out of capital, and lastly, if necessary, by the partners individually in the proportion in which they were entitled to share profits; and
- (b) the assets of the firm including the sums, if any, contributed by the partners to make up losses or deficiencies of capital, shall be applied in the following manner and order:
 - (i) in paying the debts and liabilities of the firm to persons who are not partners therein;
 - (ii) in paying to each partner rateably what is due from the firm to him for advances as distinguished from capital;
 - (iii) in paying to each partner rateably what is due from the firm to him in respect of capital; and
 - (iv) the ultimate residue, if any, shall be divided among the partners in the proportion in which profits are divisible.

REGISTRATION.

Declaration of partnership to be filed in certain cases.

47. (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 in which they carry on or intend to carry on business a declaration in writing signed by the several members of such partnership.

(2) When any of the members are 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.

Contents of declaration.

48. The declaration required to be filed under section 47 shall be in Form A and shall contain the names, surnames, additions and residence of each and every partner or associate 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 co-partnership or association.

49. The declaration required to be filed under section 47 shall be filed within two months next after the formation of any 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 each member of said firm and every new declaration shall state the alteration in the partnership.

Time for filing declaration.

50. 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 provided in section 47 a declaration of the fact in writing signed by such person.

Individual using trade name.

51. The declaration referred to in section 50 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 six months of the time when such style is first used.

Contents of individual declaration.

REGISTRATION BOOKS.

52. The registration clerk shall keep two alphabetical index books of all declarations of co-partnership filed in his office in pursuance of this Ordinance.

Registration books.

53. 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 persons composing such firm, and the date of the receipt by him of the declaration in the manner shown in Form B.

"Firm index book."

54. In the second of such books, hereinafter called the "individual index book", the 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.

Individual index book."

PENALTY FOR NON-REGISTRATION.

55. Every member of any partnership or other person required to register a declaration under the provisions of this Ordinance who fails to do so is guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars.

Failure to comply with Ordinance.

EFFECT OF DECLARATION.

Binding effect of declaration.

56. The allegations made in a declaration required under this Ordinance 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.

Liability of person signing declaration, failure to declare does not exempt from liability.

57. Until a new declaration is made and filed by him or by his co-partners or any of them a person who has signed a declaration shall be deemed not to have ceased to be a partner; but nothing in this section exempts from liability any person who being a partner fails to declare the same 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 may be sued jointly or severally in an action on the original cause of action upon which such judgment was rendered; and nothing in this Ordinance shall be construed to affect the rights of any partners with regard to each other except that no declaration shall be controverted by any person who signed it.

DECLARATION OF DISSOLUTION.

Declaration of dissolution.

58. 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 Form D.

LIMITED PARTNERSHIPS.

Limited partnerships may be formed.

59. Limited partnerships for the transaction of any mercantile, mechanical, manufacturing or other business within the Territory may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities hereinafter mentioned.

Of whom to consist.

60. Limited partnerships may consist of one or more persons, who shall be called general partners, and of one or more persons who contribute in actual cash payments a specific sum as capital to the common stock, who shall be called special partners.

Liability of general and special partners.

61. General partners are jointly and severally responsible as general partners are by law, but a special partner is not liable for the debts of the partnership except in respect of the amounts by him contributed to the capital.

General partners only to transact business, etc.

62. The general partners only may transact business and sign for the partnership and bind the same.

Certificate to be signed. Contents of.

63. The persons desirous of forming a limited partnership shall make and severally sign a certificate, which shall contain
(a) the name or firm under which the partnership is to be conducted;

- (b) the general nature of the business intended to be transacted;
- (c) the names of all the general and special partners interested therein, distinguishing which are general and which are special partners, and their usual place of residence;
- (d) the amount of capital that each special partner has contributed; and
- (e) the period at which the partnership is to commence and the period at which it is to terminate.

64. The certificate shall be in Form E and shall be signed Form of. by the several persons forming the partnership before a notary public, who shall duly certify the same.

65. The certificate so signed and certified shall be filed in Where to be filed. the office of the registration clerk of the registration district in which the principal place of business is or is to be situate, and the certificate shall be recorded by such clerk at full length in a book to be kept for that purpose and open to public inspection.

66. A limited partnership is deemed not to have been formed Partnerships not formed until certificate filed. until a certificate has been made, certified, filed and recorded as provided in this Ordinance; and where any false statement is made in such certificate, all the persons interested in the partnership are liable for all the engagements thereof as general partners.

67. Every renewal or continuance of a limited partnership Certificates of continuance. beyond the time originally fixed for its duration shall be certified, filed and recorded in the manner required by this Ordinance for its original formation; and every such partnership otherwise renewed or continued is deemed a general partnership.

68. Every alteration made in the names of the partners, in Certificates of continuance. the nature of the business, or in the capital or shares thereof, or in any other matter specified in the original certificate, shall be deemed a dissolution of the partnership, and every such partnership in any manner carried on after such alteration has been made, shall be deemed a general partnership, unless renewed as a special partnership.

69. The business of a limited partnership shall be conducted Firm name. under a firm name in which the names of the general partners or some one of them only shall be used; and where the name of a special partner is used in such firm name with his privity he is deemed a general partner.

70. Actions in relation to the business of a limited partner- Liability of general partners to actions. ship may be brought and conducted by and against the general partners in the same manner as if there were no special partner.

Restrictions upon stock of special partners.

71. No part of the sum that a special partner has contributed to the capital shall be withdrawn by him or paid or transferred to him in the shape of dividends, profits or otherwise, at any time during the continuance of the partnership; but any partner may annually receive lawful interest on the sum so contributed by him, if the payment of such interest does not reduce the original amount of the capital; and if after the payment of such interest any profits remain to be divided, he may also receive his portion of such profits.

When special partner liable to refund.

72. Where it appears that by the payment of interest or profits to a special partner the original capital has been reduced, the partner receiving the same is bound to restore the amount necessary to make good his share of the deficient capital, with interest.

Privileges of special partners.

73. A special partner may from time to time examine into the state and progress of the partnership concerns, and may advise as to their management; but he shall not transact any business on account of the partnership, nor be employed for that purpose as agent, attorney or otherwise; and if he interferes contrary to these provisions, he is deemed a general partner.

General partners liable to account.

74. The general partners are liable to account to each other and to the special partners for their management of the concern in like manner as other partners.

Creditors preferred to special partners.

75. In case of the insolvency of a limited partnership, no special partner shall under any circumstances be allowed to claim as creditor until the claims of all the other creditors of the partnership have been satisfied.

No premature dissolution without notice, etc.

76. No dissolution of a limited partnership by the acts of the parties shall take place previous to the time specified in the certificate of its formation or the certificate of its renewal until a notice of such dissolution has been filed in the office in which the original certificate was recorded and has been published once in each week for two consecutive weeks in the *Yukon Gazette*.

Limited partnerships, ss. 2-46 subject to special provisions.

77. Sections 2 to 46 are subject to the special provisions of this Ordinance regarding limited partnerships.

SUPPLEMENTAL.

Saving for rules of equity and common law.

78. The rules of equity and of common law applicable to partnership continue in force except so far as they are inconsistent with the express provisions of this Ordinance.

REGISTRATION FEES.

Fees.

79. (1) For services under this Ordinance each registration clerk is entitled to the following fees:

(a) for filing each declaration including stamping duplicate original, two dollars;

- (b) for searching in the firm index book, each firm, fifty cents;
 - (c) for searching each name in the individual index book, fifty cents;
 - (d) for each certificate, twenty-five cents; and
 - (e) for copies of documents with certificate thereof, for every hundred words, twenty cents.
- (2) The fees received under subsection (1) constitute territorial revenue and shall be paid into and form part of the Yukon Consolidated Revenue Fund.

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 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 _____

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 _____ one thousand _____

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., 1947
James Abbott & Son	James Abbott, Whitehorse George Abbott, Whitehorse	10 Sept., 1947
Bernard & Johnson	Arthur Bernard, Dawson Alexander Johnson, Whitehorse	1 March, 1947

FORM C.
INDIVIDUAL INDEX BOOK.

Name of individual and residence	Style of firm of which a member	Date of filing declaration
Abbott, James, Whitehorse	James Abbott & Son	10 Sept., 1947
Abbott, George, Whitehorse	James Abbott & Son	10 Sept., 1947
Bernard, Arthur, Dawson	Bernard & Johnson	1 March, 1947
Johnson, Alex., Whitehorse	Bernard & Johnson	1 March, 1947

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
 one thousand
 A.B.

FORM E.

CERTIFICATE OF LIMITED PARTNERSHIP.

We, the undersigned, do hereby certify that we have entered into co-partnership under the style or firm of (B.D., & Co.) as (Grocers and Commission Merchants), which firm consists of (A.B.) residing usually at , and (C.D.) residing usually at , as general partners; and (E.F.) residing usually at , and (G.H.) residing usually at , as special partners, the said (E.F.) having contributed \$, and the said (G.H.) \$, to the capital.

The said partnership commenced on the day of 19 , and terminates on the day of 19 .
 Dated this day of A.D. 19

(Signed) A.B.
 C.D.
 E.F.
 G.H.

Signed in the presence of me,
 L.M.
 Notary Public

CHAPTER 85.

AN ORDINANCE RESPECTING PAWNBROKERS AND SECOND-HAND DEALERS.

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as the *Pawnbrokers and Second-Hand Dealers Ordinance*.

INTERPRETATION.

"Pawnbroker" defined. **2.** In this Ordinance, "pawnbroker" means any person who takes or receives by way of pawn, pledge or exchange, any goods for the repayment of money lent thereon.

PAWNBROKERS.

Licence required. **3.** (1) No person shall carry on the business of a pawnbroker within the Territory unless he is the holder of a valid and subsisting licence issued therefor by the Commissioner, and has paid the required fee.

Duration of licence. (2) A licence issued by the Commissioner pursuant to subsection (1) is valid until the thirty-first day of March next following the date of issue thereof, but may be renewed from year to year upon payment of the required fee.

Fee. (3) For the purposes of this section, the required fee is twenty-five dollars and shall be paid to the Territorial Treasurer.

Schedule to be posted. **4.** (1) Every pawnbroker shall keep posted in a conspicuous place in his shop or place of business a printed or clearly and legibly written schedule of rates authorized by law to be made by such pawnbroker.

Sign. (2) Every pawnbroker shall keep and maintain a sign over the entrance to his shop or place of business, on which shall be painted his name in large and legible letters and underneath his name the words "Loan Office".

Record. **5.** (1) Every pawnbroker shall keep a record book in which he shall enter at the time of each loan
(a) a description of the goods pawned;
(b) the amount loaned thereon; and
(c) the name and residence of the pawner.

Duplicate of entry. (2) The pawnbroker shall give a duplicate of the entry made in the record book referred to in subsection (1) to the pawner and such duplicate shall be used to redeem the pawn from the pawnbroker.

(3) The record book shall at all reasonable times within ^{Inspection.} business hours be open to the inspection of a peace officer.

6. (1) Pawned goods not redeemed within one year from the ^{Sale at public auction.} date of deposit may be sold at public auction by the pawnbroker.

(2) Where any goods are being sold under this section, the pawnbroker shall, at least ten days before such sale, place a notice stating the time and place of such sale in a newspaper published or circulated in the area where the sale is to take place, or post such notice in at least two public places in the area.

(3) The pawnbroker may deduct from the proceeds of the ^{Deduction from proceeds.} sale of any goods under this section the amount of the loan made on such goods together with accrued interest thereon as well as the costs of the sale, and where any money remains after making such deductions the money shall, upon demand by the person by whom the goods were deposited, be paid to that person in case the demand is made within three years after the sale.

(4) Every pawnbroker shall enter in a book kept by him for that purpose an account of the sale of such goods showing

(a) the time and place of the sale;

(b) the name of the pawner;

(c) the name of the auctioneer;

(d) the proceeds of the sale; and

(e) the expenses of the sale;

and the book may be examined by the pawner or his personal representative at any reasonable time.

7. Goods pawned may be redeemed at any time within one ^{Redemption within one year.} year from the pawning thereof and the pawnbroker shall return the pledge upon payment of principal and interest due thereon.

8. The holder of the duplicate entry shall be deemed the ^{Holder deemed owner.} owner of the goods pawned, and the pawnbroker shall not be held liable if he delivers the goods to such holder unless he knows that the person presenting the duplicate has obtained the same fraudulently or illegally, or has found it.

9. If the duplicate entry has been lost and is no longer in the ^{Where entry lost.} possession of the pawner, the pawner may obtain the goods from the pawnbroker if he presents an affidavit sworn before a commissioner or other person qualified to take oaths stating that the duplicate entry has been lost and that he is still entitled to redeem such goods.

10. No pawnbroker shall take goods in pledge from a person ^{Prohibition.} who is under eighteen years of age knowing him to be so, or from a person apparently under the influence of alcohol.

SECOND-HAND DEALERS.

Licence required. **11.** (1) No person shall carry on the business of second-hand dealer within the Territory unless he is the holder of a valid and subsisting licence issued therefor by the Commissioner, and has paid the required fee.

Duration of licence. (2) A licence issued by the Commissioner pursuant to subsection (1) is valid until the thirty-first day of March next following the date of the issue thereof, but may be renewed from year to year upon payment of the required fee.

Fee. (3) For the purposes of this section, the required fee is twenty-five dollars and shall be paid to the Territorial Treasurer.

Record of purchases, sales, etc. **12.** (1) Every second-hand dealer shall keep a record of all purchases and sales, together with a brief description of the goods and the price paid or received therefor.

Form of record. (2) The record may be kept either in book form or by retention of counter slips, but if counter slips are used they shall be retained on file for a period of not less than six months.

Inspection. (3) The record shall at all reasonable times within business hours be open to the inspection of any peace officer.

GENERAL.

Offence and penalty. **13.** Every person who violates any of the provisions of this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars.

CHAPTER 86.

AN ORDINANCE GOVERNING THE STORAGE,
TRANSPORTATION AND DISTRIBUTION
OF INFLAMMABLE PETROLEUM
PRODUCTS IN THE YUKON TERRITORY.

SHORT TITLE.

1. This Ordinance may be cited as the *Petroleum Products Short Title Ordinance*.

INTERPRETATION.

2. In this Ordinance,

Definitions.

- (a) "approved" means approved by the Commissioner or by a person authorized by the Commissioner; "Approved."
- (b) "fireproof" means composed, constructed or made of fire resistant or incombustible materials; "Fireproof."
- (c) "highway" includes a common and public road, a trail on a frozen lake, river or other body of water or water-course, a street, avenue, parkway, driveway, square, bridge, viaduct, trestle or other passageway, designed and intended for, or used by, the general public for the passage of vehicles; "Highway."
- (d) "inflammable petroleum products" means any product obtained or recovered from petroleum, whether by distillation, condensation, absorption or otherwise that have a flash point below one hundred and seventy-five degrees Fahrenheit according to the Tagliabue Closed Cup Tester, and include any combination of such products; "Inflammable petroleum products."
- (e) "motor vehicle" includes an automobile, motorcycle, pedal bicycle with motor attachment, snowmobile or any other vehicle propelled or driven otherwise than by muscular power, but does not include a vehicle that is drawn by an animal, a tractor used for farming operations, a car of an electric or steam railway or a vehicle that runs or is intended to run only upon rails or tracks; "Motor vehicle."
- (f) "officer" means a person appointed or authorized to be an officer under this Ordinance; "Officer."
- (g) "service station" means any building or premises where inflammable petroleum products are delivered by means of pumps or other dispensing equipment directly into vehicle fuel tanks; "Service station."
- (h) "storage tank" means a drum, tank or container of any kind, other than a vehicle fuel tank, in which inflammable petroleum products are kept or stored; "Storage tank."

- "Store." (i) "store" means any building or premises, other than a service station, where inflammable petroleum products are kept for sale or delivery to the public;
- "Vehicle." (j) "vehicle" includes a motor vehicle, trailer and a vehicle drawn, propelled or driven by any kind of power including muscular power, but does not include the car of an electric or steam railway or a vehicle that runs or is intended to run only upon rails or tracks; and
- "Vehicle fuel tank." (k) "vehicle fuel tank" means a vehicle's tank or container that is designed, intended or used to carry the fuel required to propel that vehicle and is connected for that purpose to the fuel system of the vehicle and includes any tank or container carried in or upon the vehicle that is capable of being easily connected to the fuel system of the vehicle.
- Classification **3.** For the purposes of this Ordinance, inflammable petroleum products are classified as follows:
- "Class A." (a) "Class A" which includes all inflammable petroleum products that have a flash point at or below eighty-five degrees Fahrenheit according to the Tagliabue Closed Cup Tester; and
- "Class B." (b) "Class B" which includes all inflammable petroleum products that have a flash point above eighty-five degrees Fahrenheit and below one hundred and seventy-five degrees Fahrenheit according to the Tagliabue Closed Cup Tester.

PART I.

TRANSPORTATION ON HIGHWAYS.

APPLICATION.

- Application. **4.** This Part applies to the transportation of Class A and Class B inflammable petroleum products on a highway by means of a vehicle but does not apply to the carriage of such products in a vehicle fuel tank.

STORAGE TANKS FOR CLASS A PRODUCTS.

- Package transportation. **5.** No person shall transport or carry Class A inflammable petroleum products in storage tanks that have a capacity of fifty gallons or less than fifty gallons if the storage tanks do not meet the requirements and specifications prescribed from time to time by the Board of Transport Commissioners for Canada.

CONDITION OF STORAGE TANKS.

- Defective tanks. **6.** (1) Leaky or otherwise defective storage tanks shall not be used for the transportation of inflammable petroleum products.
- Tanks to be secure. (2) All portable storage tanks shall be properly secured to the carrying vehicle during transit.

PERSONNEL AND EQUIPMENT.

7. No person who loads or unloads or who is near a person who is loading or unloading inflammable petroleum products from a vehicle shall smoke or have in his possession a lighted pipe, cigar, cigarette or any open flame. No smoking during loading, etc.

8. (1) The electrical circuits of a motor vehicle used for the transportation of inflammable petroleum products shall be equipped with fuses, automatic circuit breakers or other suitable overcurrent protection to the satisfaction of an officer and all wiring shall have sufficient capacity and strength and shall be properly secured and insulated. Fire extinguisher.

(2) A motor vehicle used for the transportation of inflammable petroleum products shall be equipped with at least one approved hand fire extinguisher of a non-freezing type and in good working condition and placed in a position readily accessible to the person operating the vehicle.

9. (1) Every outlet, faucet or tap on a motor vehicle used for the transportation of inflammable petroleum products shall have attached to it an approved tag designating the class of the contents in the tank or compartment from which the faucet or tap leads. Faucets.

(2) The tag used to designate Class A inflammable petroleum products shall be coloured red and the tag used to designate Class B inflammable petroleum products shall be coloured in some other colour than red. Colour of tags.

10. (1) No person shall use a vehicle to transport or carry any inflammable petroleum products that have a Reid Vapour Pressure exceeding sixteen pounds per square inch except in approved storage tanks. Limit of vapour pressure.

(2) The procedure and means of testing vapour pressure for the purpose of subsection (1) shall be one that is approved or designated by the Commissioner. Testing of vapour pressure.

PART II.

HANDLING AND STORAGE IN BULK.

APPLICATION.

11. This Part applies to plants, buildings, storage tanks and equipment constructed or used for the handling and storage of inflammable petroleum products in bulk but does not apply to the equipment of refinery plants other than that used for the bulk storage of inflammable petroleum products. Application.

POSITION AND USE OF STORAGE TANKS.

- Outside tanks to be used in built up area. **12.** (1) Subject to subsection (3), no person shall store inflammable petroleum products in bulk in storage tanks located inside buildings within a settlement where the storage tanks are near a built up or heavily populated area.
- Diking. (2) In an area described in subsection (1), all storage tanks shall be diked to prevent their contents from flowing into the area adjacent to the tanks.
- Inside storage may be permitted by Commissioner. (3) The Commissioner or a person authorized by him may permit the bulk storage of Class B inflammable petroleum products in approved storage tanks inside hospitals, schools, public buildings, dwelling houses and business premises where
- Requirements. (a) the inflammable petroleum products have a flash point of not less than one hundred degrees Fahrenheit according to the Tagliabue Closed Cup Tester;
- (b) the capacity of the approved storage tank does not exceed the annual individual fuel requirements of the hospital, school, public building, dwelling house or business premises in which it is located; and
- (c) the storage tank is kept in a safe condition and does not create an undue hazard to adjacent premises.
- Inspection. (4) Storage tanks referred to in subsection (3) shall be inspected by an officer at intervals not exceeding three years.
- Underground tanks not to be under highway. **13.** (1) No part of an underground storage tank shall be installed underneath a highway.
- Basement floors. (2) No underground storage tank shall be installed underneath a basement floor.
- Walls, etc. (3) No underground storage tank shall be located less than three feet from a building, basement wall or property line.
- (4) No underground storage tank shall be abandoned without first being rendered harmless.
- Distance from property other than property of owner. **14.** (1) No storage tank, whether underground or above-ground, shall be placed any closer to real property, buildings or structures that are not owned by the owner of the tank or the person who is in charge or has control over it than the distance specified in Schedule A and where the storage tank is used for the storage of crude petroleum, the distance shall be twice that specified in Schedule A.
- Distance from other tanks. (2) No storage tank, whether underground or aboveground, shall be placed any closer to another storage tank than the distance specified in Schedule B and, where the storage tank is used for the storage of crude petroleum, the distance shall be twice that specified in Schedule B.
- Competent persons to attend loading, etc. **15.** No owner or person who is in charge of or has control over a storage tank shall permit loading or unloading operations to be carried out with respect to the tank unless a competent person is in immediate and constant attendance during such operations.

ABOVEGROUND STORAGE TANKS.

16. (1) Every aboveground storage tank shall be adequately^{Venting.} vented and equipped with an approved screen or other protective device to prevent the entrance of flame.

(2) Manhole frames shall be constructed of steel or an equivalent material and shall be securely fastened to the storage tank.^{Manhole frames.}

(3) Manhole covers shall be made of steel and shall be securely bolted and fitted with suitable gaskets that make them liquid-tight.^{Manhole covers.}

(4) Self-closing roof manhole and gauge hatch covers shall be fitted with non-sparking metal where they join their seats.^{Self-closing covers.}

(5) All roof manholes and gauge hatches shall be fireproof and gas-tight.^{Fireproof hatches.}

17. Every aboveground storage tank shall be grounded through direct contact with the earth by means of connecting pipe lines or suitable grounding cables and plates buried in the earth.^{Grounding.}

18. Every aboveground storage tank shall be vented for the emergency relief of excessive internal pressures with a vent of a diameter not less than that specified in Schedule C.^{Vents.}

19. Vertical aboveground storage tanks, shall, in addition to the vents referred to in section 18, be constructed with a roof that is weaker than the sides of the tank and shall contain an emergency explosion hatch in the roof.^{Safety precautions for vertical tanks.}

20. The name of the inflammable petroleum product contained in an aboveground storage tank shall be clearly marked^{Contents to be marked.}

(a) on a part of the tank plainly visible from the outlet valve; or

(b) on a tag fastened to the outlet valve.

UNDERGROUND STORAGE TANKS.

21. (1) Underground storage tanks shall be constructed of open hearth steel or wrought iron of a thickness not less than that specified in Schedule D.^{Thickness of plates.}

(2) Every underground storage tank shall be thoroughly coated on the outside with rust-resisting material.^{Protection against rust.}

(3) Underground storage tanks shall be tightly constructed and sufficiently strong to bear without injury the most severe strains to which they may be subjected in use.^{To be of strong construction.}

(4) The shells of underground storage tanks shall be reinforced where connections are made and all connections shall be made through the top of the tank and above the liquid level.^{Connections.}

Pressure not to be used.

22. No person shall subject an underground storage tank to pressure by means of compressed air, water or gas in order to dislodge or deliver the contents of the tank.

GENERAL REQUIREMENTS.

Precautions against mixing of different products.

23. (1) No storage tank with more than one compartment shall, at the same time, contain in its compartments or any of them inflammable petroleum products with different flash points, unless the compartments are separated by double bulkheads with suitably drained intervening air space or with some other means, suitable to the Commissioner, capable of preventing the intermixture of the inflammable petroleum products.

Exception.

(2) Where, prior to the 20th day of November, 1954, storage tanks have been constructed that do not conform to the requirements of subsection (1), they may be used but Class A and Class B inflammable petroleum products shall not be stored in the same tank at the same time.

Vent pipe.

24. (1) Every storage tank that may contain inflammable vapour shall be fitted with a vent pipe, the lower end of which shall not extend through the top into the tank for a distance of more than one inch.

Vent openings.

(2) Vent openings shall be of sufficient area to permit the escape of air or vapour during filling operations and, unless they work automatically, shall have a diameter of not less than one inch.

Flame arresters.

(3) Vent pipes shall be provided with weatherproof hoods and flame arresters.

Termination.

(4) Vent pipes shall terminate twelve feet above the general grade level and not less than two feet from a window or other opening in a building.

Individual pipes.

(5) An individual vent pipe shall be provided for each storage tank and for each compartment of a storage tank.

Location of filling pipes.

25. (1) The end of the filling pipe for an underground storage tank shall be located outside a building and not less than five feet from an entrance, door or other opening of a building.

To be kept locked.

(2) The end of the filling pipe shall be kept locked at all times other than those in which filling operations are being carried out.

Top to be protected.

(3) The top of every filling pipe that is at, below or near grade level shall be set in a covered metal box.

Exhaust pipes of engine.

26. Where an internal combustion engine is operated near equipment or storage tanks used for the storage in bulk of inflammable petroleum products, its exhaust pipe shall be placed at a safe distance from the equipment or tanks.

27. Where pumps used in handling bulk inflammable petroleum products are driven by electric motors or internal combustion engines, the motors or engines shall be kept in a room separated from that in which the pumps are housed by a gas-proof partition and suitable care shall be taken to protect connecting shafts with stuffing boxes or other approved devices. ^{Pumping equipment.}

28. Every switch that is exposed to inflammable gases shall be of an approved explosive-proof type. ^{Switches.}

PART III.

RETAIL OUTLETS.

SERVICE STATIONS.

29. (1) Inflammable petroleum products shall be stored at service stations in underground storage tanks where practicable. ^{Underground tanks.}

(2) Storage tanks and pumping equipment at service stations shall be constructed and used in compliance with sections 13, 21, 22, 24, 25, 26, 27 and 28. ^{Subject to certain sections.}

(3) Every rubber hose used in loading and unloading vehicles transporting inflammable petroleum products shall be anti-static. ^{Rubber loading hose.}

30. (1) No operator of a motor vehicle shall permit the engine of the vehicle to run during the period that an inflammable petroleum product is being delivered to its vehicle fuel tank. ^{No delivery while engine running.}

(2) No person at a service station shall deliver an inflammable petroleum product into the vehicle fuel tank of a motor vehicle while the engine of the motor vehicle is running.

31. (1) The nozzle of every hose connected to a service station pump through which an inflammable petroleum product is delivered by gravity or by electric power shall be made of a non-magnetic material and shall be equipped with automatic valves or with valves requiring hand pressure to hold them open and that close automatically when the hand pressure is released. ^{Hose valves.}

(2) Every hose connected to a service station pump through which an inflammable petroleum product is delivered shall be anti-static and equipped with a metallic connection between the inlet and outlet of the hose. ^{Anti-static hose.}

GENERAL PROVISIONS FOR SERVICE STATIONS AND STORES.

32. (1) Subject to subsection (3), portable storage tanks in which Class A petroleum products are sold or delivered to the public shall be of an approved metal safety type. ^{Portable containers.}

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Petroleum Products.

- Label. (2) A label shall be attached by the vendor to portable storage tanks referred to in subsection (1) on which shall be plainly printed a warning that the contents should not be exposed to fire or flame and should not be used for cleaning purposes in a building.
- Exceptions. (3) This section does not apply to
(a) the bulk sale or delivery of gasoline in quantities of five gallons or more that is contained in gasoline drums or containers that meet the requirements and specifications prescribed from time to time by the Board of Transport Commissioners for Canada;
(b) the delivery of gasoline required to refuel a motor vehicle that has stalled for lack of fuel; or
(c) samples taken by the representatives of oil companies or by officers under this Ordinance for the purpose of making tests.
- Prohibition against handling near fire. **33.** No person shall draw, handle or use an inflammable petroleum product in the presence of any open fire or flame or in places where the vapour of the product may be communicated to any open fire or flame.
- No self-service. **34.** No person shall provide for or permit the supplying of Class A petroleum products to the public by any type of self-serve method.
- Empty drums. **35.** (1) All storage tanks of the drum, barrel or small metal container type shall, when empty, be tightly closed.
(2) An officer may prohibit or limit the storage of storage tanks referred to in subsection (1) in any place where he deems it unsafe or inadvisable to store them.
- Disposal of waste products. **36.** (1) Every service station and store shall be equipped with a suitable means of disposal for crankcase oil or other used or waste inflammable petroleum products.
(2) The owner or the person who is in charge of or has control over a service station or store shall not permit any of the substances referred to in subsection (1) to enter a sewer or sub-surface drainage system or a water system or stream, well or body of water.
- Not to allow waste to enter sewers, etc.
- Fire protection. **37.** Every service station and store shall be equipped with approved fire extinguishing devices in good working order.

PART IV.

GENERAL.

IMPROPER STORAGE.

- Highways. **38.** No person shall store inflammable petroleum products in storage tanks with a capacity of fifty gallons or less on a highway unless he has been permitted to do so by an officer.

39. Where in the opinion of the Commissioner or of a person authorized by him, inflammable petroleum products are stored in a place or subject to conditions that create unnecessary danger, the Commissioner or a person authorized by him may direct the owner or the person who has control over them to remove such products and, where the owner or person who has control over them neglects or refuses to remove them after being so directed, may direct that they be removed at the expense of the owner.

Removal
where
danger is
created.

OFFICERS.

40. (1) The Commissioner may appoint persons to be officers for the purpose of carrying out the provisions of this Ordinance and may regulate their employment, powers and duties.

Appointment
of officers.

(2) Members of the Royal Canadian Mounted Police are *ex officio* officers under this Ordinance.

REGULATIONS.

41. The Commissioner may make regulations to carry out the purposes and provisions of this Ordinance.

Regulations.

OFFENCE AND PENALTY.

42. Every person who violates a provision of this Ordinance or the regulations is guilty of an offence and liable upon summary conviction to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment.

Offence and
penalty.

SCHEDULE A.

(Distance at which storage tanks shall be placed from property other than that of tank owners.)

Capacity of Tank (Imp. Gals.)	Minimum Distance
0 to 15,000	5 feet
15,001 to 24,000	10 feet
24,001 to 50,000	15 feet
50,001 to 100,000	25 feet
100,001 and over	$\frac{1}{2}$ of the diameter of the tank but not less than 25 feet.

SCHEDULE B.

(Distances at which storage tanks shall be placed from each other.)

Capacity of Tank (Imp. Gals.)	Minimum Distance
0 to 15,000	3 feet
15,001 to 24,000	5 feet
24,001 to 50,000	10 feet
50,001 to 100,000	15 feet
100,001 and over	$\frac{1}{2}$ of the diameter of the tank but not less than 25 feet.

SCHEDULE C.

(Emergency Vents.)

Capacity of Tank (Imp. Gal.)	Vent Diameter
500 to 1,000	1½ inches
1,001 to 4,000	2½ inches
4,001 to 15,000	4 inches

SCHEDULE D.

(Thickness of Material for Underground Storage Tanks.)

Capacity of Tank	Minimum Thickness in U.S. Standard Gauge	Lbs. Square Feet
1 to 250	16	2½
251 to 500	14	3⅛
501 to 1,000	12	4⅜
1,001 and over	7	7½

CHAPTER 87.

AN ORDINANCE RESPECTING THE PROFESSION
OF PHARMACEUTICAL CHEMIST.

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as the *Pharmaceutical Chemists Ordinance*.

INTERPRETATION.

- Definitions. **2.** In this Ordinance,
- "Dentist." (a) "dentist" means a dentist under the *Dental Profession Ordinance*;
- "Drug." (b) "drug" includes any substance or mixture of substances manufactured, sold or represented for use in
- (i) the diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal physical state or the symptoms thereof, or
- (ii) restoring, correcting or modifying organic functions in man or animal;
- "Licence." (c) "licence" means a valid licence issued under this Ordinance;
- "Medical practitioner." (d) "medical practitioner" means a medical practitioner under the *Medical Profession Ordinance*;
- "Narcotic." (e) "narcotic" means a drug at any time listed or described in the Schedule to the *Opium and Narcotic Drug Act*;
- "Pharmaceutical chemist." (f) "pharmaceutical chemist" means a person who is entitled to practise the profession of pharmaceutical chemist under this Ordinance;
- "Register." (g) "register" means the Pharmaceutical Chemists Register referred to in section 3; and
- "Veterinary surgeon." (h) "veterinary surgeon" means a person who
- (i) is registered as a veterinary surgeon under the law of any province of Canada, or
- (ii) is a veterinary inspector appointed under the *Animal Contagious Diseases Act*.

REGISTRATION AND LICENSING.

Pharmaceutical Chemists Register. **3.** The Territorial Secretary shall keep a register called the Pharmaceutical Chemists Register, and shall enter therein the names, addresses and qualifications of all persons who are, pursuant to this Ordinance, entitled to be registered in the register, and he may issue licences to such persons.

4. (1) A person who on the 2nd day of April, 1955, was entitled by law to practise the profession of pharmaceutical chemist in the Territory is entitled to be registered in the register.

(2) A person who
(a) has the right to practise the profession of pharmaceutical chemist in any province of Canada, or

(b) is a medical practitioner,
and who pays to the Territorial Secretary a fee of twenty-five dollars is entitled to be registered in the register.

5. Every person who is registered in the register shall pay to the Territorial Secretary at the time his name is registered in the register and subsequently on or before the 31st day of March in each year an annual licence fee in the sum of twelve dollars.

6. A licence expires on the 31st day of March next following the day upon which it came into force.

PRACTICE OF PHARMACEUTICAL CHEMISTRY.

7. No person is entitled to practise the profession of pharmaceutical chemist nor to recover a fee, reward or remuneration for medicines, materials or appliances provided by him in practising the profession of pharmaceutical chemist unless he holds a licence under this Ordinance at the time the medicines, materials or appliances are provided.

8. A person who holds a licence is entitled to practise the profession of pharmaceutical chemist in the Territory and to bring action before a judge for the recovery of reasonable charges for any medicines, materials or appliances supplied by him.

9. No pharmaceutical chemist is liable to an action for negligence or malpractice unless the action is commenced within one year from the day when, in the matter complained of, the professional services terminated.

10. No pharmaceutical chemist shall supply any drug listed or described in Schedule A or any preparation thereof except pursuant to a written prescription signed by a medical practitioner, dentist or veterinary surgeon.

11. (1) Subject to subsection (2), no pharmaceutical chemist shall supply a drug listed or described in Schedule B or any preparation thereof except pursuant to a written prescription signed by a medical practitioner, dentist or veterinary surgeon.

Poison register.

(2) A pharmaceutical chemist may supply a drug listed or described in Schedule B or any preparation thereof to an adult person known to him or introduced to him by an adult person known to him if the pharmaceutical chemist enters in a poison register kept exclusively for the purpose

- (a) the date of the sale,
- (b) the name and amount of the drug or preparation,
- (c) the declared purpose for which the drug or preparation is required,
- (d) the signature of the purchaser,
- (e) the address of the purchaser,
- (f) the signature of the person, if any, who introduced the purchaser to the pharmaceutical chemist, and
- (g) the signature of the pharmaceutical chemist.

Inspection of poison register.

(3) The poison register mentioned in subsection (2) shall during the business hours of a pharmaceutical chemist be open to the inspection of any member of the Royal Canadian Mounted Police or any person authorized by the Commissioner to inspect that register.

Schedule C drugs.

12. No pharmaceutical chemist shall supply any drug listed or described in Schedule C or any preparation thereof except pursuant to a written prescription signed by a medical practitioner, dentist or veterinary surgeon unless, prior to delivery, it is labelled with

- (a) the common name of the drug or preparation,
- (b) the design of skull and cross-bones,
- (c) the word "POISON" in large, bold type,
- (d) the name and address of the pharmaceutical chemist supplying the drug or preparation, and
- (e) the initials, written in ink, of the pharmaceutical chemist supplying the drug or preparation.

Storage of Scheduled drugs.

13. A pharmaceutical chemist shall not store any drug listed or described in Schedule A, B or C in the portion of his premises where the public is admitted.

Commissioner may vary schedules.

14. The Commissioner may alter or add to the list of drugs listed or described in the schedules or remove any drug therefrom.

OFFENCES AND PENALTIES.

Offences for unlicensed practice.

- 15.** (1) A person who is not the holder of a licence and who
- (a) publicly or privately practises the profession of a pharmaceutical chemist;
 - (b) supplies any drug or preparation thereof;
 - (c) appends to his name the title pharmaceutical chemist, dispensing chemist, druggist, dispensing druggist, or apothecary or any word indicative of any such title or uses any substitution or abbreviation thereof;

- (d) holds himself out in any way to be a duly qualified pharmaceutical chemist; or
- (e) assumes any title or description implying, or designed to lead the public to believe, that he is duly qualified to practise as a pharmaceutical chemist;

is guilty of an offence.

(2) A person who violates any provision of this Ordinance is guilty of an offence, and every person who commits an offence against this Ordinance is liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months, or to both fine and imprisonment. Offence and penalty.

16. In the case of an offence under this Ordinance a complaint shall be made, or the information laid, within one year from the time when the matter of the complaint or information arose. Time for prosecution.

17. In a prosecution for an offence under this Ordinance the onus of proof that the person against whom the charge is laid is the holder of a licence is upon the person against whom the charge is laid. Onus of proof.

INVESTIGATION AND REMOVAL.

18. (1) Subject to subsection (2), the Territorial Secretary shall remove from the register the name of a person registered therein who fails to comply with the provisions of this Ordinance with respect to licence fees, and the licence issued to that person is invalid until such time as he is again registered in the register. Removal for non-payment of fees.

(2) Where reasons satisfactory to the Commissioner are advanced to him as to why the licence fee has not been paid at the required time or within the required period, the Commissioner may grant an extension of time for payment of fees before allowing the name of a person on whose behalf they are paid to be struck off the register but he shall in no case grant an extension of time exceeding sixty days. Extension of time.

(3) A person whose name is removed from the register pursuant to subsection (1) is entitled to have his name restored to the register if he pays a fee of ten dollars in addition to the fee in respect of which his name was removed from the register. Reinstatement.

19. (1) The Commissioner may appoint two or more persons to act as a Board of Inquiry for the purpose of investigating any complaint made against a person practising as a pharmaceutical chemist with respect to an alleged contravention of this Ordinance or any complaint of malpractice or infamous, disgraceful or improper conduct on the part of a person practising as a pharmaceutical chemist. Board of Inquiry.

(2) Without restricting the generality of the expression "improper conduct" a pharmaceutical chemist is guilty of improper conduct who Meaning of "improper conduct".

- (a) is convicted of an offence against an Act of Parliament of Canada relating to the sale of narcotics; or

- (b) is shown to be addicted to the excessive use of intoxicating liquors or narcotics.
- Powers of Board.** (3) A Board of Inquiry appointed pursuant to subsection (1) may make rules and regulations under which the inquiry is to be held and has power
- (a) to summon and bring before it any person whose attendance it considers necessary to enable the Board properly to inquire into the matter complained of,
 - (b) to swear and examine all such persons under oath,
 - (c) to compel the production of documents, and
 - (d) to do all things necessary to provide a full and proper inquiry.
- Security for costs.** (4) A Board of Inquiry may direct that the person who made the complaint it is appointed to investigate shall deposit with the Board, as security for the costs of the inquiry and to the person complained against, a sum not exceeding five hundred dollars.
- Frivolous and vexatious complaint.** (5) Where the Board of Inquiry finds that a complaint is frivolous or vexatious, it may cause to be paid to the Territorial Treasurer out of the deposit for security mentioned in subsection (4) such portion of the costs of the inquiry, or to the person complained against such portion of his costs, as it deems advisable, and where the Board does not so find or where there is any balance of the deposit remaining, the deposit or balance thereof shall be returned to the person who deposited it.
- Quorum.** (6) A majority of the members of a Board of Inquiry is a quorum.
- Findings and recommendations.** (7) A Board of Inquiry shall, after investigation of a complaint pursuant to this section, make a finding and shall immediately report its finding to the Commissioner, and where it finds that the person complained against is guilty of a contravention of this Ordinance or of malpractice or of infamous, disgraceful or improper conduct, may, in its report to the Commissioner, recommend that such person be
- (a) reprimanded,
 - (b) fined in an amount named by the Board, such amount not to exceed five hundred dollars,
 - (c) struck off the register and his licence cancelled, or
 - (d) struck off the register and his licence suspended for a definite period named by the Board.
- (8) The Board of Inquiry shall, at the time it sends its report to the Commissioner pursuant to subsection (7), notify the person complained against of its finding and of the recommendations for punishment, if any, made by it in such report.
- Offence.** (9) Every person who
- (a) fails, without valid excuse, to attend an inquiry under this section,

- (b) fails to produce any document, book or paper in his possession or under his control, as required under this section, or
 - (c) at an inquiry under this section
 - (i) refuses to be sworn or to affirm, or to declare, as the case may be, or
 - (ii) refuses to answer any proper question put to him by the Board of Inquiry,
- is guilty of an offence.

20. (1) A person against whom a finding has been made by a Board of Inquiry may, within thirty days after the finding has been made, appeal from such finding to a judge.

(2) The judge before whom an appeal is made under subsection (1) may hear the appeal at such time and in such manner as he deems just and he may, by order, quash, alter or confirm the finding of the Board of Inquiry.

21. (1) Where a pharmaceutical chemist has been found guilty of a contravention of this Ordinance or of malpractice or of infamous, disgraceful or improper conduct by a Board of Inquiry and no appeal has been taken from the finding or the time for appeal has expired, the Commissioner shall, after receiving the report from the Board, impose the penalty recommended by it, and

- (a) in the case of a reprimand, reprimand the pharmaceutical chemist in writing and note the reprimand in the register;
- (b) in the case of a fine, make an order fining the pharmaceutical chemist which order shall be filed in the appropriate court and have the same effect as an order of that court;
- (c) in the case of a recommendation to strike off the register and cancel his licence, have the name of the practitioner struck off the register and cancel his licence; and
- (d) in the case of a recommendation to strike off the register and suspend his licence, have the name of the practitioner struck off the register and suspend his licence for such time as the Board has recommended.

(2) Where a judge on appeal confirms or alters the finding of a Board of Inquiry, his order in the case of a fine shall be carried out in the usual way and in the case of any other punishment referred to in subsection (1) shall be directed to the Commissioner and carried out by him in the same manner as provided by subsection (1).

22. (1) A pharmaceutical chemist whose name has been struck off the register and whose licence has been cancelled or suspended pursuant to section 21 may,

- (a) where he had not taken any appeal from the finding, within one year after the date of the finding of the Board of Inquiry, apply to the Commissioner to have his name restored to the register; or

(b) where he had appealed from the finding, within one year after the date of an order under subsection (2) of section 20, apply to a judge for an order directing the Territorial Secretary to have his name restored to the register.

Order by
Commissioner
or judge.

(2) The Commissioner or a judge may, upon application under subsection (1), order the Territorial Secretary to reinstate a pharmaceutical chemist on the register and renew his licence and restore his rights and privileges in such manner and upon such conditions as the Commissioner or judge may decide.

Territorial
Secretary to
reinstate.

(3) The Territorial Secretary shall, upon receiving an order under subsection (2) to do so, reinstate a pharmaceutical chemist on the register and renew his licence and restore his rights and privileges in such manner and upon such conditions as the order directs.

APPLICATION.

Saving.

23. Nothing in this Ordinance shall be deemed to prohibit or prevent

- (a) a medical practitioner from exercising a privilege conferred by any Ordinance relating to the practice of medicine and surgery in the Territory;
- (b) any person from supplying goods of any kind to a pharmaceutical chemist, medical practitioner or dentist;
- (c) a medical practitioner or dentist from supplying a patient with such medicine as he may require;
- (d) an executor, administrator or trustee of the estate of a deceased pharmaceutical chemist from continuing the business of the deceased if the business is conducted by a pharmaceutical chemist;
- (e) a member of the armed forces of Canada or of a visiting force as defined in the *Visiting Forces (North Atlantic Treaty) Act* from doing anything in the course of his duties as a member of such a force;
- (f) any person from supplying any drug listed or described in Schedule D;
- (g) any person from supplying any drug listed or described in Schedule E at a place that is at least five miles distant from a place where a pharmaceutical chemist is carrying on business; or
- (h) the manufacturing or supplying of any preparation registered under the *Proprietary or Patent Medicine Act*.

SCHEDULE A.

DRUGS THAT MAY BE SUPPLIED ONLY PURSUANT TO A PRESCRIPTION
OF A MEDICAL PRACTITIONER, DENTIST OR VETERINARY SURGEON.

(sec. 10)

Aminopyrine and any salt, homologue or derivative thereof and preparations containing aminopyrine and any salt, homologue or derivative thereof.

Amphetamine and any salt thereof and preparations containing amphetamine or any salt thereof.

Apiol and preparations containing apiol.

Atropine, and its salts and internal preparations containing more than 1/500 gr. per stated dose, or other preparations containing more than 0.1% by weight.

Barbituric acid and any salt, homologue or derivative thereof and preparations containing barbituric acid or salt, homologue or derivative thereof.

Bishydroxycoumarin, its salts and derivatives including Dicumarol, Cumopyran and Tromexan.

Carbomycin (magnamycin).

Chloral Hydrate and preparations containing chloral hydrate.

Chloramphenicol (Chloromycetin) and any salt or derivative thereof and preparations containing chloramphenicol or any salt or derivative thereof.

Chlortetracycline (Aureomycin) and any salt or derivative thereof and preparations containing chlortetracycline or any salt or derivative thereof.

Cinchophen and Neocinchophen and preparations containing cinchophen or neocinchophen.

Codeine and its salts and their preparations, except preparations containing one-eighth grain or less of codeine per tablet or other solid form, or liquid preparations containing one-third grain or less of codeine per fluid ounce, when such preparations are combined with other medical ingredients and the maximum dose prescribed for the preparation contains:

- (a) one such ingredient not less in quantity than the amount prescribed by the British Pharmacopoeia as a minimum dose for such ingredient;
- (b) two such ingredients having similar action, each not less in quantity than one-half the amount prescribed by the British Pharmacopoeia as a minimum dose for each such ingredient respectively; or
- (c) three such ingredients having a similar action each not less in quantity than one-third that amount prescribed by the British Pharmacopoeia as a minimum dose for each such ingredient, respectively.

- Corticotrophin (ACTH) and preparations containing corticotrophin.
- Cortisone and any salt or derivative thereof and preparations containing cortisone or any salt or derivative thereof (including hydrocortisone).
- Dihydrostreptomycin and any compound thereof and preparations containing dihydrostreptomycin or any compound thereof.
- 2:4-dinitrophenol and any compound, homologue or derivative thereof and preparations containing 2:4-dinitrophenol or any compound, homologue or derivative thereof.
- Ergot and its alkaloids and preparations containing ergot or its alkaloids.
- Erythromycin and any salt or derivative thereof, and preparations containing erythromycin or any salt or derivative thereof.
- Fumagilin.
- Hydrocyanic (Prussic) Acid.
- Hyosine (Scopolamine) and its salts, and internal preparations containing more than 1/200 gr. per stated dose, or other preparations containing more than 0.05 per cent by weight.
- Isonicotinic Acid Hydrazide and any derivative thereof; and preparations containing isonicotonic acid hydrazide or any derivative thereof.
- Methamphetamine, and any salt thereof and preparations containing methamphetamine or any salt thereof.
- Oxytetracycline (Terramycin) and any salt or derivative thereof and preparations containing oxytetracycline or any salt or derivative thereof.
- Paraldehyde.
- Penicillin, its salts or derivatives, and preparations containing penicillin, its salts or derivatives, excluding lozenges containing not more than 3000 International Units per dose.
- Phenylbutazone and any derivative thereof and preparations containing phenylbutazone or any derivative thereof.
- Phenylindanedione (Danilone).
- Phenytoin-Sodium and other Hydrantoin derivatives and preparations containing phenytoin-sodium or other hydrantoin derivatives.
- Polymixin ('B' Sulphate), or any preparation thereof except for topical use or for local action in the oral cavity or nasal passages.
- Selenium or any salt thereof and preparations containing selenium or any salt thereof.
- Sex Hormones as defined by the *Food and Drug Regulations* except skin creams containing sex hormones which are demonstrated to be free of systemic effects.

- Streptomycin and any compound thereof and preparations containing streptomycin or any compound thereof.
- Sulphonal and Alkyl Sulphonals.
- Sulphonamides and any salt, homologue or derivative thereof and preparations containing sulphonamides or any salt, homologue or derivative thereof.
- Tetraethylthiuram disulphide and preparations containing tetraethylthiuram disulphide.
- Tetracycline (Achromycin) and any salt or derivative thereof and preparations containing tetracycline or any salt or derivative thereof.
- Thiocyanates.
- Thiouracil and any salt, homologue or derivative thereof and preparations containing thiouracil or any salt, homologue or derivative thereof.
- Thyroid and any preparations containing thyroid.
- Thyroxin or any salt thereof and preparations containing thyroxin or any salt thereof.
- Trimethadione or paramethadione or preparations of either of them.
- Ureides including Bromal or Carbromal and preparations containing ureides.
- Urethane and any preparations containing urethane.
- Viomycin and any compound thereof.

SCHEDULE B.

DRUGS THAT MAY BE SUPPLIED TO ADULT PERSONS KNOWN OR INTRODUCED TO THE PHARMACEUTICAL CHEMIST AFTER ENTERING THE DRUG IN THE POISON REGISTER.

(sec. 11)

- Aconite and alkaloids and preparations thereof, except external preparations containing less than 0.2% aconitine.
- Alkaloids: all poisonous vegetable alkaloids, not specifically mentioned elsewhere in these Schedules and their salts and all poisonous derivatives thereof.
- Amyl Nitrite.
- Arsenic and preparations and compounds thereof, except as provided in Schedule C.
- Belladonna and preparations and compounds thereof, except plasters and except as provided in Schedule C.
- Bromoform.
- Butyl Chloral Hydrate.
- Cantharides and preparations thereof.
- Carbolic Acid, pure, or of greater strength than five per cent when mixed with water, or ten per cent when mixed with glycerin and water, but not crude carbolic acid.

Chloroform.
 Conium and preparations thereof.
 Croton Oil.
 Digitalis and preparations thereof.
 Ether.
 Ethyl Chloride.
 Hyoscyamus and preparations thereof.
 Lobelia and alkaloids and preparations thereof except external preparations containing not more than the equivalent of 6 grains of crude lobelia.
 Mercurial salts, except Calomel, and tablet form of corrosive sublimate, when sold in conformity with the requirements of the *Food and Drugs Act*.
 Nitroglycerin.
 Nux Vomica and preparations thereof.
 Oil of Bitter Almonds, unless deprived of Hydrocyanic (Prussic) Acid.
 Oil of Rue.
 Oil of Savin.
 Oil of Tansy.
 Potassium Antimonyltartrate (Tartar Emetic).
 Potassium Cyanide and all other metallic cyanides including cyanogas.
 Santonin.
 Stramonium and preparations thereof.
 Strong solution of lead subacetate (Coulard's Extract).
 Strophanthus and preparations thereof.
 Strychnine, its salts and preparations thereof except as provided in Schedule C.
 Yohimba and alkaloids thereof and preparations containing yohimba or alkaloids thereof.

SCHEDULE C.

DRUGS THAT MAY BE SUPPLIED BY A PHARMACEUTICAL CHEMIST TO ANY PERSON WHEN LABELLED "POISON", ETC.

(sec. 12)

Acid Chromic.
 Acid Oxalic.
 Acid Picric (Trinitrophenol).
 Barium Chloride.
 Barium Sulphide.
 Benzene (benzol).
 Benzene Hexachloride—Lindane, etc., Cammexane.

Carbon tetrachloride—"when, in addition to the requirements of section 12, the label bears the following wording: 'POISON—Vapours and odours from this solution are POISONOUS. Use only in open air or well ventilated room'."

Chlordane.

Copper carbonate.

Copper subacetate (Verdigris).

Copper sulphate.

Corrosive sublimate, when sold in accordance with legislation of Canada and regulations thereunder.

Cotton Root and preparations thereof.

Creosote and preparations thereof.

Cresol (Cresylic Acid) and its preparations, and the homologues of cresol and their preparations when stronger than 5% Cresol.

Crude Carbohc Acid.

Derris Root.

D.N.O.C.—), 5-dinitro-o-cresol, and any salt thereof.

DNOCHP—2, 4, dinitro-6-cyclonexylphenol.

Formaldehyde, whether described as Formaline or any other trade name, mark or designation.

Guaiacol.

Hellebore.

Henna.

Iodine and preparations thereof.

Lead Salts.

Methoxychlor.

Neotran—(Dow Chem. Co.)—bis p-chlorophenoxy) methane.

Oil of Cedar.

Oil of Chenopodium.

Oil of Pennyroyal.

Pennyroyal.

Phosphorus in a free state.

Picrotoxin.

Potassium Bichromate.

Potassium Hydroxide.

Potassium Permanganate.

Rotenone.

Rothane—dichlorodiphenyldichloroethane, including Schradan.

Sabadilla seeds.

Silver Nitrate.

Sodium Fluoride.

Sodium Hydroxide.

Stavesacre.

Thallium Salts.

Tobacco Extract.

Warfarin Compound 42 (WARF42) 3-(d-ace toxybenzyl)-4-hydroxycoumarin.

Zinc Salts.

Arsenic, Belladonna and Strychnine, when combined with other ingredients in preparation of pills, capsules, tablets, elixirs or syrups having medicinal qualities other than those possessed by the drugs named in this clause when taken alone, and in doses not exceeding those of the British Pharmacopoeia and generally recognized as safe medication.

SCHEDULE D.

DRUGS THAT MAY BE SUPPLIED BY ANY PERSON

(sec. 23(f)).

Acetylsalicylic Acid (in original packages) whether described as Aspirin, Acetophen, or any other trade name, mark, or designation.

Acid muriatic.

Acid Sulphuric (commercial).

Alum.

Borax.

Bicarbonate of Soda.

Castor Oil.

Cream of Tartar.

Carbonate of soda.

Carbonate of magnesia.

Chloride of Lime.

Di-sodium-Dibrom-Oxymercury-Fluorescein, whether described as "Mercurochrome" or any other trade name, mark or designation.

Epsom Salts.

Glauber's salts.

Glycerin.

Gum Camphor.

Hydrogen Peroxide.

Phenacetin.

Phosphate of Soda.

Rhubarb Root.

Rochelle Salt.

Saltpetre.

Senna.

Sulphur.

Solution of Ammonia.

Weak Tincture of Iodine (in original bottle).

Turpentine.

SCHEDULE E.

DRUGS THAT MAY BE SUPPLIED BY ANY PERSON IN PLACES AT LEAST
FIVE MILES DISTANT FROM A PLACE WHERE A PHARMACEUTICAL
CHEMIST IS CARRYING ON BUSINESS

(sec. 23(g)).

Calomel.

Cresol (Cresylic Acid) and its preparations and the homologues
of Cresol and their preparations when weaker than 5% Cresol
and sold in original bottles.

Formaldehyde.

Oil of Cedar.

Potassium chloride.

Salol.

Sodium Salicylate.

Spirit of Nitre.

CHAPTER 88.

**AN ORDINANCE RESPECTING THE PRACTICE AND
PROCEDURE IN CIVIL MATTERS IN POLICE
MAGISTRATE'S COURTS.**

- Short Title. **1.** This Ordinance may be cited as the *Police Magistrate's Courts Ordinance*.
- Definitions.
"Clerk." **2.** In this Ordinance,
(a) "clerk" means a clerk of a Police Magistrate's Court;
and
(b) "Police Magistrate's Court" means a court presided over by a police magistrate.
- "Police Magistrate's Court."
Manner of proceeding in a Police Magistrate's Court. **3.** (1) Subject to this Ordinance, the rules of practice and procedure followed in the Territorial Court shall, *mutatis mutandis*, be followed in all actions and proceedings in a Police Magistrate's Court, other than claims that might have been brought before a Small Debts Official under the provisions of the *Judicature Ordinance*, and the provisions respecting Small Debts in that Ordinance shall, *mutatis mutandis*, be followed in all actions and proceedings in a Police Magistrate's Court that might have been brought before a Small Debts Official under those provisions.
- Proceedings how entitled. (2) All proceedings in a Police Magistrate's Court shall be entitled "In the Police Magistrate's Court for the District of . . ."
- Powers of Police Magistrate. (3) Every action in a Police Magistrate's Court shall be tried, and judgment given, and decisions, determinations, rules, orders and decrees shall be made by a police magistrate.
- Clerks of Courts. **4.** There shall be a clerk for each Police Magistrate's Court.
- Fees. **5.** The Commissioner may establish tariffs of fees and costs for services rendered by
(a) clerks,
(b) the sheriff, and
(c) barristers and solicitors
in actions and proceedings arising in Police Magistrate's Courts.
- Fee book. **6.** (1) Each clerk shall keep a book in which he shall enter all fees and emoluments received by him by virtue of this Ordinance, showing separately the fees received by him for each service performed under this Ordinance and such other facts and information as the Commissioner requires.
- Records. (2) Each clerk shall, in addition to the book referred to in subsection (1), keep such other records as the Commissioner prescribes.

7. (1) Each clerk shall, on or before the 15th day of March in each year, prepare a statement in duplicate verified under oath from the book mentioned in subsection (1) of section 6 and transmit a copy of the statement to the Territorial Treasurer. Annual statement of fees by clerk.

(2) The statement required by subsection (1) shall set forth the total amount of fees which have been received by the clerk during the twelve months ending on the last day of February next preceding, and with such statement the clerk shall transmit to the Territorial Treasurer the amount of all fees received by him during the next preceding year. What statement to contain.

8. Each Police Magistrate's Court shall have a seal in a form prescribed by the Commissioner, which seal shall be affixed to all processes, subpoenas, writs, orders, judgments and all other proceedings issued by the clerk of such court. Seal.

9. (1) Where an appeal lies from a judgment or order of a police magistrate to a judge, it shall be commenced by notice of appeal without any other formal proceeding being required. Notice of appeal.

(2) Motions for new trials and motions in the nature of appeals shall be brought by notice of appeal mentioned in subsection (1) and any party appealing may by the same notice of appeal and in the alternative ask for a new trial. Motions for new trials.

(3) On 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 judgment or order and the notice of appeal shall state whether the whole or part only of the judgment or order is complained of and if part only, specify the part, and such notice of appeal shall state the grounds on which the application is based. What notice to contain.

(4) A notice of appeal may be amended at any time by leave of the judge before whom the appeal is brought on such terms as he deems fit. Amendment.

10. No security for costs is required on any motion for a new trial, appeal or motion in the nature of appeals except in cases where due to special circumstances, such security is ordered by a judge or police magistrate, but no such order shall be made unless application therefor is made within fifteen days from the service of the notice. Security for costs.

11. (1) A notice of appeal shall be filed in the Police Magistrate's Court from which the appeal is taken and served on all parties directly affected by the appeal, and if the judge before whom the appeal is brought so directs, on all of the parties to the action or other proceedings, or on any person not a party, and the judge may, in the meantime, postpone or adjourn the hearing of the appeal upon such terms as to him seems 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. Filing of notice of appeal.

- Time for filing.** (2) A notice of appeal shall be filed as provided in subsection (1) within twenty days from the date upon which the judgment or order appealed from is signed, entered or pronounced, but the judge before whom the appeal is brought or the police magistrate from whose judgment or order the appeal is made may, either before or after the expiration of that time, extend the time for serving such notice.
- Appeal not to stay proceedings.** **12.** (1) Except as ordered by the police magistrate from whose decision an appeal is taken or the judge before whom the appeal is brought, an appeal does not operate as a stay of execution or of proceedings under the decision appealed from, and no intermediate act or proceeding is invalid by reason only of that appeal.
- Security.** (2) A judge or police magistrate who gives an order or direction under subsection (1) may demand such security as may to him seem fit.
- How questions of fact to be brought on appeal.** **13.** When a question of fact is involved in an appeal, the evidence taken before a police magistrate bearing on the question shall, subject to any order of the judge before whom the appeal is brought be brought before such judge as follows:
 (a) in the case of evidence taken by affidavit, by the production of copies of the affidavit; and
 (b) in the case of evidence given orally, by production of any or all of the following:
 (i) the notes of the evidence, as prepared by a stenographer who took down the evidence at the trial,
 (ii) notes made by the police magistrate, and
 (iii) such other material as the judge before whom the appeal is brought deems proper.
- Filing and service of appeal book.** **14.** (1) A person appealing from a decision of a police magistrate shall serve upon the respondent or his solicitor a copy of the appeal book therein, and shall file with the Clerk of the Territorial Court two copies of such appeal book within twenty days from the filing of the notice of appeal or within such other time as the judge before whom the appeal is brought or the police magistrate from whose decision the appeal is taken directs.
 (2) The appeal book shall be clearly and legibly typewritten or printed and must be approved of by the opposite party or settled by the police magistrate from whose decision the appeal is made before it is filed under section 15.
- Hearing of appeal.** **15.** The hearing of an appeal shall be held at such time as is fixed by the judge before whom the appeal is taken, but not less than ten days from the day on which the appeal book therein is filed.
- Fees.** **16.** There shall be paid to the Clerk of the Territorial Court on all appeals from a Police Magistrate's Court such fees as may be prescribed by the Territorial Court.

CHAPTER 89.

AN ORDINANCE TO PROVIDE FOR THE IMPOSITION AND COLLECTION OF A POLL TAX.

SHORT TITLE.

1. This Ordinance may be cited as the Poll Tax Ordinance. Short Title.

INTERPRETATION.

- 2. In this Ordinance, Definitions. (a) "collector" means the collector of poll tax described in "Collector," section 3, and includes a sub-collector; (b) "employer" means a person who employs labourers, "Employer," servants, clerks, domestics or any other hired help for wages, salary, fee or other reward; (c) "municipal collector" means a collector of the tax for "Municipal collector," a municipality; (d) "municipality" means a municipality as defined in the "Municipality," Municipal Ordinance; (e) "receipt" means a receipt of tax issued under this "Receipt," Ordinance; and (f) "tax" means a poll tax provided for under this Ordinance. "Tax."

PART I.

TERRITORIAL POLL TAX.

COLLECTOR AND SUB-COLLECTOR.

3. The Territorial Treasurer is the collector of the tax for Collector. the Territory.

4. The Commissioner may appoint such sub-collectors as Sub-collectors. he deems advisable who may exercise all the functions and perform all the duties of the collector under this Ordinance within such portion of the Territory as the Commissioner designates.

LIABILITY FOR TAX.

5. (1) Except as provided in this Ordinance, every male per- By whom son who is gainfully employed and has resided in the Territory tax payable. for a period of at least one month shall pay an annual poll tax of five dollars on demand by his employer or the collector.

(2) Subject to subsection (3), the tax is due and payable on When tax the 1st day of January in each year. due.

Exception.

(3) Where a person begins residing in the Territory after the 1st day of January in any year, the tax for that year is due and payable when the person has resided in the Territory one month.

Exemptions.

- 6.** (1) No tax is payable by any person who
- (a) is over the age of sixty years or under the age of nineteen years and whose last yearly income did not exceed one thousand dollars;
 - (b) is a member on active service in the Armed Forces of Her Majesty;
 - (c) is a member of a visiting force, as defined in the *Visiting Forces (North Atlantic Treaty) Act*;
 - (d) is ordinarily a resident of the United States of America residing in the Territory as an official or employee of the Government of the United States or a Commission of that Government or as a workman engaged on highway, railroad, pipeline or defence construction;
 - (e) is an Indian;
 - (f) has paid to the Commissioner or to a municipality in the Territory taxes assessed on land for the year ending the 31st day of December immediately preceding the day of the making of the demand for the poll tax and who exhibits to his employer and to the collector proof of the payment of such taxes either by the production of a receipt or certificate from the person who collected them that such taxes for that year have been paid, unless such taxes are less than five dollars in which case the tax payable is the amount by which the tax imposed by this Ordinance exceeds the amount of the taxes paid;
 - (g) is attending a school or university and is employed on seasonal employment only;
 - (h) is in receipt of a pension or annuity and not otherwise gainfully employed; or
 - (i) was a resident of the Territory for the whole of the year next preceding the year in which the tax would, but for this paragraph, become due and payable; the burden of establishing residence is upon the person claiming exemption under this paragraph.

Ibid.

- (2) No poll tax imposed under section 5 is payable by any person who
- (a) has paid or is liable to pay a poll tax for the current year under Part II, and
 - (b) exhibits to the employer or to the collector proof of the payment or liability to pay a poll tax described in paragraph (a) by the production of a receipt or certificate from a municipal collector.

DUTIES OF EMPLOYER.

7. (1) Every employer shall collect the tax from every male person directly or indirectly employed by him for a period of at least one week who is liable for such tax. Employer to collect tax.

(2) An employer may collect the tax by deducting it from the amount of salary or wages due or to become due to a male person employed by him. Employer may deduct tax from salary.

(3) When a male person is indirectly employed by an employer, the employer may collect the tax by deducting it from the amount payable to the contractor who employs such person. Where person employed by contractor.

8. (1) Every employer shall furnish to the collector, when so requested by the collector, a list of all male persons who are directly or indirectly employed by him. List to be furnished by employer to collector.

(2) Where a male person presents a receipt to his employer, the employer shall furnish to the collector the name of the person and the number, date and place of issue of the receipt. Employer to give name, etc., of person furnishing receipt.

9. An employer shall remit the tax that he collects to the collector within two months after he collects it. When employer to remit tax.

10. An employer who fails to perform a duty imposed upon him by this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars. Offence and penalty.

DUTIES OF COLLECTOR AND SUB-COLLECTORS.

11. The collector shall issue to each person who pays the tax a receipt in a form prescribed by the Commissioner setting out Collector to issue receipt.

- (a) the name in full of the person on whose behalf it is issued, and
- (b) the place and date of the issue thereof.

12. (1) Every sub-collector shall, not later than the 15th day of each month, make a report to the collector setting out Report by sub-collector.

- (a) all taxes collected by him in the preceding month,
- (b) the name of each person who has paid during the preceding month, and
- (c) the date of payment and the tax receipt numbers.

(2) A sub-collector shall with the report referred to in subsection (1) remit to the collector the full amount of the tax collected by him during the preceding month. Sub-collector to remit tax to collector.

13. Out of the Yukon Consolidated Revenue Fund there shall be paid to each sub-collector after making the report referred to in section 12 an amount equal to five per cent of the tax collected by him during the preceding month. Payment of fee to sub-collector.

Security by persons collecting tax.

14. The Commissioner may require such security as he thinks fit from every person empowered by this Ordinance to collect the tax.

Person required to produce receipt.

15. (1) The collector or any other person authorized by the Commissioner may demand the production of his receipt from any person who is liable to pay the tax.

Failure to comply with subsection (1).

(2) If a person on whom a demand is made under subsection (1) fails to comply with that subsection or pay the tax in lieu thereof within one week, the collector or other person making the demand may levy the tax, together with a penalty of twice the amount of the tax.

Person producing false receipt.

16. (1) When a receipt is demanded by the collector or other person authorized by the Commissioner to make such demand, no person shall, with intent to evade payment of the tax, knowingly produce a receipt that purports to be but is not a receipt for the tax due by him.

Offence and penalty.

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

RECOVERY OF TAX.

Tax recoverable as debt in ordinary action.

17. The tax and the penalty provided for by section 15 may be recovered by action brought in the name of the Collector of Poll Tax for the Yukon Territory as a debt in an ordinary action.

Burden of proof.

18. In an action for the recovery of the tax the burden of proof that the tax has been paid is on the defendant.

PART II.

MUNICIPAL POLL TAX.

Municipal council may impose tax.

19. (1) The council of a municipality may by by-law fix and impose a poll tax not exceeding five dollars on every male person who resides within the boundaries of the municipality for a period of at least one month.

When tax due.

(2) A tax under this Part is payable to the municipal collector and is, in respect of the year in which the by-law passed, due on a day fixed by the by-law, and thereafter on the 1st day of January in each year.

Part I applies to tax under this Part.

20. (1) Subject to this section Part I applies to a tax imposed under this Part.

Exception.

(2) Paragraph (f) of subsection (1) of section 6 does not apply in respect of a tax imposed under this Part.

(3) In applying Part I to this Part "Municipal Council" shall be substituted for "Commissioner", and "municipal collector" shall be substituted for "collector".

Substitution of "Municipal Council" for "Commissioner" and "municipal collector" for "collector".

21. (1) No tax under this Part is payable by a person who

Exemptions.

- (a) has paid to the collector of a municipality assessed taxes to the value of five dollars on real property, land or improvements for the year ending the 31st day of December immediately preceding the day a demand for the tax is made, and
- (b) exhibits to his employer and to the municipal collector proof of the payment of such assessed taxes either by the production of a receipt for the same or of a certificate from the municipal collector that states that such assessed taxes have been paid.

(2) Where the assessed taxes referred to in subsection (1) paid by any person for the preceding year are less than five dollars the amount of tax payable by him under this Part is limited to the amount by which the tax imposed exceeds the amount of the assessed taxes so paid.

Ibid.

(3) No tax imposed under this Part by a municipality is payable by a person who

Ibid.

- (a) has paid a tax imposed under this Part by another municipality, and
- (b) exhibits to the municipal collector for the former municipality proof of such payment by production of a receipt or certificate from the municipal collector for the other municipality.

22. All money collected from tax under this Part in any municipality shall be placed to the credit of the municipality.

Money collected under this Part to be placed to credit of municipality.

CHAPTER 90.

AN ORDINANCE RESPECTING TRESPASSING AND STRAYING OF ANIMALS.

Short Title.	1. This Ordinance may be cited as the <i>Pounds Ordinance</i> .
Definitions. "Animal."	2. In this Ordinance, (a) "animal" means horse, mule, jack, goat, neat cattle, swine or geese; and
"Lawful fence."	(b) "lawful fence" means a fence that is not less than four feet six inches high and consists of such courses of rails or wire as may reasonably appear sufficient for the protection of the ground within its bounds from animals.
Ordinance not applicable to municipalities. Commissioner may constitute pound districts and appoint pound-keepers.	3. This Ordinance does not apply within a municipality. 4. The Commissioner may constitute any part of the Territory a pound district, and appoint therefor one or more pound-keepers.
Where land only partly enclosed by lawful fence.	5. (1) The owner or occupier of land surrounded by a lawful fence, or the agent or either of them, may capture an animal trespassing upon his land and deliver it to the nearest pound-keeper of the pound district in which the trespass was committed. (2) Where an animal breaks a lawful fence and causes damage to land partly enclosed by such fence and partly enclosed by a fence that is not a lawful fence, the owner or occupier of the land may deal with the animal in the same manner as if the land were entirely enclosed by a lawful fence.
Trespass through division fence.	(3) Where an animal breaks through a division fence that the owner of the animal is bound to repair and keep up, the owner of the land where the animal breaks through may, whether the division fence is a lawful fence or not, capture the animal and deliver it to the nearest pound-keeper in the pound district where the land is situate.
Where animal running at large.	6. Any person may capture an animal running at large and deliver it to the pound-keeper of the district where the animal was found running at large.
Liability of landowner for animal kept on his land. Liability of owner of animal running at large.	7. (1) An owner or occupier of land where an animal is kept, or the person in charge of the animal, is liable for any damage caused by the animal as if the animal were his property. (2) The owner of an animal who permits the animal to run at large is liable for any damage done by the animal, whether the land where such damage is done is surrounded by a lawful fence or not.

8. A person who delivers an animal to a pound-keeper shall

(a) leave with the pound-keeper a statement in writing of his claim for damages done by the animal and his reasonable charges incurred in delivering it to the pound-keeper;

(b) deposit such poundage fees if demanded as the pound-keeper considers reasonable; and

(c) sign an agreement in Form A, to pay the owner all damages caused by the capture of the animal in case the capture was illegal, or his claim for damages is not established.

Duty of person who delivers animal to a pound-keeper.

9. Subject to section 8, the pound-keeper shall impound every animal delivered to him for that purpose and shall be responsible for feeding it and its safe keeping as long as he is legally bound to hold the animal.

Duty of pound-keeper towards impounded animal.

10. (1) Subject to subsection (2), before delivering an animal to its owner the pound-keeper shall collect from him the amount of the damages, charges of the keep, and other incidental expenses connected with the animal.

Pound-keeper to collect damages, etc. before delivering animal to owner.

(2) Notwithstanding subsection (1), the owner of an impounded animal is entitled on demand to his animal without payment of any damages, charges or other expenses on giving satisfactory security for such damages, charges and expenses.

Security in lieu of damages, etc.

(3) The owner of an animal captured or impounded under this Ordinance is entitled to recover it upon tender of all damages committed and all reasonable charges incurred up to the time of tender from any person in whose possession the animal is.

Owner entitled to recover animal on tender of damages, etc.

11. (1) Upon impounding an animal, the pound-keeper shall immediately notify the owner, if known, of the impounding.

Pound-keeper to notify owner where known.

(2) If, within three days after notification under subsection (1), the owner does not pay all lawful damages and other charges or security in lieu thereof, and take his animal, the pound-keeper shall sell the animal by public auction after posting notices for at least ten days of the time and place of the auction in three of the most public places in the pound district.

Sale of animal.

12. (1) Upon impounding an animal, the pound-keeper shall, if the owner is not known, cause to be posted in three of the most public places in the pound district, a notice giving as full a description of the animal as possible.

Where owner not known.

(2) Where the animal referred to in subsection (1) is one of the neat cattle species over two years old or a horse, mule or jack and no owner is found at the end of twenty days, the pound-keeper shall advertise and sell the animal in the manner provided for in subsection (2) of section 11.

Sale of animal.

(3) Where the animal referred to in subsection (1) is not one described in subsection (2), and no owner is found within six days, the pound-keeper shall advertise and sell the animal in the manner provided for in subsection (2) of section 11.

Idem.

- Application of proceeds.** **13.** (1) The pound-keeper shall apply the proceeds of a sale under section 11 or 12 first, in payment of his fees, secondly, the damages and reasonable charges of the person who delivered the animal to him, and the balance, if any, shall be paid to the owner of the animal.
- Payment to Territorial Treasurer if owner not known.** (2) If the owner of an animal sold under this section is not known, the money that would be paid to him if known shall be paid at the expiration of three months to the Territorial Treasurer.
- Payment into Y.C.R.F.** (3) If the owner does not within one year claim the money paid to the Territorial Treasurer under subsection (2), it shall be paid into and form part of the Yukon Consolidated Revenue Fund.
- Pound-keeper not to purchase animal.** **14.** A pound-keeper shall not directly or indirectly become the purchaser at any sale conducted under his direction.
- Person delivering animal entitled to damages and charges.** **15.** (1) The person who delivers an animal to a pound-keeper is entitled to any damages suffered by him and his reasonable expenses in connection with the animal.
- Pound-keeper entitled to fees.** (2) The pound-keeper is entitled to the fees in the Schedule.
- Pound-keeper not to neglect duties.** **16.** (1) No pound-keeper shall neglect his duty under this Ordinance.
- Prohibitions.** (2) No person shall
- (a) rescue an animal from a person lawfully taking it to the pound,
 - (b) make a breach of a pound, or
 - (c) unlawfully set at large an animal impounded.
- Disputes.** **17.** Where a dispute arises as to any matter under this Ordinance, or a complaint is made that a fine should be imposed under this Ordinance, a justice of the peace may, if it is brought before him, dispose of the same in a summary manner.
- Right of action not impaired.** **18.** Nothing in this Ordinance impairs the right of any person to an action for damages occasioned by a trespassing animal, whether the action exists at common law or by virtue of a statute or ordinance.
- Returns to Commissioner.** **19.** (1) Every pound-keeper shall, on the 31st day of December in each year, forward to the Commissioner a return in such form as the Commissioner directs.
- Form.** (2) The return mentioned in subsection (1) shall set out
- (a) the animals impounded during the year,
 - (b) the amount of damages and other charges made,
 - (c) all sales made by the pound-keeper,
 - (d) the surplus, if any, made on each sale, and
 - (e) the disposition of every surplus.

20. (1) A person who finds an animal running at large in a weak or poor condition shall notify the nearest detachment of the Royal Canadian Mounted Police. Where weak animal running at large.

(2) The police notified under subsection (1) may, if the owner is known, order him to feed the animal or to kill it, and the owner shall comply with such order. Police may order owner to feed animal, etc.

(3) When the owner of an animal of which police have been notified under subsection (1) is not known, the police may have the animal impounded and it shall then be dealt with in accordance with section 12, except that it may be sold after twelve days in the pound. If owner not known animal to be impounded.

21. 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 or fox food unless it can be disposed of by private sale. Where no purchaser at sale.

22. A person who violates a provision of this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars. Offence and penalty.

SCHEDULE.

FORM A.

I, A.B., do agree that I will pay to the owner of the (*description of 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.

POUND-KEEPER'S FEES.

For impounding a horse, mule or jack or head of cattle or swine, each day, \$4.00.

For impounding a sheep or goat, each day, \$1.65.

For notifying the owner of the animal impounded, 50c.

For posting notices if the owner is not known, the actual cost of newspaper advertisements when incurred and \$1.00.

For posting notices of sale, \$1.00.

For each mile necessarily travelled in performance of his duties, 10c.

For selling an animal and applying the proceeds in accordance with this Ordinance, 5% commission upon the amount realized on the sale.

CHAPTER 91.

AN ORDINANCE TO PROVIDE FOR THE PROTECTION OF CHILDREN.

SHORT TITLE.

Short Title. 1. This Ordinance may be cited as the Protection of Children Ordinance.

INTERPRETATION.

- Definitions. 2. In this Ordinance, (a) "child" means a person under the age of eighteen years; (b) "children's aid society" or "society" means a children's aid society declared to be a body corporate pursuant to this Ordinance and any children's aid society incorporated under any other Ordinance prior to the 2nd day of April, 1955; (c) "foster home" means a private home approved by the Superintendent or by a children's aid society for the purpose of the placement of a child therein, irrespective of whether any payment is made to the home for maintenance of the child; (d) "justice" means a police magistrate or any two justices of the peace or any person having the authority and jurisdiction of two justices of the peace; (e) "officer" means a person appointed by a children's aid society for the purpose of enforcing or carrying out the provisions of this Ordinance; (f) "parent" includes a guardian; (g) "probation officer" means a probation officer for juvenile delinquents appointed under the Juvenile Delinquents Act or under any Ordinance of the Territory; (h) "street" includes any highway or public place, whether a thoroughfare or not; and (i) "Superintendent" means the Superintendent of Child Welfare appointed under this Ordinance.

SUPERINTENDENT.

Appointment of Superintendent. 3. The Commissioner may appoint an officer to be called the Superintendent of Child Welfare who shall hold office during pleasure.

Other officers and employees. 4. The Commissioner may appoint such persons to assist the Superintendent in the performance of any of his duties under this Ordinance as he deems necessary.

5. The Superintendent shall

Duties of Superintendent.

- (a) ensure that the provisions of this Ordinance are carried out and that all returns provided for by this Ordinance are made;
- (b) make a written report monthly to the Commissioner setting forth the name, date of birth and religion of any child committed to his care or to the care of a society during the month immediately preceding the making of the report, and when and where such committal was made;
- (c) encourage and assist in the establishment of such societies as he deems advisable;
- (d) advise any society with respect to the performance of its duties;
- (e) ensure that each society keeps a record of
 - (i) all children committed to the care of the society,
 - (ii) all children placed in foster homes by the society, and
 - (iii) such other particulars as the Superintendent deems desirable;
- (f) direct and supervise the visiting of any place where a child is placed pursuant to this Ordinance;
- (g) prepare and submit an annual report to the Commissioner; and
- (h) perform such other duties as may devolve upon him under any other Ordinance.

CHILDREN'S AID SOCIETIES.

6. (1) Where ten or more Canadian citizens over the age of twenty-one years of age who reside within any area described in paragraph (b) desire to form a children's aid society they may make application to the Commissioner in Form A, which application shall be signed by each of the applicants and shall set out,

Application for incorporation.

- (a) the proposed name of the children's aid society;
- (b) the boundaries of the area in which the society proposes to carry on its business and over which it proposes to exercise jurisdiction;
- (c) that the applicants reside in the area described in paragraph (b);
- (d) the proposed number of directors of the society;
- (e) the names, addresses and occupations of the society's first directors; and
- (f) the time when and place where the first general meeting of the society will be held.

(2) The signature of each of the applicants shall be verified by statutory declaration to the satisfaction of the Commissioner.

Verification of application.

7. (1) Upon receipt of an application referred to in section 6 the Commissioner may, if he approves of the proposed society, declare it to be a body corporate under the name set out in the application or under such other name as the Commissioner may determine.

Incorporation.

Powers of society.

(2) Section 13 of the *Interpretation Ordinance* applies to and in respect of any society declared to be a body corporate pursuant to subsection (1), and the society may acquire and hold by gift, purchase, grant, devise or bequest any property, real or personal, and may dispose of any such property for the purposes of the society.

Boundaries.

8. The Commissioner, upon request of a children's aid society, may change the boundaries of the area within which it operates.

DIRECTORS.

Directors.

9. (1) The affairs of a society shall be managed by a board of not less than five directors who shall be elected by the members of the society at a general meeting thereof assembled at such time and place within the Territory as, in the case of the first general meeting, was named in the application, and, in subsequent cases, as is prescribed in the by-laws.

Provisional directors.

(2) Until the holding of the first general meeting, the provisional directors named in the application shall manage the affairs of the society.

By-laws.

10. (1) The directors may make by-laws, not inconsistent with the provisions of this Ordinance, regulating

- (a) the number of directors of the society and their term of service;
- (b) the appointment, functions, duties and removal of agents, officers and servants of the society, the security to be given by them to the society, and their remuneration;
- (c) the time and place of the annual meeting and the notice to be given thereof;
- (d) the calling of regular and special meetings of the board of directors, the fixing of a quorum, and the procedure at meetings;
- (e) the qualification and terms of admission of members; and
- (f) generally, the conduct of all other affairs of the society.

Confirmation of by-laws.

(2) The directors may repeal, amend or re-enact any by-law but such repeal, amendment or re-enactment shall have force only until the next annual meeting of the society unless confirmed at a general meeting called for that purpose, or unless confirmed at the annual meeting.

Approval of Commissioner.

(3) No by-law and no repeal, amendment or re-enactment thereof has any force or effect unless approved by the Commissioner.

Notice of meetings.

11. A society shall mail to the Superintendent a copy of every notice for the calling of any annual meeting or special meeting of the society or for any meeting of the board of directors, and the Superintendent has the right to attend at and take part in the proceedings of any such meeting but does not have the right to vote at such meeting.

APPREHENSION AND EXAMINATION OF CHILDREN.

12. For the purposes of this Ordinance a child is deemed to be in need of protection

Children deemed to be in need of protection.

- (a) who is found begging, whether actually or under pretext of selling or offering anything for sale, in any street, house or place of public resort;
- (b) who is found sleeping at night in other than proper housing accommodation and without proper adult supervision;
- (c) who is found associating or dwelling with a thief, drunkard or vagrant;
- (d) who, by reason of neglect or drunkenness or other vices of the parents, is suffered to grow up without proper parental control and education, or in circumstances exposing such child to an idle or dissolute life;
- (e) who is found in a disorderly house;
- (f) who is found in the company of persons reputed to be criminal, immoral or disorderly;
- (g) who is an orphan without adequate protection for his upbringing;
- (h) who has been deserted by his parents;
- (i) who is found guilty of petty crimes and who is likely to develop criminal tendencies if not removed from his surroundings;
- (j) who is found wandering about at late hours and who has no home or settled place of abode or proper guardianship;
- (k) who is incorrigible or who cannot be controlled by his parents;
- (l) whose parents or only parent are undergoing imprisonment;
- (m) whose home by reason of neglect, cruelty or depravity therein is an unfit place for the child, or who has no proper guardianship, or who has no parent capable of and willing to exercise proper parental control;
- (n) who is subject to such blindness, deafness, feeble-mindedness or physical disability as is likely to make him a charge upon the public;
- (o) who is exposed to infection from tuberculosis or from any venereal disease in any place or surroundings where proper precautions to prevent infection are not taken;
- (p) who is suffering from such lack of medical or surgical care as is likely to interfere with his normal development;
- (q) who is habitually truant from school and is likely to grow up without proper education;
- (r) who is so neglected as to be in a state of habitual vagrancy or mendicancy; or

(s) who is so ill-treated as to be in peril of his life, health or morality by continued personal injury, or by grave misconduct or habitual intemperance of his parents.

Petitions.

13. (1) Any person may file with the Superintendent a petition verified by a statutory declaration showing that there is at any place within the Territory a child who appears in need of protection and praying that the child be apprehended and brought before a justice to be dealt with in accordance with this Ordinance.

Idem.

(2) A petition mentioned in subsection (1) shall give a statement of the facts describing the child in need of protection, and setting out the name of the parent or other person in whose custody the child is, if known to the petitioner.

Inquiry to be made by Superintendent.

(3) Upon the filing of the petition, the Superintendent shall cause proper inquiries to be made and may, if he deems it advisable, have the child apprehended and brought before a justice to be dealt with in accordance with this Ordinance.

Apprehension of child in need of protection.

14. The Superintendent, any person authorized in writing by him, any constable or officer of the Royal Canadian Mounted Police or any probation officer may apprehend without warrant and, within ten days, bring before a justice any child who appears to be in need of protection.

Investigation by justice.

15. The justice before whom a child is brought under section 14 shall investigate the facts of the case and determine whether the child is in need of protection.

Notice.

16. A person who apprehends a child under section 14 shall within three days from the apprehension notify the following persons of the time when and place where the child is to be brought before a justice:

- (a) the parents or persons having the actual custody of the child, if known; and
- (b) the Superintendent.

Application for warrant to apprehend.

17. (1) The Superintendent, any person authorized in writing by him, any constable or officer of the Royal Canadian Mounted Police, any probation officer or any officer of a children's aid society may, where there is reason to believe that a child is in need of protection in any place, or that a child committed to the care of the Superintendent or a children's aid society has absconded and is being harboured in any place, apply to a justice to issue a warrant for the apprehension of the child, and the justice may, in his discretion, issue a warrant to enter such place, by day or night, and if necessary to use force in effecting entry, to search for the child, and to bring him before the justice to be dealt with in accordance with section 19.

(2) Where a child brought before a justice pursuant to subsection (1) is one who has absconded from the care of a society or the Superintendent, the justice may, instead of dealing with him in accordance with section 19, order that the child be delivered into the custody of the society or the Superintendent with whom he was previously committed.

Abscinding
child.

18. Notwithstanding any other Ordinance, the justice may, from time to time, adjourn the case, for such length of time as he deems proper, and pending the final disposition of the case the justice may direct that the child remain in the custody of his parents, or of the person who apprehended the child, or such other suitable person or place as the justice deems fit.

Interim
disposition.

19. (1) If, after investigation, the justice finds a child to be in need of protection, he shall make an order setting out his findings and a statement of the facts, including the name, date of birth, nationality and religion of the child, the occupation and place of abode of the parents or either of them, and whether either of such parents is dead or has abandoned the child.

Order of
justice.

(2) An order made under subsection (1) shall provide, Idem.

- (a) that the case be adjourned *sine die* and that the child be returned to his parents or any other person having actual custody of the child at the time of apprehension, subject to inspection and supervision by the Superintendent or a children's aid society having jurisdiction within the area where the child was apprehended;
- (b) that the child be delivered into the control of his parents, subject to such terms and conditions as to the justice seem just; or
- (c) that the child be committed to the care of the Superintendent, or a children's aid society having jurisdiction within the area where the child was apprehended.

(3) Where, pursuant to paragraph (a) of subsection (2), a child has been returned to his parents or any other person having the actual custody of the child, the Superintendent or the children's aid society named in the order may, upon giving five clear days notice to the persons mentioned in section 16, bring the case again before the justice who, after investigation, may make such further order, as provided in subsection (2), as to him seems proper.

Further
order may
be made.

(4) Where, pursuant to paragraph (c) of subsection (2), a child has been committed to the care of a society or the Superintendent, the society or the Superintendent is entitled to take the child into custody for placement in accordance with the provisions of this Ordinance.

Child may
be taken into
custody.

20. The justice shall deliver to the Superintendent a certified copy of the order made in each case, and where the justice in his order has committed the child to a children's aid society,

Copy of order
to be
delivered to
Superin-
tendent.

or has returned the child to his parents under the supervision of a children's aid society, the Superintendent shall cause to be delivered a certified copy of the order to the children's aid society.

Where child committed to care of Superintendent.

21. (1) Where the justice commits a child to the care of the Superintendent, the Superintendent shall make arrangements as soon as possible for placing the child in a foster home or such other place as he deems suitable having regard to the interests and welfare of the child.

Superintendent to be guardian of child.

(2) Where a child has been committed to the care of the Superintendent, the Superintendent shall be the guardian of the child until

- (a) he is relieved of such guardianship by order of a justice;
- (b) the child reaches the age of eighteen or, if female, sooner marries; or
- (c) the child is delivered to a children's aid society under subsection (3).

Child may be delivered to society.

(3) With the consent of a children's aid society, the Superintendent may at any time deliver a child committed to his care to that society upon delivering to the society a certified copy of the justice's order endorsed with a memorandum signed by the Superintendent noting the delivery of the child to the society.

Disposition of child by society.

(4) Upon receiving a child delivered to it under subsection (3), the society shall deal with the child as if such child had been delivered to it under the order of a justice made pursuant to section 19.

Where child committed to care of society.

22. (1) Where a justice commits a child to the care of a children's aid society, the society shall receive the child in its custody and shall make arrangements as soon as may be for placing the child in a foster home during the child's minority or for any less period specified in the order, but the society may withdraw the child from any such foster home if in the opinion of the society the welfare of the child so requires.

Society to be guardian of child.

(2) A society in whose care a child has been committed shall be the legal guardian of the child until,

- (a) it is relieved of the guardianship of the child by order of a justice;
- (b) the child reaches the age of eighteen or, if female, sooner marries; or
- (c) it delivers the child to the Superintendent under subsection (3).

Child may be delivered to Superintendent.

(3) With the consent of the Superintendent, a children's aid society may, at any time, deliver a child committed to its care

to the Superintendent upon delivering to the Superintendent a certified copy of the justice's order endorsed with the memorandum signed by an authorized officer of the society noting the delivery of the child to the Superintendent.

(4) Upon receiving a child delivered to him under subsection (3), the Superintendent shall deal with the child as if it had been delivered to him under the order of a justice made pursuant to section 19. Disposition by Superintendent.

23. No child shall be maintained by a society for a period exceeding six months elsewhere than in a foster home except with the written consent of the Superintendent, who may at any time withdraw his consent, but if the Superintendent withholds or withdraws his consent the society may appeal to the Commissioner and the Commissioner may thereupon make such direction to the Superintendent as he deems proper, and the Superintendent shall comply with such direction. Temporary maintenance.

24. Every society in whose care a child is committed shall send a report each month to the Superintendent setting out Report to Superintendent.

- (a) the full name, date of birth, nationality and religion of the child, if known to it;
- (b) the details of any or all orders of committal made in respect of the child;
- (c) if possible, the names and addresses of the parents of the child;
- (d) the disposition made by the society of the child during the period covered by the report, whether by way of adoption, placing in a foster home, or otherwise, and stating in each case the name, place of abode, occupation and religion of the parents by adoption or foster parents of every child so disposed of; and
- (e) such other information as may be prescribed by the Commissioner.

25. (1) Where a child has been committed to the care of a children's aid society or to the Superintendent, and the society or the Superintendent is satisfied that it would be for the benefit of the child that the order of committal be rescinded, or that the child be permitted to return either temporarily or permanently to its parents, the society or the Superintendent may make an application to a justice to rescind the committal or grant permission for the child to be returned to its parents; and the justice, if satisfied that it would be for the benefit of the child, may rescind the order of committal or may, without rescinding the order of committal, grant permission for the child to be either temporarily or permanently returned to its parents under the supervision of the society or of the Superintendent. Rescission of order of committal.

Idem.

(2) Where a justice is satisfied upon any complaint made by a parent of the child, five clear days notice of which has been given to the Superintendent, that it is for the benefit of the child that it should be either permanently or temporarily under the control of such parent, or that the guardianship of the Superintendent or of the society should be terminated, he may make any order accordingly and any such order shall be complied with by the Superintendent or by the society, and the justice may, by such order, terminate the guardianship of the Superintendent or society.

Where two or more children of same family.

26. Where two or more children of the same family are subjected to investigation at the same time, only one order need be made.

Religious persuasion of child.

27. (1) Notwithstanding anything in this Ordinance, the justice, in determining the person or society in whose care the child is to be committed, shall

- (a) endeavour to ascertain the religious persuasion to which the child belongs;
- (b) if possible, select a person or society of the same religious persuasion as the child; and
- (c) specify the religious persuasion of the child in the order.

Child may be placed with society of same persuasion.

(2) Where a child has been placed with a person or society of a different religious persuasion than that to which the child belongs, the justice shall, on the application of any person and on its appearing that a fit person or society of the same religious persuasion as that of the child is willing to undertake the charge, make an order directing that the child be placed with such person or society.

VISITING AND INSPECTION.

Visiting and inspection.

28. A society in whose care a child is committed and every person entrusted with the care of the child under this Ordinance shall

- (a) permit the child to be visited, and
- (b) permit any place where the child may be or reside to be inspected,

by the Superintendent or by any person authorized by the Superintendent for the purpose.

Inspection of foster home.

29. (1) Every children's aid society, charitable society, orphanage, children's or infants' home, or other home or institution that undertakes or assumes in any manner the care or custody of children shall, in addition to all other requirements of this Ordinance, upon the request of the Superintendent or any person authorized by the Commissioner,

- (a) furnish to the Superintendent or the person so authorized full information and particulars concerning every child whom the home or institution has dealt with, given care to or had in custody; and

- (b) permit the Superintendent or person so authorized to have access to all parts of the premises and buildings of the home or institution, except any parts thereof used exclusively for religious or residential purposes by any member of a religious order therein, and to all children therein and all books and records of the home or institution dealing with the custody of such children.

(2) Where it appears to the Superintendent that the management of any home or institution referred to in subsection (1) is not such as to be in the best interests of the children in its care or custody, or that the home or institution in the public interest should be made the subject of public investigation, he shall report the circumstances to the Commissioner and the Commissioner may appoint a person or persons to inquire into and report upon the management and conduct of the home or institution, including the methods followed by it in receiving and placing children, and direct the manner of conducting the inquiry.

Commissioner
may order
public
investigation.

30. Subject to regulations made by the Commissioner under this Ordinance, any clergyman or other person duly authorized by the recognized head of a religious denomination is entitled to be admitted to any temporary home or shelter and to have access to such of the children placed or detained therein as are of his religious persuasion, and may give instructions, on such days and at such times as are specified in the regulations, for the religious education of such children.

Religious
instruction.

31. Any justice as defined in this Ordinance, any justice of the peace and any member of the Parliament of Canada or of the Council of the Territory is entitled at any time to visit and inspect any home, other than a foster home, and any school or shelter provided or used for children in need of protection.

OFFENCES AND PENALTIES.

32. (1) No person shall

- (a) induce or attempt to induce a child under eighteen years of age to leave a foster home, shelter or temporary home in which he was placed by a children's aid society or by the Superintendent; Offences.
- (b) detain or knowingly harbour an absconding child committed to the care of a children's aid society or the Superintendent;
- (c) having the care, custody, control or charge of a child under the age of eighteen years, ill-treat, neglect, desert, abandon or expose such child or procure the ill-treatment, neglect, desertion, abandonment or exposure of such child; or
- (d) omit to perform a duty cast upon him under this Ordinance.

Penalties.

(2) Any person who violates any provision of this Ordinance is guilty of an offence and liable upon summary conviction to a fine not exceeding one hundred dollars, or to imprisonment for a term not exceeding one year, or to both fine and imprisonment.

Prohibition.

33. No child shall be placed with any person, society, home or other institution by reason only that such person, society, home or other institution has submitted the lowest bid in respect of that child.

COST OF MAINTENANCE.

Declaration of reasonable costs of maintenance.

34. (1) Where a justice commits a child to the care of a children's aid society or the Superintendent, he may at the same time or subsequently, upon application by the society or the Superintendent, make a declaration setting out an amount that must in his opinion reasonably be incurred by the society or the Superintendent in maintaining and supervising the child in any temporary home, shelter or foster home in which the child may be placed by the society or the Superintendent.

Society to furnish statement of per diem costs.

(2) Before a declaration is made under subsection (1) in respect of a society, the society shall furnish the justice with a statement showing the average per diem cost of maintaining and supervising each child in its care during its immediately preceding fiscal year as confirmed by the society's auditors and the Superintendent, and in the absence of evidence to the contrary, the justice shall make the declaration in accordance with such statement.

Superintendent to furnish statement of per diem costs.

(3) Before any order for payment is made under subsection (1) in respect of the Superintendent, the Superintendent shall furnish the justice with a statement showing the average per diem cost per child as specified in subsection (2) of each children's aid society, if any, operating in the Territory, as confirmed by their auditors, but where there is no such society operating in the Territory, the statement shall show the average per diem cost of maintaining and supervising the children who were in the Superintendent's care during the immediately preceding fiscal year, and the amount set out by the justice in his declaration shall not be less than the lowest and not be greater than the highest such average per diem cost.

Variation of declaration.

(4) The justice may, at any time after a declaration is made under this section, make such variation of the declaration as the circumstances may warrant upon application therefor by the Commissioner, children's aid society or Superintendent.

Copy of order and declaration to be forwarded.

35. Upon any declaration or variation thereof being made by a justice under section 34, a copy of the order under which the child has been committed and the declaration and any variation thereof shall be forwarded by registered letter by the clerk of the court to the Commissioner.

36. Where a declaration is made under section 34, there may be paid out of the Yukon Consolidated Revenue Fund an amount not exceeding that set out in the declaration or the declaration as varied for each week commencing with the time the child was apprehended and continuing so long as the child remains in the care of the society or the Superintendent, or until the child reaches the age of eighteen years, whichever is the earlier.

Payment out of Y.C.R.F. in accordance with declaration.

37. The Commissioner may maintain an action for the benefit of the Territory to recover any amount that has been paid out of the Yukon Consolidated Revenue Fund under this Ordinance in respect of a child from the parents of the child.

Commissioner may recover from parents.

38. Notwithstanding anything in this Ordinance, no payment shall be made out of the Yukon Consolidated Revenue Fund under this Ordinance to a society that is not conducted in accordance with the requirements of this Ordinance.

Saving provision.

POWERS AND DUTIES OF JUSTICES.

39. A justice acting under this Ordinance has power to compel the attendance of witnesses.

Attendance of witnesses.

40. An order made under this Ordinance may be enforced in the same manner as an order of a judge.

Enforcement of orders.

41. (1) The justice shall exclude from the room or place where an examination, prosecution or proceeding under this Ordinance is being held all persons other than counsel, the witnesses in the case, officers of the law or of any children's aid society, the Superintendent or his representatives and the immediate friends and relatives of the child or parent in respect of whom the examination, prosecution or proceeding is held.

Proceedings to be held in camera.

(2) Except for the periods when it is necessary for the child to be present in order to be identified or in order to give evidence, a justice shall exclude from the room or place where an examination, prosecution or proceeding under this Ordinance is held the child in respect of whom the examination, prosecution or proceeding is held.

Evidence of child.

42. Where a person is charged with an offence under this Ordinance in respect of a child who is alleged to be under any specified age and the child appears to the justice to be under that age, the child shall, for the purposes of this Ordinance, be deemed to be under that age unless the contrary is proved.

Presumption as to age of child.

GENERAL.

43. The Commissioner may at any time discharge a child from the care of the Superintendent or any society to which it is committed, either absolutely or on such conditions as may be prescribed by him; but before discharging a child the Commissioner shall procure a report concerning the child, when the

Commissioner may discharge child.

child is in the care of the Superintendent, from the Superintendent and, when the child is in the care of a society, from the society and the Superintendent.

Rules of
Commissioner.

44. The Commissioner may make, alter or revoke regulations to be observed by any society and by the person in charge of any temporary home or shelter operated under this Ordinance.

Temporary
accommoda-
tion of child.

45. No child apparently under the age of eighteen years who is held or brought before a justice for inquiry under any of the provisions of this Ordinance shall be placed, allowed to remain or confined with any adult prisoner in any lock-up or police cell used for ordinary criminals or persons charged with crime, nor, subject to section 46, shall any inquiry respecting such child be made or his case disposed of in any place ordinarily used as a police court room.

Provision for
separate
hearing of
inquiry.

46. A justice shall, in making an inquiry under this Ordinance respecting a child brought before him for that purpose, dispose of the case where practicable in premises other than the ordinary police court premises, or, where such disposition is not practicable, in the private office of the justice if he has one, or some other room in a public building of the municipality, otherwise in the ordinary police court room, but in the last mentioned case only after the other business of the court for the day has been disposed of.

Existing
rights
preserved.

47. Nothing in this Ordinance shall be held to take away or affect the right of any parent, teacher or other person having the lawful control or charge of a child to administer punishment to a child.

Infants
under the
age of one.

48. Except as provided in this Ordinance, no person shall retain or receive for hire or reward more than one infant, or, in the case of twins, more than two infants, under the age of one year, for the purpose of nursing or maintaining such infants apart from their parents for a longer period than twenty-four hours.

Child deemed
to be
maintained
by society.

49. For the purpose of this Ordinance, a child is deemed to be maintained by a society if it is wholly or partly maintained by it, either in a shelter or temporary home or in any other institution conducted, selected or approved by the society, or is boarded out under the provisions of this Ordinance or any other Ordinance relating to the protection of children.

Liability to
contribute
towards
maintenance
of child.

50. Nothing in this Ordinance relieves the child itself or any other person liable for the child's maintenance from liability to contribute towards the maintenance of such child, and the fact of such contribution being made does not deprive a society of any power or right conferred on it by this Ordinance.

51. (1) Where a parent of a child applies to any court having jurisdiction in that behalf for a writ or an order for the production of the child, and the court finds that the parent or guardian has

- (a) abandoned or deserted the child;
- (b) allowed the child to be brought up by another person at the other person's expense, or by any children's aid society or other public or private institution, for such time and under such circumstances as to satisfy the court that the parent or guardian was unmindful of his duties;
- (c) surrendered, by instrument in writing, the custody of the child to another person, or to a children's aid society or other public or private institution; or
- (d) otherwise so conducted himself that the court should refuse to enforce his rights to the custody of the child; the court may, in its discretion, decline to issue the writ or make the order unless satisfied that it would tend to the advantage and benefit of the child to do so.

(2) If at the time of the application for a writ or order for the production of the child the child is being cared for by another person, or is boarded out by a society duly authorized in that behalf, the court may, in its discretion, if it orders the child to be given up to the parent, further order that the parent shall pay to such person or such society the whole of the costs properly incurred in caring for the child, or such portion thereof as may seem to the court to be just and reasonable, having regard to all the circumstances of the case.

SCHEDULE.

PROTECTION OF CHILDREN ORDINANCE.

FORM A.

We, the undersigned, all being of the full age of twenty-one years, and being Canadian citizens and residents within the area specified in article 3, in the Yukon Territory, do hereby make application for incorporation, as "The Children's Aid Society of" under the provisions of the *Protection of Children Ordinance* and hereby adopt the following articles of incorporation:

1. The Society shall be known as "The Children's Aid Society of"

2. The business and objects of the Society shall be the protection of children from cruelty, the amelioration of family conditions that tend to neglect of children, the care and protection of children in need of protection, and the enforcement, by all lawful means, of the laws relating thereto.

3. The jurisdiction of the Society shall be limited to the area enclosed by the following territorial boundaries: (Space for these boundaries to be set forth in detail.)

4. The number of directors of the Society shall be:

5. The names, addresses and occupations of the first directors of the Society who shall hold office until the first annual meeting of the Society are:

6. The annual meetings of the Society shall be held at on the day of in each year, until changed by by-law of the Society.

In witness whereof we have hereunto severally subscribed our names this day of in the year one thousand nine hundred and

In the presence of }
 }
 }

CHAPTER 92.

AN ORDINANCE RESPECTING PUBLIC HEALTH.

SHORT TITLE.

1. This Ordinance may be cited as the *Public Health Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance, Definitions.
- (a) "communicable disease" means a disease listed in Schedule A and any other disease that may hereafter be declared by the Commissioner to be a communicable disease; "Communicable disease."
 - (b) "Health Officer" means a person appointed by the Commissioner to act as a Health Officer; "Health Officer."
 - (c) "licensed medical practitioner" means a medical practitioner as defined in the *Medical Profession Ordinance*; "Licensed medical practitioner."
 - (d) "Medical Health Officer" means a licensed or duly qualified medical practitioner appointed by the Commissioner to act as a Medical Health Officer; "Medical Health Officer."
 - (e) "municipality" means a municipality as defined in the *Municipal Ordinance*; "Municipality."
 - (f) "regulation" means any rule, order or regulation made by the Commissioner under the authority of this Ordinance; and "Regulation."
 - (g) "Sanitary Inspector" means a person appointed by the Commissioner to act as a Sanitary Inspector. "Sanitary Inspector."

PART I.

PUBLIC HEALTH AND SANITATION.

3. The Commissioner may make rules, orders and regulations respecting Regulations of Commissioner.

- (a) the control and prevention of communicable diseases, including
 - (i) the reporting by every medical practitioner of persons under his treatment suffering from a communicable disease,
 - (ii) the isolation or placing in a hospital or building provided for quarantine or isolation purposes, or in any other proper place, of any person suffering from a communicable disease,

- (iii) the detention for observation and surveillance of persons who have been exposed to a communicable disease,
- (iv) the cleansing, purification, disinfection or disinfection of articles or things used by persons suffering from a communicable disease,
 - (v) the supply of medical aid, accommodation and medicine and such other articles or things as the Commissioner deems necessary for the mitigation of any epidemic or communicable disease,
- (vi) the entry into the Territory of vehicles, vessels and other conveyances, including aircraft, and their departure therefrom, and the receiving and discharging of passengers or cargoes in, on board or from the same, and
- (vii) the vaccination or inoculation against communicable diseases of persons or animals in the Territory and the supply and distribution of vaccine matter and serum used in performing such vaccinations or inoculations;
- (b) the location of cemeteries, the burial of unclaimed bodies and the bodies of indigents, the interment of the dead, the conduct of funerals and the transportation of dead bodies;
- (c) the location, construction, ventilation, lighting, heating, equipment, water supply, drainage, toilet and ablution facilities, excreta and garbage disposal, protection against rodents and vermin, cleansing, disinfection and disinfection of, and the sanitary inspection and control of
 - (i) buildings and premises of any kind whatsoever, and
 - (ii) aircraft, ships, vessels and other public conveyances of any kind;
- (d) the prevention and removal of insanitary conditions on public or private property;
- (e) the prevention of overcrowding of premises used for human occupation and places of public assembly, and specifying the amount of air space to be allowed for each individual therein;
- (f) the cleansing of streets, lanes, yards, lots and other open spaces, both public and private;
- (g) the location, construction, ventilation, inspection, cleansing and sanitary control of sewers, sewage systems, water closets, indoor and outdoor toilets, cesspools, soakage pits, septic tanks and pumps;
- (h) the location, construction, maintenance and inspection of plumbing and plumbing systems or installations in or upon any building, structure, property or place;

- (i) the control of waste disposal grounds for the disposal of excreta and garbage;
- (j) the location, construction, maintenance, purification and treatment of water supplies and systems, the testing and analysis of water therefrom, the inspection and approval of sources of water supply, and the addition of such chemicals thereto as, in the opinion of the Commissioner, are considered to be in the interests of public health;
- (k) the cutting, storage, distribution and sale of ice;
- (l) the sanitary inspection and control of food supplies, including milk and milk products of any kind, for human consumption, and of domesticated or range animals, stables, pens or lines, and testing of animals for tuberculosis, infectious bovine abortion or any disease communicable to human beings;
- (m) the medical and sanitary inspection and control of food handlers;
- (n) the use of noxious materials including fertilizers, sprays or preservatives dangerous to the public health;
- (o) the protection of the health of persons exposed to conditions, substances or processes occurring to any industry or occupation and that may be injurious to health;
- (p) the method of carrying on noxious or offensive trades or businesses and the summary abatement of insanitary conditions or conditions dangerous to the public health arising therefrom;
- (q) the prevention of the pollution, defilement, discoloration or fouling of lakes, streams, rivers, ponds, pools, springs and water courses, so as to ensure their sanitary condition;
- (r) the prevention, control and abatement of air pollution due to any cause;
- (s) the confinement and disposition of diseased or injured animals and the disposal of dead animals;
- (t) the medical and dental inspection of school children and of the occupants of any public institutions including hostels, gaols and lockups;
- (u) the use of hydrocyanic acid and other lethal gas or substances as an insecticide or rodenticide, and the licensing and regulation of persons engaged in the business of vermin or rodent extermination;
- (v) the establishment of boards of health, the appointment of members thereto and the definition of their functions and duties; and
- (w) the appointment of Medical Health Officers, Health Officers and Sanitary Inspectors and the definition of their duties, powers and functions.

QUARANTINE DISTRICTS.

4. (1) The Commissioner may by order declare any area or district in the Territory to be a quarantine district, where he

has reason to believe that an epidemic of communicable disease exists therein.

(2) Where any area or district is declared to be a quarantine district, a Health Officer has power to

- (a) prevent the ingress or egress of persons, or vehicles, vessels or other conveyances, including aircraft, to or from the quarantine district;
- (b) detain for observation and surveillance persons who have been exposed to a communicable disease; and
- (c) order the cleansing, purifying, disinfection or disinfection of persons who have been exposed to a communicable disease, or of articles or things used by persons suffering from a communicable disease at the expense of the owner, occupier, custodian or person in charge or possession thereof.

HEALTH DISTRICTS AND OFFICERS.

Health Districts.

5. (1) The Commissioner may by order establish within the Territory one or more Health Districts and may, for each such district, appoint a licensed or duly qualified medical practitioner as Medical Health Officer or some other suitable person as Health Officer.

Powers and duties.

(2) Every Medical Health Officer or Health Officer appointed pursuant to subsection (1) may exercise and perform all the powers, duties and functions specified in this Ordinance or the regulations.

PART II.

MEDICAL CARE OF CAMP EMPLOYEES.

"Camp" defined.

6. In this Part, "camp" includes a mining, prospecting, fishing, lumber, dredging or construction or other camp in which any skilled or unskilled labour is employed in an area remote from hospital and medical facilities.

Medical and surgical care where less than fifty employees.

7. The following provisions respecting medical and surgical care apply in respect of camps having less than fifty employees, namely,

- (a) the employer shall provide reasonably adequate first aid equipment, medicines and supplies;
- (b) in camps having ten or more employees
 - (i) the employer shall appoint a fully qualified first aid man possessing a St. John's Ambulance Brigade First Aid Certificate, a British Columbia First Aid Attendants Association Certificate of Qualification in First Aid, or possessing qualifications and experience satisfactory to a Medical Health Officer, whose duties, in part, but not necessarily in whole, shall relate to matters of first aid, sickness and sanitation, and

- (ii) the employer is responsible for the cost of transportation to the nearest hospital where illness or injury may be treated.

8. The following provisions respecting medical, surgical and hospital care apply in respect of camps having fifty or more employees, namely,

Medical, surgical and hospital care where fifty or more employees.

- (a) the employer
 - (i) shall contract with one or more licensed medical practitioners for the medical and surgical care of his employees, and
 - (ii) may deduct from the pay of each employee for the payment of medical, surgical and hospital care an amount not exceeding three dollars per month;
- (b) a medical practitioner who has entered into a contract under paragraph (a) shall reside so that under normal travel conditions he is within two hours travelling time from the camp where his services are employed;
- (c) where a medical practitioner has undertaken the care of more than one thousand employees the employer shall secure the services of another licensed or duly qualified medical practitioner as assistant; and
- (d) every medical practitioner who has a contract with an employer under paragraph (a) shall supervise the sanitation of the camp or camps where his services are employed.

9. No liability exists under section 7 or 8 in respect of medical, surgical or hospital expenses incurred

Limitation.

- (a) in connection with venereal disease, insanity, cancer or tuberculosis, or in connection with any disease or injury resulting from the use of intoxicants or drugs for a period in excess of sixty days, or
- (b) in connection with industrial diseases or injuries for which provision is made in the *Workmen's Compensation Ordinance*.

10. (1) The following provisions respecting hospital accommodation apply in respect of camps having more than ten and less than fifty employees, namely,

Provision of hospital accommodation, etc., where more than ten and less than fifty employees.

- (a) in camps having from ten to twenty-five employees the employer shall provide reasonable accommodation for accident or sickness cases; and
- (b) in camps having more than twenty-five employees the employer shall provide a separate first aid or emergency hospital quarters containing not less than two beds and shall provide, in addition to a first aid man, such extra nursing staff as the circumstances require.

(2) The following provisions respecting hospital accommodation apply in respect of camps having fifty or more employees, namely,

Where fifty or more employees.

- (a) subject to paragraph (b) the employer shall provide suitable hospital accommodation as is specified in this Ordinance; and
 - (b) where there is a hospital established and in operation within reasonable distance from the camp, and where in the opinion of the Commissioner, suitable accommodation, equipment, staff and transportation facilities are available, the employer may make arrangements with such hospital for the care of his employees and provide the necessary transportation for employees to the hospital and return instead of providing a hospital at the camp.
- (3) In any hospital referred to in paragraph (a) of subsection (2) there shall be provided one hospital bed for every hundred employees but in no case shall the hospital have less than four beds.

Accommodation.

PART III.

ENFORCEMENT.

Right to enter and examine.

11. A Health Officer may, at any reasonable time, enter any place and examine the same for any purpose relating to the enforcement of this Ordinance or the regulations.

Direction given by Health Officer.

12. (1) Where a Health Officer is authorized to direct that any matter or thing relating to the enforcement of this Ordinance or the regulations be done by a person and such person fails to comply with any direction so given, the Health Officer may, with the approval of the Commissioner, direct and arrange that the matter or thing be done at the expense of such person.

Expenses recoverable as debt.

(2) All expenses incurred under subsection (1) are recoverable by the Commissioner as an ordinary debt.

Seizure and detention.

13. (1) A Health Officer may, when the safety of persons appears to make it necessary, seize, detain and carry away any article or thing by means of which or in relation to which he has reasonable grounds for believing that any provision of this Ordinance or the regulations has been violated.

Idem.

(2) Any article or thing seized pursuant to subsection (1) may, with the approval of the Commissioner, be destroyed or otherwise disposed of at the direction of the Health Officer, except that the Health Officer shall, where he is satisfied that the provisions of this Ordinance and the regulations with respect thereto have been complied with, release any article or thing seized by him pursuant to subsection (1) to the person from whom the same was seized.

Powers of Health Officer, Sanitary Inspector, assistance, etc.

14. A Health Officer and a Sanitary Inspector have, for any purpose relating to the enforcement of this Ordinance or the regulations, all the powers of a peace officer while acting in his capacity as such Health Officer or Sanitary Inspector and in

the performance of his duties under this Ordinance or the regulations, and where any Health Officer or Sanitary Inspector is obstructed in the performance of any such duty he may call to his assistance any peace officer or other person he thinks fit, who shall give him all reasonable assistance in his power.

15. For the purposes of this Ordinance, a Medical Health Officer has all the powers of a Health Officer. Powers of Medical Health Officer, etc.

16. The Commissioner may exempt any person or thing from all or any of the provisions of this Ordinance or the regulations, upon such terms and conditions as may be specified by the Commissioner. Exemption.

17. Every person who Offences and punishment.

- (a) violates any of the provisions of this Ordinance or the regulations;
- (b) obstructs a Medical Health Officer, Health Officer or Sanitary Inspector in the exercise of his powers or in the carrying out of his duties under this Ordinance or the regulations;
- (c) neglects, fails or refuses to comply with an order or direction given to him by a Medical Health Officer, Health Officer or Sanitary Inspector in the exercise of his powers or the carrying out of his duties under this Ordinance or the regulations;
- (d) without the authority of a Medical Health Officer, Health Officer or Sanitary Inspector, removes, alters or interferes in any way with anything seized or detained under this Ordinance; or
- (e) owns, constructs, operates or maintains, as the case may be, any installation, building, place or thing mentioned in this Ordinance or the regulations that does not comply with the requirements thereof;

is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars or imprisonment for a term not exceeding six months, or both such fine and imprisonment.

SCHEDULE A.

COMMUNICABLE DISEASES.

Anthrax	(a) Paralytic
Brucellosis	(b) Non-paralytic
Cholera	Psittacosis (ornithosis)
Diarrhoea of the Newborn	Q Fever
(infections)	Rabies
Diphtheria	Relapsing Fever
Dysentery	Rickettsial Infections
(a) Amoebic	Scarlet Fever and
(b) Bacillary	Streptococcal Sore Throat
Encephalitis (infectious)	Smallpox
Food Poisoning	Tapeworm Infestations
Hydatid Disease	Tetanus
Impetigo of the Newborn	Trachoma
(Pemphigus)	Trichinosis
Infectious Hepatitis	Tuberculosis
(including Serum	(a) Pulmonary
Hepatitis)	(b) Meningitis
Leprosy	(c) Other
Malaria	Tularemia
Measles	Typhoid-Paratyphoid Fever
Meningococcal Meningitis	Venereal Disease
and Meningococemia	Yellow Fever
Ophthalmia Neonatorum	Epidemic forms of disease
Pertussis	Unusual clinical manifestations
Plague	of disease
Poliomyelitis	

CHAPTER 93.

AN ORDINANCE RESPECTING PUBLIC PRINTING.

1. This Ordinance may be cited as the *Public Printing Ordinance*. Short Title.

2. The Commissioner may authorize the publication, in such form as he may prescribe, of an official gazette to be called the *Yukon Gazette* for the publication of proclamations, official and other notices and of all matters that are required to be published therein. Official gazette.

3. All advertisements, notices and documents that relate to matters within the control of the Commissioner in Council and are by any law required to be published shall be published in the *Yukon Gazette* unless some other mode of publication is prescribed by law. Publication in gazette required.

4. The Commissioner may appoint an officer who shall be known as the Queen's Printer. Queen's Printer.

5. The Queen's Printer under the direction of the Commissioner has the management and control of the printing and stationery requirements of the Territory and has such other powers and shall discharge such other duties as are conferred or imposed upon him by the Commissioner. Powers and duties of Queen's Printer.

6. The Queen's Printer shall print and publish or cause to be printed and published the *Yukon Gazette*, the Ordinances of the Yukon Territory and such documents and announcements as the Commissioner may require. Idem.

CHAPTER 94.

AN ORDINANCE RESPECTING THE PUBLIC SERVICE OF THE YUKON TERRITORY

SHORT TITLE.

Short Title. 1. This Ordinance may be cited as the *Public Service Ordinance*.

INTERPRETATION.

Definitions. 2. In this Ordinance,
"Clerk." (a) "clerk" means an employee in a clerical position in a Department and includes stenographers and typists;
"Department." (b) "Department" means a Department of the Government of the Yukon Territory;
"Head." (c) "Head" in relation to a Department means a member of the Public Service for the time being having charge of the Department;
"Officer." (d) "officer" means a member of the Public Service holding a senior position in a Department;
"Public Service." (e) "Public Service" means the civil positions and employees in and under the Government of the Territory, but does not include prevailing rate employees not on a full time year round basis.

"Employee" defined. 3. The expression "employee" in this and any other Ordinance includes all persons in the service of the Government of the Territory.

POWERS AND DUTIES.

Duties of Commissioner. 4. The Commissioner has the management and direction of the Public Service.

Duties of employee. 5. Every employee not otherwise excepted by the terms and nature of his employment shall give his full time to the Public Service and shall discharge all duties required of him by the Head of the Department in which he is employed.

Where Department Head absent. 6. Unless otherwise specified by the Commissioner, during the absence of the Head of a Department, the next senior officer or clerk has and shall perform the duties of the Head of the Department.

CLASSIFICATION AND COMPENSATION.

Public Service classification. 7. The Public Service shall be classified and compensated in accordance with listings approved by the Commissioner.

8. (1) The rate of compensation of an employee upon appointment to a classified position in the Public Service shall be at the minimum rate prescribed for the class, except that where the appointee at the time of his appointment held another position in the Public Service at a rate of compensation above the minimum rate but not above the maximum rate prescribed for the new position, the rate of compensation upon appointment to the new position shall be the same as that received before the new appointment, but if there is no such rate for the new class, then the next higher rate. Rate of compensation.

(2) The rate of compensation of an employee who has not reached the maximum rate of compensation of the class in which he is serving may be increased by the Commissioner if he is satisfied that the employee has rendered meritorious service and has increased his usefulness in the Service; the increase shall be to the next higher rate for the class and the new rate shall become effective at the next quarterly date after the increase is granted by the Commissioner, that is to say, the 1st day of January, April, July or October in any year. Idem.

(3) Except as otherwise provided by this section no employee shall receive an increase under this section more than once in each year. Increase once a year.

9. (1) No payment additional to the salary authorized to be made to a full time member of the Public Service shall be made from the Yukon Consolidated Revenue Fund. No additional salary may be paid.

(2) All fees, gratuities and emoluments received by a member of the Public Service for services performed during his working hours or while on duty shall be paid to the Territorial Treasurer and deposited to the credit of the Yukon Consolidated Revenue Fund. Fees paid to Territorial Treasurer.

(3) Nothing in this section is intended to prohibit the payment to any officer, clerk or other employee of a separate annual salary from each of two or more Departments in respect of separate duties performed for each of such Departments if one of such salaries is not sufficient to compensate him for his whole time and if the aggregate of the salaries does not, in the opinion of the Commissioner, exceed reasonable compensation for the discharge of all the duties so performed. Exception.

POSITION LISTS.

10. The Commissioner shall prepare and maintain a complete list of the employees in the Public Service consisting of the name, classification, title, salary and Department of each person appointed to or removed from the Service and of each employee in the Service whose status as to position or salary is changed. Position lists.

APPOINTMENTS AND EXAMINATIONS, ETC.

Appointment.

Appointment or promotion by Commissioner.
Notification of vacancy.

11. The Commissioner may appoint or promote any employee to a position in the Public Service.

12. Every Head of Department shall notify the Commissioner of every vacancy in any position in his Department immediately after the vacancy occurs, and when such vacancy is to be filled the Head of the Department shall request the Commissioner to make an appointment.

Probation.

Probation.

13. (1) The Commissioner may place any person appointed or promoted to a position in the Public Service on a term of probation and may extend such term of probation to a period not exceeding six months from the date of appointment or promotion.

Rejection.

(2) Where a person is rejected after a term of probation the Commissioner shall thereupon appoint or promote another person to take the place of the one rejected and shall decide whether the rejected person shall be considered as unfit for the service generally or whether he shall be allowed a trial in some other position in the Public Service.

Probationary term.

(3) After a person has served in a position for the probationary term of six months he shall be deemed to be appointed to such position.

Examinations.

Examinations.

14. (1) Competitive examinations shall be held by the Commissioner to establish tests of persons eligible for appointment.

Idem.

(2) Examination shall be of a character as to fairly test and determine the relative fitness of candidates to perform the duties of the class to which they seek to be appointed and such examinations may be written or oral or in the form of a demonstration of skill or any combination thereof.

Idem.

(3) The Commissioner may in determining the fitness of a candidate have regard to the training and experience of the candidate and may employ any test of technical knowledge, manual skill or physical fitness that he deems necessary.

Oaths.

Oath in Schedule A.

15. (1) Every Head of Department, officer, clerk or other employee in the Public Service shall, before any salary is paid him, take and subscribe the oath of allegiance and the oath set out in Schedule A.

Register of oaths.

(2) The Commissioner shall keep a register of the oaths taken and subscribed in accordance with the provisions of this section.

GENERAL CONDITIONS OF SERVICE.

Hours of attendance.

16. The Commissioner shall by regulation prescribe working ^{Attendance.} hours for each portion of the Public Service and there shall be kept and used a book, system or device approved by the Commissioner for preserving a record of the attendance of the employees.

Holidays.

17. The following days and none other shall be the holidays ^{Holidays.} to be observed in and by the Public Service:

- (a) Sundays;
- (b) New Year's Day;
- (c) Good Friday;
- (d) Easter Monday;
- (e) Victoria Day;
- (f) the birthday of the reigning Sovereign or the day fixed by proclamation by the Governor in Council for the celebration thereof;
- (g) Dominion Day;
- (h) Discovery Day;
- (i) Labour Day;
- (j) Remembrance Day;
- (k) Christmas Day; and
- (l) any day appointed by proclamation by the Governor in Council to be observed as a general feast or thanksgiving or as a holiday.

Leave of Absence.

18. (1) The Head of Department may grant to each officer, ^{Leave of absence.} clerk or other employee under his direction leave of absence for the purpose of vacation for a period not exceeding one and one-quarter days for each month of completed service and not exceeding fifteen days in any one fiscal year, exclusive of Sundays and holidays.

(2) Every Head of Department shall take annual leave ^{Annual leave.} at such time during the year as the Commissioner determines.

(3) The earned but unused vacation leave of one fiscal year ^{Idem.} may be carried forward and added to the vacation leave of the succeeding fiscal year, except that in no case shall more than the accumulated annual vacation leave earned in two immediately preceding fiscal years be carried forward to the next year.

19. (1) Sick leave credit may accumulate at the rate of one ^{Sick leave.} and one-quarter days for each month of continuous service, the deduction therefrom being made for any period of sick leave that is granted with pay, and when the sick leave credit is exhausted, no further paid leave may be allowed.

Evidence required for sick leave.

(2) Sick leave may be granted only on the production of satisfactory evidence of the inability of the employee to perform his duties in the form of a written declaration from the employee where the absence has not exceeded three days and a certificate from a qualified medical practitioner where the absence has exceeded three days, such certificate to be submitted within seven days of the commencement of absence.

Sick leave reviewed.

(3) Sick leave with pay, within the limits laid down in subsection (1), shall be reviewed by the Commissioner after two continuous months and thereafter at the end of each succeeding month of continuous absence.

Leave of absence for injury.

20. (1) Subject to subsections (2) and (3), leave of absence with pay may be granted by the Commissioner to any employee on account of injury accidentally received in the performance of his duties and not caused by negligence on the employee's part, if application for such leave is properly supported by a certificate from a qualified medical practitioner.

Temporary disability.

(2) Where an award for temporary disability is made to the employee in connection with any injury referred to in this section under the provisions of the *Workmen's Compensation Ordinance*, the employee is not entitled to salary in the amount of such award.

Where employee obtains redress for injury.

(3) When a judgment or settlement is obtained by an employee against a person other than his employer, allowing damage for any injury referred to in this section the amount received other than for permanent disability by the employee thereunder in excess of the actual medical, surgical, hospital or other expenses incurred (as established by accounts submitted to the Commissioner) but not exceeding the amount received by the employee as salary shall be refunded by the employee to the Consolidated Revenue Fund or deducted from instalments of his future salary.

Special Leave.

Special leave.

21. Special leave with pay may be granted by the Head of Department to employees who have the necessary special leave credit, for certain designated causes such as illness in the family, death in the family or any similar causes, but not continuously in excess of six days except with the approval of the Commissioner.

Accumulation of special leave.

22. (1) Special leave credit may accumulate at the rate of one-half day for each completed month of continuous service up to a maximum of thirty days, deduction therefrom being made for any period of paid special leave, but where the leave credit is thus reduced it may again commence to accumulate until the maximum of thirty days is reached, except that no employee shall at any time have more than thirty days special leave to his credit.

(2) Special leave with pay may be granted only on the production of a written application from the employee, setting forth in detail the reasons why he considers that paid leave should be allowed and supported by such evidence as the departmental head may require, except that in all cases of illness in family in excess of one day, a medical certificate shall be furnished. ^{Application for special leave.}

(3) Causes for which special leave may be allowed shall be designated by the Commissioner and communicated to the Departments. ^{Causes for special leave.}

23. (1) Casual absences, that is to say, leave for periods of three days' duration or less on account of the illness of the employee covered by the employee's own declaration shall not be allowed with pay in excess of eight days in any fiscal year. ^{Casual absences.}

(2) Where the eight days casual absence is exceeded, leave with pay shall not be allowed to an employee for such absences unless ^{Idem.}

- (a) he produces a medical certificate justifying such absences; or
- (b) pursuant to his request in writing, such absences are charged to his annual leave credit.

24. Except in respect of sick leave or special leave imposed by quarantine no employee shall be granted leave with pay of any kind during the first six months of service but leave credits shall accumulate during such period. ^{Leave during first six months.}

25. When any employee is absent from duty without leave his salary for each day of such absence shall be deducted from his monthly salary. ^{Absent without leave.}

Cash Gratuity on Retirement.

26. (1) A cash gratuity may be granted to an employee who is being retired by reason of age or ill health or is being laid off, but such grant may not in any case exceed the maximum cash gratuity specified hereunder nor shall it in any case exceed the salary applicable to the unexpended portion of the employee's accrued sick leave and special leave: ^{Cash gratuity on retirement.}

Years of Service.	Cash Gratuity in Months.
5 and under 10	1
10 and under 15	2
15 and under 20	3
20 and under 25	4
25 and under 30	5
30 and over	6

(2) A cash gratuity shall consist of salary at the rate in effect on the employee's last day of active duty for the period indicated. ^{Idem.}

Idem. (3) A cash gratuity shall be based on continuous service uninterrupted by any period of retiring leave.

Exceptions. (4) A cash gratuity, under this section, shall not be granted to an employee whose service is terminated because of inefficiency or misconduct, or to a female employee who resigns for the purpose of getting married or is laid off in order that she may get married.

Accrued sick leave. **27.** (1) An employee retired for any reason except age or ill health or permitted to resign by the Commissioner is entitled to receive as a gratuity the unexpired portion of his accrued sick leave and special leave at the rate in effect on his last day on active duty but such gratuity shall not be greater than one-half of the cash gratuity he may be granted if he retired or is laid off under the provisions of subsection (1) of section 26.

(2) Notwithstanding subsection (1), a cash gratuity shall not be paid to an employee with less than five years continuous service on the date his retirement or resignation becomes effective.

Promotions.

Promotion defined. **28.** (1) Promotion is a change from one class to another with a higher maximum compensation; vacancies shall be filled, as far as is consistent with the best interests of the Public Service, by promotion.

Promotion by merit. (2) Promotion shall be made for merit by the Commissioner upon such examination, reports, tests, records, ratings or recommendation as he prescribes.

Transfers.

Transfer of employees. **29.** The Commissioner may transfer employees within any Department or any position of the Public Service but where such transfer requires a change of residence the concurrence of the head of the household of the employee shall be obtained before such transfer is made.

Suspension and Dismissal.

Suspension of employees. **30.** (1) The Head of a Department, and in respect of officers, clerks or other employees employed in a remote district, any officer authorized in that behalf by the Commissioner, may,

- (a) suspend from the performance of his duty any officer, clerk or other employee guilty of misconduct or negligence in the performance of his duties, and
- (b) remove such suspension,

but no person shall be paid any salary or pay for the time or any part of the time during which he was under suspension, unless the Commissioner is of the opinion that the suspension was unjust or made in error or that the punishment inflicted was too severe.

(2) All cases of suspension, with the reasons therefor, shall be forthwith reported in writing by the person ordering same, to the Commissioner. ^{Report of suspension.}

31. (1) The Commissioner may dismiss or suspend any Head of a Department, officer, clerk or other employee of the Public Service. ^{Commissioner may dismiss or suspend.}

(2) Where a Head of a Department is dismissed or suspended from office, the Commissioner shall report the matter to the Council at its next session. ^{Report by Commissioner to Council.}

Abolition of Position.

32. An employee holding a permanent position that is to be abolished or that is no longer required may be laid off and his salary discontinued or reduced to the requirements of another and vacant position for which he is qualified, but his name shall be placed on the list of persons eligible for the class of position from which he was laid off or for any other position for which he may have qualified. ^{Abolition of position.}

Political Partisanship.

33. (1) No Head of Department, officer, clerk or other employee of the Public Service shall be debarred from voting at any Territorial election, if under the laws governing the said election he has the right to vote; but no such Head of Department, officer, clerk or employee shall engage in partisan work in connection with any such election, or contribute, receive or in any way deal with any money for any party or candidate funds. ^{Political partisanship.}

(2) Any person violating any of the provisions of this section shall be dismissed from the Public Service. ^{Dismissal.}

Gratuity on Death.

34. When a person dies while in the Public Service, after having been at least two continuous years therein, an amount equal to one month's salary shall be paid to his widow or to such person as the Commissioner determines, in addition to any payment for accumulative annual leave in excess of the amount payable for the balance of the month following the date of the employee's death. ^{Gratuity on death.}

SCHEDULE A.

OATH OF OFFICE AND SECRECY.

I, (A.B.) solemnly and sincerely swear that I will faithfully and honestly fulfil the duties that devolve upon me by reason of my employment in the Public Service and that I will not, without due authority in that behalf, disclose or make known any matter that comes to my knowledge by reason of such employment. So help me God.

CHAPTER 95.

**AN ORDINANCE TO FACILITATE THE
RECIPROCAL ENFORCEMENT OF
JUDGMENTS.**

- Short Title. **1.** This Ordinance may be cited as the *Reciprocal Enforcement of Judgments Ordinance*.
- Definition. **2.** In this Ordinance,
- "Judgment." (a) "judgment" means a judgment or an order of a court in a civil proceeding whereby a sum of money is made payable, and includes an award in an arbitration proceeding if the award, under the law in force in the jurisdiction where it is made has become enforceable in the same manner as a judgment given by a court therein, but does not include a maintenance order within the meaning of the *Reciprocal Enforcement of Maintenance Orders Ordinance*;
- "Judgment creditor." (b) "judgment creditor" means the person by whom the judgment was obtained, and includes his executors, administrators, successors and assigns;
- "Judgment debtor." (c) "judgment debtor" means the person against whom the judgment was given, and includes any person against whom the judgment is enforceable in the jurisdiction in which it was given;
- "Original court." (d) "original court" in relation to a judgment means the court by which the judgment was given; and
- "Registering court." (e) "registering court" in relation to a judgment means the court in which the judgment is registered under this Ordinance.
- Application for registration of judgment. **3.**(1) Where a judgment has been given in a court in a reciprocating jurisdiction, the judgment creditor may apply to the Territorial Court within six years after the date of the judgment to have the judgment registered in that Court, and on any such application the Court may order the judgment to be registered accordingly.
- Application *ex parte* or on notice according to circumstances. (2) An order for registration under this Ordinance may be made *ex parte* in all cases in which the judgment debtor was personally served with process in the original action, or in which, though not personally served, he appeared or defended or otherwise submitted to the jurisdiction of the original court, but in all other cases reasonable notice of the application for the order shall be given to the judgment debtor.

(3) No order for registration shall be made if it is shown to the court to which the application for registration is made that Conditions of registration.

- (a) the original court acted without jurisdiction;
- (b) the judgment debtor being a person who was neither carrying on business nor ordinarily resident within the jurisdiction of the original court, did not voluntarily appear or otherwise submit during the proceedings to the jurisdiction of that court;
- (c) the judgment debtor, being the defendant in the proceedings, was not duly served with the process of the original court and did not appear, notwithstanding that he was ordinarily resident or was carrying on business within the jurisdiction of that court or agreed to submit to the jurisdiction of that court;
- (d) the judgment was obtained by fraud;
- (e) an appeal is pending or the time within which an appeal may be taken has not expired;
- (f) the judgment was in respect of a cause of action that for reasons of public policy or for some similar reason would not have been entertained by the registering court; or
- (g) the judgment debtor would have a good defence if an action were brought on the original judgment.

(4) Registration may be effected by filing the order and an exemplification or a certified copy of the judgment with the clerk of the court in which the order was made, whereupon the judgment shall be entered as a judgment of that court. Method of registration.

4. Where a judgment sought to be registered under this Ordinance is in a language other than the English language, the judgment or the exemplification or certified copy thereof, as the case may be, shall have attached thereto for all purposes of this Ordinance a translation in the English language approved by the Court, and upon such approval being given the judgment shall be deemed to be in the English language. Where judgment is in a language other than English.

5. Where a judgment is registered under this Ordinance, Effect of registration.

- (a) the judgment, from the date of the registration, is of the same force and effect as if it had been a judgment given originally in the registering court on the date of the registration and proceedings may be taken thereon accordingly, except that where the registration is made pursuant to an *ex parte* order, no sale or other disposition of any property of the judgment debtor shall be made under the judgment before the expiration of the period fixed by paragraph (b) of subsection (1) of section 6 or such further period as the registering court may order;
- (b) the registering court has the same control and jurisdiction over the judgment as it has over judgments given by itself; and
- (c) the reasonable costs of and incidental to the registration of the judgment, including the costs of obtaining an ex-

emplification or certified copy thereof from the original court and of the application for registration, are recoverable in like manner as if they were sums payable under the judgment if such costs are taxed by the proper officer of the registering court and his certificate thereof is endorsed on the order for registration.

Ex parte orders.

6. (1) Where a judgment is registered pursuant to an *ex parte* order,

- (a) within one month after the registration or within such further period as the registering court may order, notice of the registration shall be served upon the judgment debtor in the same manner as provided by the rules of the registering court for service of statements of claim; and
- (b) the judgment debtor, within one month after he has had notice of the registration, may apply to the registering court to have the registration set aside.

Idem.

(2) On any application referred to in paragraph (b) of subsection (1) the court may set aside the registration upon any of the grounds mentioned in subsection (3) of section 3 and upon such terms as the court thinks fit.

Rules of practice, etc.

7. The Commissioner may make rules respecting the practice and procedure including costs in proceedings under this Ordinance and until rules are so made, the rules made under the *Reciprocal Enforcement of Judgments Act* of the Province of British Columbia shall *mutatis mutandis* be followed.

Reciprocating jurisdictions, establishment.

8. (1) Where the Commissioner is satisfied that reciprocal provisions have been or will be made by a province of Canada for the enforcement therein of judgments given in the Territory, he may by order declare it to be a reciprocating jurisdiction for the purposes of this Ordinance.

Disestablishment.

(2) The Commissioner may revoke any order made under subsection (1) and thereupon the jurisdiction with respect to which the order was made ceases to be a reciprocating jurisdiction for the purposes of this Ordinance.

Effect of Ordinance.

9. Nothing in this Ordinance deprives a judgment creditor of the right to bring an action on his judgment instead of proceeding under this Ordinance.

CHAPTER 96.

AN ORDINANCE TO FACILITATE THE
ENFORCEMENT OF MAINTENANCE ORDERS.

SHORT TITLE.

1. This Ordinance may be cited as the *Reciprocal Enforcement of Maintenance Orders Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance, Definitions.
- (a) "certified copy", in relation to an order of a court, means a copy of the order certified by the proper officer of the court to be a true copy; "Certified copy."
 - (b) "court" means an authority having statutory jurisdiction to make maintenance orders; "Court."
 - (c) "dependants" means the persons that a person against whom a maintenance order has been made is liable to maintain according to the law in force in the place where the maintenance order was made; "Dependants."
 - (d) "maintenance order" means an order, other than an order of affiliation, for the periodical payment of money towards the maintenance of the wife or other dependants of the person against whom the order was made; and "Maintenance order."
 - (e) "reciprocating state" means a jurisdiction declared under section 14 to be a reciprocating state. "Reciprocating state."

ENFORCEMENT OF MAINTENANCE ORDERS MADE IN

RECIPROCATING STATES.

3. (1) Where either before or after the 2nd day of April, 1955, a maintenance order has been made against a person by a court in a reciprocating state and a certified copy of the order has been transmitted by the proper officer of the reciprocating state to the Commissioner, the Commissioner shall send a certified copy of the order for registration to the proper officer of a court in the Territory designated by the Commissioner as a court for the purposes of this section, and on receipt thereof the order shall be registered. Enforcement in Territory of maintenance orders made elsewhere.

(2) An order registered under subsection (1) has, from the date of its registration, the same force and effect, and, subject to this Ordinance, all proceedings may be taken thereon, as if it had been an order originally obtained in the court in which it is so registered, and that court has power to enforce the order accordingly. Effect of registration.

Where order expressed in foreign currency.

(3) A maintenance order that makes payable a sum of money expressed in a currency other than the currency of Canada shall not be registered until the court in which it is sought to register the order has determined the equivalent of that sum in the currency of Canada, and upon its registration the order shall be deemed to be an order for the payment of the sum so determined.

MAINTENANCE ORDERS AGAINST NON-RESIDENTS.

Transmission of maintenance orders made in Territory.

4. Where either before or after the 2nd day of April, 1955, a court in the Territory has made a maintenance order against a person and it is proved to the court that the person against whom the order was made is resident in a reciprocating state, the court shall, on the request of the person in whose favour the order was made, send a certified copy of the order to the Commissioner for transmission to the proper officer of the reciprocating state.

Provisional maintenance orders against persons residing outside the Territory.

5. (1) Where an application is made to a court in the Territory for a maintenance order against a person and it is proved that that person is resident in a reciprocating state, the court may, in the absence of that person and without service of notice on him, if after hearing the evidence it is satisfied of the justice of the application, make any maintenance order that it might have made if a summons had been duly served on that person and he had failed to appear at the hearing; but an order so made is provisional only and has no effect until it is confirmed by a competent court in the reciprocating state.

Depositions and transcripts.

(2) Where the evidence of a witness who is examined on an application mentioned in subsection (1) is not taken in shorthand, the evidence shall be put into the form of a deposition, and the deposition shall be read over and signed by the witness and also by the judge or other person presiding at the hearing.

Preparation of statements and transmission of documents to Commissioner.

(3) Where an order has been made pursuant to subsection (1),
(a) the court shall prepare,
(i) a statement showing the grounds on which the making of the order might have been opposed if the person against whom the order was made had been duly served with a summons and had appeared at the hearing, and
(ii) a statement showing the information that the court possesses for facilitating the identification of the person against whom the order was made and ascertaining his whereabouts; and
(b) the court shall send to the Commissioner for transmission to the proper officer of the reciprocating state,
(i) a certified copy of the order,
(ii) the depositions or a certified copy of the transcript of the evidence, and
(iii) the statements referred to in paragraph (a).

(4) Where a provisional order made under this section has come before a court in a reciprocating state for confirmation and the order has by that court been remitted to the court in the Territory that made the order for the purpose of taking further evidence, the court in the Territory shall, after giving the notice prescribed by the rules, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application. Power to take new evidence on renvoi.

(5) Where upon the hearing of the evidence taken under subsection (4) it appears to the court in the Territory that the order ought not to have been made, the court may rescind the order, but in any other case the depositions or a certified copy of the transcript of the evidence, if it was taken in shorthand, shall be sent to the Commissioner and dealt with in like manner as the depositions or transcript of the original evidence. Further powers on renvoi.

(6) The confirmation of an order made under this section does not affect any power of the court that originally made the order to vary or rescind the order, but an order varying an original order has no effect until it is confirmed in like manner as the original order. Power of original court to vary or rescind.

(7) Where, after an order made under this section is confirmed, the court that originally made the order makes a varying or rescinding order, that court shall send a certified copy thereof, together with the depositions or a certified copy of the transcript of any new evidence adduced before the court, to the Commissioner for transmission to the proper officer of the reciprocating state in which the original order was confirmed. Transmission of varying or rescinding order.

(8) An applicant for a provisional order under this section has the same right of appeal, if any, against a refusal to make the order as he would have had against a refusal to make the order if a summons had been duly served on the person against whom the order is sought to be made. Right of appeal.

CONFIRMATION OF MAINTENANCE ORDERS MADE IN
RECIPROCATING STATES.

6. (1) Where

- (a) a maintenance order has been made by a court in a reciprocating state and the order is provisional only and has no effect until confirmed by a court in the Territory; Confirmation of maintenance orders made outside the Territory.
- (b) a certified copy of the order, together with the depositions of witnesses and a statement of the grounds on which the order might have been opposed if the person against whom the order was made had been a party to the proceedings is received by the Commissioner; and
- (c) it appears to the Commissioner that the person against whom the order was made is resident in the Territory; the Commissioner may send the documents to a court designated by him as a court for the purposes of this section, and upon receipt of the documents the court shall issue a summons calling

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upon the person against whom the order was made to show cause why the order should not be confirmed, and cause it to be served upon such person.

Right of
defence on
application
for
confirmation.

(2) At a hearing under this section the person on whom the summons was served may raise any defence that he might have raised in the original proceedings if he had been a party thereto, but no other defence; and the statement from the court that made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings is conclusive evidence that those grounds are grounds on which objection may be taken.

Power to
confirm with
or without
modification.

(3) Where, at a hearing under this section, the person who was served with the summons does not appear or, having appeared, fails to satisfy the court that the order ought not to be confirmed, the court may confirm the order either without modification or with such modifications as the court after hearing the evidence considers just.

Power to
remit to
court that
made
provisional
order.

(4) Where the person against whom a summons was issued under this section appears at the hearing and satisfies the court that for the purpose of any defence it is necessary to remit the case to the court that made the provisional order for the taking of any further evidence, the court may so remit the case and adjourn the proceedings for the purpose.

Variation or
rescission of
order that
has been
confirmed.

(5) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming court, and where on an application for rescission or variation the court is satisfied that it is necessary to remit the case to the court that made the order for the purpose of taking further evidence, the court may so remit the case and adjourn the proceedings for the purpose.

Right of
appeal.

(6) Where an order has been confirmed under this section, the person bound thereby has the same right of appeal, if any, against the confirmation of the order as he would have had against the making of the order if the order had been an order made by the court confirming the order.

Effect of
confirmation.

(7) An order confirmed under this section has, from the date of its confirmation, the same force and effect, and, subject to this Ordinance, all proceedings may be taken thereon, as if it had been an order originally obtained in the court in which it is so confirmed, and that court has power to enforce the order accordingly.

GENERAL.

Enforcement
of order.

7. A court in which an order has been registered under this Ordinance or by which an order has been confirmed under this Ordinance and the officers of the court shall take all proper steps for enforcing the order.

8. Where under this Ordinance a document is sent to the Commissioner for transmission to the proper officer of a reciprocating state, the Commissioner shall transmit the document accordingly.

Transmission of documents by Commissioner to reciprocating state.

9. The Commissioner may make rules prescribing the practice and procedure, including costs, under this Ordinance.

Rules of practice.

10. A document purporting to be signed by a judge or officer of a court in a reciprocating state shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it, and the officer of a court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the court to sign the document.

Proof of documents signed by officer of court.

11. Depositions or transcripts from shorthand of evidence taken in a reciprocating state, for the purposes of this Ordinance, may be received in evidence before the court in the Territory under this Ordinance.

Depositions to be evidence.

12. Where a maintenance order sought to be registered or confirmed under this Ordinance is in a language other than the English language, the maintenance order or a certified copy thereof shall have attached thereto for all purposes of this Ordinance a translation in the English language approved by the court, and upon such approval being given the maintenance order shall be deemed to be in the English language.

Where order in foreign language.

13. Nothing in this Ordinance deprives a person of the right to obtain a maintenance order instead of proceeding under this Ordinance.

Saving.

14. (1) Where the Commissioner is satisfied that reciprocal provisions will be made by a jurisdiction in or outside Canada for the enforcement therein of maintenance orders made within the Territory, the Commissioner may by order declare it to be a reciprocating state for the purposes of this Ordinance.

Designation of reciprocating states.

(2) The Commissioner may revoke any order made under subsection (1) and thereupon the jurisdiction with respect to which the order was made ceases to be a reciprocating state for the purposes of this Ordinance.

Revocation of designation.

CHAPTER 97.

AN ORDINANCE RESPECTING THE
SALE OF GOODS.

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as the *Sale of Goods Ordinance*.

INTERPRETATION.

Definitions. **2.** (1) In this Ordinance,

"Action." (a) "action" includes counterclaim and set off;

"Buyer." (b) "buyer" means a person who buys or agrees to buy goods;

"Contract of sale." (c) "contract of sale" includes an agreement to sell as well as the sale;

"Delivery." (d) "delivery" means voluntary transfer of possession from one person to another;

"Document of title to goods." (e) "document of title to goods" has the same meaning as it has in the *Factors Ordinance*;

"Fault." (f) "fault" means wrongful act or default;

"Future goods." (g) "future goods" means goods to be manufactured or acquired by the seller after the making of the contract of sale;

"Goods." (h) "goods" includes all chattels personal, other than things in action or money, and includes emblements, industrial growing crops and things attached to or forming part of the land that are agreed to be severed before sale or under the contract of sale;

"Property." (i) "property" means the general property in goods and not merely a special property;

"Quality of goods." (j) "quality of goods" includes their state or condition;

"Sale." (k) "sale" includes a bargain and sale as well as a sale and delivery;

"Seller." (l) "seller" means a person who sells or agrees to sell goods;

"Specific goods." (m) "specific goods" means goods identified and agreed upon at the time a contract of sale is made;

"Warranty." (n) "warranty" means an agreement with reference to goods that 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 a state that the buyer would under the contract be bound to take delivery of them.

PART I.

FORMATION OF THE CONTRACT.

CONTRACT OF SALE.

3. (1) 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.

4. (1) Subject to subsection (2), 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.

(2) 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 is bound to pay a reasonable price therefor. Proviso.

(3) The expression "necessaries" in subsection (2) means goods suitable to the condition in life of the infant, minor or other person and to his actual requirements at the time of the sale and delivery.

FORMALITIES OF THE CONTRACT.

5. (1) 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.

(2) Nothing in this section affects the law relating to corporations. Proviso.

Contract of sale for \$50 and upwards.

6. (1) A contract for the sale of goods of the value of fifty dollars or upwards is not enforceable by action unless the 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) This section applies to every contract for the sale of goods of the value of fifty dollars or upwards notwithstanding that the goods may be intended to be delivered at some future time or may not at the time of the contract be actually made, procured or provided or fit or ready for delivery or some act may be requisite for the making or completing thereof or rendering them 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 that recognizes a pre-existing contract of sale whether there be an acceptance in performance of the contract or not.

SUBJECT MATTER OF CONTRACT.

Existing or future goods.

7. (1) The goods that 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 that 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.

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.

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.

THE PRICE.

Ascertainment of price.

10. (1) 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 is bound to pay a reasonable price; what is a reasonable price is a question of fact dependent on the circumstances of each particular case.

11. (1) 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 the third party cannot or does not make such valuation the agreement is avoided; but where the goods or any part thereof have been delivered to and appropriated by the buyer he is bound to pay a reasonable price therefor.

Agreement to sell at valuation.

(2) Where the 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.

CONDITIONS AND WARRANTIES.

12. (1) Unless a different intention appears from the terms of the contract, stipulations as to time of payment are deemed not 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.

Stipulation as to time.

(2) In a contract for sale "month" means *prima facie* calendar month.

13. (1) Where a contract of sale is subject to a condition to be fulfilled by the seller, the buyer may waive the condition or may elect to treat the breach of the condition as a breach of warranty, and not as a ground for treating the contract as repudiated.

When condition to be treated as warranty.

(2) 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.

(3) 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 a 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.

(4) Nothing in this section affects a condition or warranty fulfilment of which is excused by law by reason of impossibility or otherwise.

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.

(a) 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;

- (b) an implied warranty that the buyer shall have and enjoy quiet possession of the goods; and
- (c) 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.

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 is 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.

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:

- (a) where the buyer expressly or by implication makes known to the seller the particular purpose for 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 that it is in the course of the seller's business to supply, whether he is the manufacturer or not, there is an implied condition that the goods shall be reasonably fit for such purpose;
- (b) 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; except that if the buyer has examined the goods there is no implied condition as regards defects that such examination ought to have revealed;
- (c) an implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade; and
- (d) an express warranty or condition does not negative a warranty or condition implied by this Ordinance unless inconsistent therewith.

SALE BY SAMPLE.

Sale by sample.

17. (1) 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 the 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; and

- (c) there is an implied condition that the goods shall be free from any defect rendering them unmerchantable that would not be apparent on reasonable examination of the sample.

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. Goods must be ascertained.

19. (1) 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 intend 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.

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 is 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 is 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, or
- (b) where he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection and a time has been fixed for the return of the goods, on the expiration of such time; and where no time has been fixed, on the expiration of a reasonable time; what is a reasonable time is a question of fact.

Rule V.—(1) 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, 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.

Reservation
of right of
disposal.

21. (1) 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 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.

Risk
prima facie
passes
with property.

22. (1) Subject to subsections (2) and (3), 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.

(2) 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 that might not have occurred but for such fault.

(3) Nothing in this section affects the duties or liabilities of either seller or buyer as a bailee or custodian of the goods of the other party.

TRANSFER OF TITLE.

Sale by
person not
owner.

23. (1) Subject to 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.

- (2) Nothing in this Ordinance affects
- (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, or
 - (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.

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 if he buys them in good faith and without notice of the seller's defect of title. Sale under voidable title.

25. (1) When a person having sold goods continues or is in possession of the goods or of the document 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 them in good faith and without notice of the previous sale has the same effect as if the person making the delivery or transfer was expressly authorized by the owner of the goods to make it. Seller or buyer in possession after sale.

(2) 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 to any person receiving them in good faith and without notice of any lien or other right of the original seller in respect of the goods has 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*.

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. Duties of seller and buyer.

27. Unless otherwise agreed delivery of the goods and payment of the price of 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. Payment and delivery are concurrent conditions.

Rules as
to delivery.

28. (1) 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 expressed or implied between the parties; apart from any such contract express or implied the place of delivery is the seller's place of business if he has one and, if not, his residence; but if the contract is for the sale of specific goods that 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 the third person acknowledges to the buyer that he holds the goods on his behalf.

(4) Nothing in this section affects the operation of the issue or transfer of any document of title to goods.

(5) 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.

(6) Unless otherwise agreed the expenses of and incidental to putting the goods into a deliverable state shall be borne by the seller.

Delivery
of wrong
quantity.

29. (1) 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 is bound to 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; when the buyer accepts the whole of the goods so delivered he is bound to 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 that are in accordance with the contract and reject the rest or he may reject the whole.

(4) The provisions of this section are subject to any usage of trade, special agreement or course of dealing between the parties.

30. (1) 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 that 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.

31. (1) 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 is bound to 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; when the seller omits to do so 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 is bound to give such notice to the buyer as may enable him to insure them during their sea transit; and where the seller fails to do so the goods are deemed to be at his risk during such sea transit.

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 is nevertheless bound, unless otherwise agreed, to take any risk of deterioration in the goods necessarily incident to the course of transit. Risk where goods delivered at distant place.

33. (1) Where goods are delivered to the buyer that he has not previously examined he is deemed not 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.

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 that 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.

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.

Liability of
buyer for
neglecting
or refusing
delivery
of goods.

36. (1) 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.

(2) Nothing in this section affects the rights of the seller where the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract.

PART IV.

RIGHTS OF UNPAID SELLER AGAINST THE GOODS.

“Unpaid
seller”
defined.

37. (1) 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; or
- (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 the term “seller” includes a person who is in the position of a seller; for example, an agent of the seller to whom the bill of lading has been endorsed or a consignor or agent who has himself paid or is directly responsible for the price.

Unpaid
seller’s
rights.

38. (1) 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 a 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 transit after he has parted with the possession of them; and
- (c) a right of re-sale 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.

UNPAID SELLER’S LIEN.

Seller’s
lien.

39. (1) Subject to 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 any of 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; and

(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.

40. Where an unpaid seller has made part delivery of the goods he may exercise his right of lien or retention of 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. Part delivery.

41. (1) 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; or

(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.

STOPPAGE IN TRANSITU.

42. Subject to 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. Right of stoppage in transitu.

43. (1) 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) When 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) Where, 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) Where the goods are rejected by the buyer and the carrier or other bailee continues in possession of them the transit is deemed not to be at an end even if the seller has refused to receive them back.

(5) Where 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.

How stoppage *in transitu* effected.

44. (1) 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 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 redeliver the goods to or according to the direction of the seller; the expenses of such redelivery are to be borne by the seller.

RESALE BY BUYER OR SELLER.

Effect of subsale or pledge by buyer.

45. (1) Subject to 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.

(2) 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.

Sale not generally rescinded by lien or stoppage *in transitu*.

46. (1) Subject to 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 rights 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.

PART V.

ACTIONS FOR BREACH OF THE CONTRACT.

REMEDIES OF THE SELLER.

47. (1) Where 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 certain day, 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 be construed to 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.

48. (1) 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 the 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.

REMEDIES OF THE BUYER.

49. (1) 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.

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 may seem just and the application by the plaintiff may be made at any time before judgment or decree.

Remedy for breach of warranty.

51. (1) 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.

Interest and special damages.

52. Nothing in this Ordinance affects 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.

PART VI.

SUPPLEMENTARY.

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 is such as to bind both parties to the contract.

Exclusion of implied terms and conditions.

54. Where by this Ordinance any reference is made to a reasonable time the question as to what is a reasonable time is a question of fact.

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.

Rights, etc., enforceable by action.

56. (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.

Auction 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 is not 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.

57. Where a buyer has elected to accept goods that 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.

Payment into court when breach of warranty alleged.

Existing laws
preserved
subject
hereto.

58. (1) The rules of the common law including the law merchant except 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, coercion, mistake or other invalidating cause shall continue to apply to contracts for the sale of goods.

(2) Nothing in this Ordinance affects an enactment relating to bills of sale or any enactment relating to the sale of goods except as expressly provided 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 that is intended to operate by way of mortgage, pledge, charge or other security.

CHAPTER 98.

**AN ORDINANCE RESPECTING THE DRIVING OF
SAW LOGS AND OTHER TIMBER ON LAKES,
RIVERS, CREEKS AND STREAMS.**

1. This Ordinance may be cited as the *Saw Logs Driving Ordinance*. Short Title.

2. In this Ordinance, Definitions.
 (a) "logs" includes saw logs, timber, posts, ties, cordwood and other parts of trees; and "Logs."
 (b) "water" means any lake, pond, river, creek and stream in the Territory. "Water."

3. Any person putting or causing to be put logs into any water for the purpose of floating them in, upon or down the water, shall make all reasonable endeavours and put on a sufficient force of men to break jams of the logs and clear them from the banks and shores with reasonable despatch, and run and drive them so as not to delay or hinder unnecessarily the removal, floating, running or driving of other logs, or to obstruct unnecessarily the floating or navigation of the water. Persons floating logs in river, etc., not to obstruct floating or navigation.

4. (1) Where any person neglects to comply with section 3, any other person who desires to float, run or drive logs in, upon or down water and whose logs would, because of such neglect, be obstructed may break jams of the first mentioned person's logs, clear that person's logs from banks and shores and float, run and drive them in, upon or down the water. In case of neglect person obstructed may clear river, etc.

(2) A person who acts pursuant to subsection (1) shall do so with reasonable economy and despatch and shall take care not to leave logs on banks or shores. Person clearing obstruction to use due care.

5. A person who acts pursuant to section 4 has a lien upon the logs for the reasonable charges and expenses of breaking the jams and the clearing, floating, running, driving, booming and keeping possession of the logs, and may take and keep possession of them or so much thereof as may be reasonably necessary to satisfy the amount of such charges and expenses pending a decision by arbitration. Person clearing obstruction has lien for expenses.

6. When logs of any person upon or in water or the banks or shores of water are so intermixed with logs of another person that they cannot be conveniently separated for the purposes of being floated in, upon or down the water, each person who owns or controls part of the intermixed logs shall make adequate provisions, and put on a fair proportion of the men required to Provision when logs of several owners cannot conveniently be separated.

break jams of such intermixed logs, and to clear them from the banks and shores with reasonable despatch, and to float, run and drive them in, upon and down the 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.

Provision when owner of any portion of logs in default.

7. (1) Where any person whose logs are intermixed with those of any other person neglects to comply with section 6, the other person may put on a sufficient number of men to do the things neglected and may break jams of intermixed logs, and clear the logs from the banks and shores of such water, and float, run and drive them in, upon and down the water.

Person acting under this section to employ due economy.

(2) A person who acts pursuant to subsection (1) shall do so with reasonable economy and despatch, and shall take reasonable care not to leave logs on the banks or shores.

Lien on logs.

8. A person who does any act under section 7 has a lien upon the logs owned or controlled by the person guilty of the neglect mentioned in that section for a fair proportion of the charges and expenses of breaking the jams, and clearing, floating, running, driving, booming and keeping possession of the intermixed logs, and he may take and keep possession of the logs, or so much thereof as may be reasonably necessary to satisfy the amount of such fair proportion of charges and expenses, pending a decision by arbitration.

Separation of logs.

9. When logs of any person, upon or in water, or the banks or shores of water, are intermixed with logs of another person, any person 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 them at his own cost and expense, in such manner as to allow free passage for the other logs, but when any logs so intermixed reach their place of original destination, if known, they shall be separated from the other logs, and after such separation the owner shall secure them at his own cost and expense.

Proviso.

Expenses of separation to be shared.

10. Each person who owns or controls part of the intermixed logs shall make adequate provisions and put on a fair proportion of the men required to make a separation of such logs, and 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.

Provision when owner does not provide for his share of the work.

11. Where any person whose logs are intermixed with those of any other person neglects to comply with section 9 when a separation is made, the other person may put on a sufficient number of men to do the things neglected, and the logs owned or controlled by the person guilty of such neglect are, in such

a case, subject to a lien in favour of the person who so puts on the men 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 the logs, or so much thereof as may be reasonably necessary to satisfy the amount of such fair proportion of charges and expenses, pending a decision by arbitration.

12. (1) A person who takes possession of logs under section 5, 8 or 11 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 them at or above such place.

Person who takes possession of logs under this Ordinance to use reasonable care not to take logs beyond destination.

(2) A person who has a lien under section 5, 8 or 11 shall forthwith notify the owner or the person who controls the logs, if known, of the whereabouts of the logs and if satisfactory security be given in accordance with subsection (3), for the amount of charges and expenses, or a proper proportion thereof, due by such owner or person, possession of the logs shall be given up to him.

Lienholder to notify owner of logs.

(3) The security referred to in subsection (2) may be by bond in Form A or by deposit of money or in such other way as the parties may agree upon.

Form of security.

13. Where a person under the assumed authority of this Ordinance and without just cause takes possession of or detains logs of another person, or, after refusing reasonable security, detains such logs, or has through want of reasonable care left logs of another person on banks or shores, or has taken logs of another person beyond the place of their original destination, he is liable to damages as determined by arbitration.

Damages where person has wrongfully detained logs or refused security.

14. A lien given by this Ordinance is subject to any lien of any person for tolls or dues, for the use of any works or improvements made use of in running or driving logs.

Lien under this Ordinance subject to lien for tolls.

15. Claims, disputes and differences arising under this Ordinance shall be determined by arbitration and not by action.

Disputes to be settled by arbitration.

16. (1) A person who claims

- (a) that another person has not complied with the provisions of this Ordinance,
- (b) payment of any charges or expenses under this Ordinance,
- (c) a lien upon any logs, or
- (d) damages under section 13,

Appointment of arbitrators.

shall give to such other person notice in writing, stating the substance of the claim 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 a person who receives a notice under subsection (1) does not within ten days appoint an arbitrator, the person who gave the notice may apply to a judge to appoint a second arbitrator, and the judge shall appoint such arbitrator.

(3) The two arbitrators appointed under this section shall, within ten days after the appointment of the second arbitrator, appoint a third, and if they do not do so either party may apply to a judge to appoint the third arbitrator, and the judge shall appoint such arbitrator.

Parties may agree to have only one arbitrator.

17. 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 a judge to appoint one and such arbitrator shall have all the powers given under this Ordinance to arbitrators.

Counterclaim.

18. A person upon whom a notice is served under section 16 may at any time before arbitration, 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 shall be determined in the arbitration and an award made in respect of it.

Sale by person having lien.

19. (1) Where the award of the arbitrators is in favour of a person who has a lien on logs under this Ordinance such person may sell the logs in the manner, time and place determined by the arbitrators.

How money from sale apportioned.

(2) Money received from a sale pursuant to subsection (1) shall be expended first in payment of the charges and expenses connected with the sale, then in satisfaction of the amount owing on the lien and costs of arbitration and the balance, if any, shall be transmitted to the owner of the logs.

Limitations.

20. A claim arising under this Ordinance is barred unless commenced under section 16 or by counterclaim under section 18 within one year after it arises.

EXEMPTION.

Commissioner may exempt part of Territory from Ordinance.

21. (1) The Commissioner may declare that any part of the Territory or any water therein is exempt from the operation of this Ordinance, and thereupon such part or water shall be exempt.

Territory exempt may be again brought under Ordinance.

(2) The Commissioner may again bring within the operation of this Ordinance any part of the Territory or water exempted from its operation pursuant to subsection (1).

FORM A.

(Section 12)

Know all men by these presents that we (*here insert names of obligators, 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)

CHAPTER 99.

AN ORDINANCE RESPECTING SCHOOLS.

Short Title. **1.** This Ordinance may be cited as the *School Ordinance*.

PART I.

TERRITORIAL SCHOOLS.

- Definitions. **2.** In this Part,
- "Commissioner." (a) "Commissioner" means the Commissioner of the Yukon Territory;
- "Department." (b) "Department" means the Department of Education;
- "School." (c) "school" means a school which is supported by or receives any financial assistance from the Government of the Yukon Territory;
- "Superintendent." (d) "Superintendent" means the Superintendent of Schools; and
- "Taxpayer." (e) "taxpayer" means a person who has been rated upon the last revised Territorial or municipal assessment in respect of lands and improvements.
- Superintendent. **3.** The Commissioner shall appoint a Superintendent of Schools for the Yukon Territory.
- Commissioner's powers. **4.** From time to time the Commissioner may
- (a) establish a school in any place in the Territory as he considers necessary;
- (b) grant such sum as he thinks proper
- (i) to pay the salary of the teacher or teachers in a school;
- (ii) to pay the cost of erecting any school house;
- (iii) to pay the cost of maintaining any school house;
- (iv) to pay the cost of enlarging or improving any school house;
- (v) to purchase, erect or rent sites or premises for the residence of a teacher or teachers and to build, repair, furnish and keep in order such residence;
- (vi) to pay the cost of transporting pupils to and from their homes and the school house which they attend; and
- (vii) to assist any student to study by correspondence;
- (c) appoint some person or persons to inquire into and report upon the existing condition of education in any part of the Territory and, subject to the provisions of this Ordinance, take such action upon such report as he deems expedient;

- (d) direct the Superintendent to perform any of the duties conferred upon him by this Ordinance; and
- (e) make and enforce all such general and particular rules, orders and regulations as are necessary for the purpose of giving full effect to all or any of the provisions of this Ordinance or which may be necessary to meet exigencies occurring under its operation.

5. It shall be the duty of the Superintendent

Superintendent's duties.

- (a) to visit all schools and to inquire into and report to the Commissioner 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 upon all such other matters as by the Commissioner are required;
- (b) subject to the approval of the Commissioner, to make and establish rules and regulations for the conduct of schools;
- (c) to prescribe the duties of teachers;
- (d) to provide the teachers with the books necessary for keeping proper records of their classes;
- (e) to keep in order the school houses, school sites, school furniture, fences and all school property;
- (f) to keep school wells and all school sites and premises in a proper sanitary condition and to make due provision for properly lighting, heating, ventilating and cleaning the school sites and school premises;
- (g) to provide wholesome drinking water for children during school hours;
- (h) to regulate the management of school libraries;
- (i) subject to the approval of the Commissioner, to select and provide all such reference books for the use of pupils and teachers and all such globes, maps, charts and other apparatus and supplies as are required for the proper instruction of pupils;
- (j) to require that no text books or apparatus not approved by the Superintendent be used in any school;
- (k) to engage teachers duly qualified under the regulations of the Department to teach in schools on such terms as he deems expedient;
- (l) to suspend or dismiss any teacher for gross misconduct, neglect of duty or refusal or neglect to obey any of the Superintendent's lawful orders or any regulation or rule of the Department, and forthwith to transmit a written statement of the facts in such case to the Commissioner;
- (m) to insure that the schools are conducted according to the provisions of this Ordinance and the regulations of the Commissioner and of the Department;

- (n) subject to the provisions of this Ordinance, and the approval of the Commissioner, to make the regulations of the Department for the management of schools and to communicate them in writing to the teachers;
- (o) to provide, in the cases of graded schools, at what age pupils may be admitted to Grade One;
- (p) to settle all disputes arising in relation to a school between the parents or children and a teacher;
- (q) to discipline as he sees fit any pupil whom upon investigation he finds 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;
- (r) to see that the law with reference to compulsory education and truancy is observed;
- (s) to make annually for the information of the Yukon Council a report of the actual state of the schools throughout the Territory, showing
 - (i) the number of pupils taught in each school;
 - (ii) the branches taught in each school;
 - (iii) the average attendance in each school;
 - (iv) the number of his official visits to each school;
 - (v) the salaries of the teachers;
 - (vi) the qualifications of each teacher;
 - (vii) the number of teachers of each sex;
 - (viii) any other information he may possess respecting the educational state and wants and advantages of each school; and
 - (ix) any statements and suggestions for improving the schools and school laws and promoting education generally which he deems useful and expedient; which report shall be laid before the Yukon Council immediately after the opening of the next session thereof;
- (t) subject to the approval of the Commissioner, to select, adopt and prescribe series of text books to be used in the schools as well as the courses and standards of instruction for schools;
- (u) 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;
- (v) with due diligence after any complaint has been made to him respecting the state of education in any part of the Territory or the conduct of any school, to investigate such complaint and report the facts to the Commissioner;
- (w) to close any school when the average attendance therein falls below seven; and
- (x) to perform such other duties as are assigned to him by the Commissioner.

6. On the petition of three taxpayers residing in an area of ^{New school.} more than five square miles containing not less than four resident taxpayers and fifteen children between the ages of five and sixteen years inclusive and upon the verification of these facts by statutory declaration of one of the petitioners the Commissioner shall establish a school in such area at such place therein as he deems proper.

7. (1) A minority of the taxpayers residing in an area of ^{Separate school petition.} more than five square miles, whether Protestant or Roman Catholic, may petition the Commissioner to recognize as a school, within the meaning of this Part, a separate school which they have established for children of their religious faith in that area.

(2) Such petition shall be signed by three taxpayers of the minority religious faith resident in the area and shall state

- (a) the religious faith of the petitioners;
- (b) the name of the school, stating whether Protestant or Roman Catholic;
- (c) the proposed limits, location and approximate area of the district which the school serves;
- (d) the location of the school; and
- (e) the total number of taxpayers and of children between the ages of five years and sixteen years inclusive of the religious faith of the petitioners residing within the area.

(3) The petition shall be accompanied by a solemn declaration of one of the petitioners verifying the facts set forth in the petition.

8. The Commissioner, upon being satisfied that ^{Recognition of separate school.}

- (a) there are four taxpayers of the religious faith of the petitioners residing in the area described in the petition;
- (b) there are not less than fifteen children between the ages of five and sixteen years inclusive of the religious faith of the petitioners residing within the area;
- (c) the school is and will be staffed by a teacher or teachers whose qualifications comply with the rules and regulations of the Department;
- (d) the course of studies and equipment of the school are in accord with the rules and regulations of the Department; and
- (e) the building in which the school is situate is in a fit condition of repair and sanitation and meets the requirements of the rules and regulations of the Department respecting school houses;

shall declare such school a school within the meaning of this Part.

9. The school year shall begin on the first day of September ^{School year.} and end on the thirtieth day of June following.

School hours. **10.** (1) School shall be held between nine o'clock and twelve o'clock in the forenoon and one o'clock and four o'clock in the afternoon of every day standard time, not including Saturdays, Sundays or holidays.

(2) Subject to the approval of the Commissioner, the Superintendent may alter or shorten the school hours for all or any of the schools.

Holidays. **11.** (1) The Superintendent shall apportion holidays to all schools.

(2) Ash Wednesday, Good Friday, Easter Monday, Arbour Day, the birthday of the reigning sovereign, Empire Day, Dominion Day, Discovery Day, Labour Day, Thanksgiving Day, Remembrance Day, New Years Day, and any day specially appointed as a holiday by the Governor General, the Commissioner, or the council for the municipality in which the school is situate shall be a holiday.

(3) The Superintendent may give such other holiday or holidays as he deems proper to any school which is open during the whole school year, but any such school shall be open at least one hundred and eighty days in each school year.

(4) Notwithstanding subsections (1), (2) and (3), with the approval of the Commissioner the Superintendent may close any school or schools at such time and for such period as he deems necessary.

English Language. **12.** All schools shall be taught in the English language but the Superintendent may permit a primary course to be taught in the French language in any school.

Religious instruction. **13.** (1) No religious instruction shall be permitted in any school from the opening of such school until one half-hour previous to its closing in the afternoon, after which time such daily religious instruction may be given as is permitted by the Superintendent.

(2) The Superintendent may direct that any school or schools be opened by the recitation of the Lord's Prayer.

Child may leave during religious instruction. **14.** (1) Any child shall have the privilege of leaving the school at the time at which the religious instruction is commenced under the provisions of section 13, or of remaining without taking part in any religious instruction that is given.

(2) No teacher shall attempt in any way to deprive such child of any advantage that he might derive from the ordinary education given in such school and any such action on the part of any teacher shall be held to be a disqualification for and voidance of the office held by him.

Kindergarten. **15.** The Superintendent may establish kindergarten classes in any school for the teaching and training of children between the ages of four and six years and, with the approval of the Com-

missioner, may fix and charge a monthly fee for each pupil attending such classes to cover the cost of maintaining the kindergarten.

16. (1) Every parent, guardian or other person having charge of any child or children between the ages of seven and fourteen years inclusive resident in an area in which there is a school shall send such child or children to school for the whole school year. Compulsory education.

(2) Every parent, guardian or other person having care or control of a child between the ages of seven and fourteen years, who fails to provide that such child shall attend school or be educated otherwise is guilty of an offence and liable on summary conviction before a justice of the peace to a fine not exceeding five dollars, and in default of payment, to imprisonment for not more than five days, with or without hard labour. Penalty.

17. The justice of the peace, upon complaint being made to him by the Superintendent, any teacher, or any police officer or truant officer of the failure of such parent, guardian or other person to provide for the education of any such child as required by section 16, shall hear evidence of the said complaint, and shall also make or cause inquiry to be made into the circumstance and means of the person charged, and may convict unless it be shown to his satisfaction, Excuses for not sending child to school.

- (a) that the child has been prevented from attending school by illness or other unavoidable cause,
- (b) that there is no school open which the child can attend within a distance of one mile measured by the nearest passable road from the residence of such child,
- (c) that the child has reached a standard of education equal to or higher than that to be attained in such school,
- (d) that the person charged had not the means to clothe the child adequately, or
- (e) that the child's mental condition has been such as to prevent his attendance at school, or his application to study.

18. The Superintendent may appoint a truant officer for any school and may make regulations for the direction of such officer in the enforcement of the provisions of this Ordinance as are not inconsistent with the provisions of this Ordinance.

19. No person shall be engaged, appointed, employed or retained as a teacher in any school unless his qualifications are approved by the Superintendent. Qualifications of teacher.

20. The salary of a teacher who has been engaged for the year shall be paid in monthly instalments. Salary of teacher.

21. In case of sickness certified by a qualified medical practitioner a teacher shall be entitled to his salary during such sickness for a period or periods not to exceed four weeks during Sick leave for teacher.

the year, but, in his discretion, the Superintendent may increase such period or periods for a further time of not more than four additional weeks in the year.

Duties of
teacher.

- 22.** It shall be the duty of every teacher to
- (a) teach diligently and faithfully all the subjects required to be taught by the regulations of the Department;
 - (b) maintain proper order and discipline and conduct and manage the school according to the regulations of the Department;
 - (c) keep in a conspicuous place in the school room a time-table and submit such time-table to the Superintendent for his approval;
 - (d) keep in the prescribed form the school registers and records and give access to them to the Superintendent and any other person authorized to inspect them by the Commissioner;
 - (e) make at the end of each term or any other time promotions from one class to another as he deems fit, subject to the approval of the Superintendent;
 - (f) send at approved times as may be directed by the Superintendent reports to the parents or guardians of each pupil upon that pupil's attendance, conduct and progress;
 - (g) encourage the observance of Arbour Day by holding suitable exercises and take an interest in cleanliness and tidiness of the school grounds;
 - (h) give strict attention to the proper heating, ventilating and cleanliness of the school house and to the condition of the outhouses of the school and report to the Superintendent any defects in same;
 - (i) exercise vigilance over the school property, the buildings, fences, furniture and apparatus and give prompt notice in writing to the Superintendent of any injury to the same;
 - (j) report to the Superintendent any needed repairs to the school buildings or furniture and any required supply of fuel, drinking water, furniture or equipment;
 - (k) notify the Superintendent and the Medical Health Officer for the district in which the school is situate whenever he has any reason to believe that any pupil attending school is affected with or exposed to any infectious or contagious disease, and prevent the attendance of any pupil so affected or exposed or suspected of being affected or exposed until furnished with a written statement of a physician or a public health nurse that the child is not suffering from any infectious or contagious disease or has not been exposed to such a disease or that all danger from such exposure has passed;
 - (l) suspend from school any pupil for violent opposition to authority and forthwith report in writing the facts of such suspension to the Superintendent;

- (m) assist the Superintendent in making any returns or reports required by this Part;
- (n) furnish to the Commissioner, the Superintendent or any person designated by the Commissioner, any information which it is in his power to give respecting anything connected with the operation of the school or in any way affecting its interests or character;
- (o) deliver up any school register, school house key or other school property in his possession when required to do so by written order of the Commissioner or Superintendent in the manner and to the person described in the order;
- (p) attend all meetings of teachers called by the Superintendent or the principal of the school in which he is employed; and
- (q) report in writing at once to the Superintendent or the Commissioner upon any matter on which they require a report.

23. In every school in which more teachers than one are employed the Superintendent shall designate the principal.

24. The principal shall be responsible for the organization and general discipline of the whole school.

PART II.

DISTRICT SCHOOLS.

- 25.** In this Part,
- (a) "Board" means a Board of School Trustees; Definitions.
"Board."
 - (b) "Commissioner" means the Commissioner of the Yukon Territory; "Commissioner."
 - (c) "Council" means the Council of the Yukon Territory; "Council."
 - (d) "Department" means the Department of Education of the Yukon Territory; "Department."
 - (e) "school" means a district school established under this Part; "School."
 - (f) "Superintendent" means the Superintendent of Schools appointed under section 3 of this Ordinance; and "Superintendent."
 - (g) "taxpayer" means, in the case of a person resident in a school district or proposed school district which is a municipality, a person who has been rated upon the last revised assessment of the municipality in respect of real property, and, in the case of a person resident in a school district or proposed school district which is an area outside a municipality, a person who has been rated upon the last revised Territorial assessment in respect of real property in said area. "Taxpayer."

When
Commissioner
to establish
school
district.

26. On the petition of a majority of the taxpayers resident in a municipality established under the *Municipal Ordinance* or in an area of not more than five square miles outside such a municipality where there are resident not less than four taxpayers and fifteen children between the ages of five and sixteen years inclusive and upon the verification of these facts by statutory declaration of one of the petitioners, the Commissioner by proclamation shall establish such municipality or area a school district under this Part.

Returning
officer.

27. As soon as any municipality or area is erected into a school district, the Commissioner shall appoint a returning officer and fix a day for holding an election of three trustees who shall hold office until the day in January next following when their successors are sworn in.

Notice by
returning
officer.

28. The returning officer within ten days from the receipt of his appointment, shall post notices as nearly as may be in Form A in the Schedule in five public places within the school district.

Who may
vote.

29. Every taxpayer resident within the school district is qualified to vote at an election held under this Part who

- (a) is a British subject of the full age of twenty-one years; and
- (b) has fully paid his rates and taxes of all kinds before the day of nominating candidates.

30. Every wife or husband of a taxpayer, who is qualified to vote under section 29, is qualified to vote at an election held under this Part who

- (a) is a British subject of the full age of twenty-one years; and
- (b) is a resident of the school district.

Voters'
list.

31. The Collector of Taxes for the municipality or area forming the school district shall cause to be prepared a list alphabetically arranged of the names of all taxpayers qualified to vote under section 29 and of the names of all wives and husbands of such taxpayers qualified to vote under section 30 and shall certify such list which shall be the voters' list for the election of trustees.

Qualification
of trustee.

32. A person is qualified to be a trustee who

- (a) is entitled to vote at an election of trustees held under this Part;
- (b) is able to read and write in either the English or French language; and
- (c) is not disqualified under this Ordinance.

33. Every candidate for the office of trustee shall be nominated in writing by two taxpayers of the district and the nomination papers shall be delivered to the returning officer not later than five o'clock in the afternoon of the second day of January or, if such day is a holiday, then before five o'clock of the next day thereafter which is not a holiday. ^{Nominations.}

34. In case the number of nominations do not exceed the number of trustees to be elected, the returning officer shall declare the persons nominated to be elected and shall make a return thereof to the Commissioner with the nomination papers of all persons nominated. ^{Election by application.}

35. If more nominations are received than the number of trustees to be elected the returning officer shall provide a polling place for every two hundred and fifty voters and shall appoint a deputy returning officer for each polling place and a poll clerk for each polling place. ^{When poll provided.}

36. An election held under this Part as to division of voters' lists for the several polling stations, the secret marking of ballots, conduct of polling places and in all other respects shall be conducted as far as may be without being inconsistent with the provisions of this Ordinance in the same manner as is provided by law for an election of a member of the Council. ^{Election procedure.}

37. (1) Subject to subsection (3), all elections after the first election held under this Part shall be held on the twenty-first day after the day for nominating candidates or if such day is a holiday on the next day thereafter which is not a holiday. ^{Date of election.}

(2) The returning officer shall be a person qualified to vote under this Part.

(3) If a school district is within a municipality a nomination and election under this Part shall be held at the same time and place and before the same returning officer as the nomination and election of the municipal councillors.

38. The returning officer, deputy returning officers and poll clerks, before entering upon their respective duties shall take the oath in Form B in the Schedule. ^{Oaths.}

39. (1) Upon the day of the election the deputy returning officer shall open the poll at nine o'clock in the forenoon and shall keep the same open until six o'clock in the afternoon. ^{Opening and closing.}

(2) The returning officer shall provide each deputy returning officer with ^{Supplies provided.}

- (a) a sufficient number of ballots in Form C in the Schedule,
- (b) necessary material to mark the ballots,

- (c) a poll book which, with such variations as the provisions of this Ordinance make necessary, shall be in the form of the poll book lawfully provided for an election of a member of the Council, and
 - (d) a copy of the instructions in Form D in the Schedule.
- Conduct of poll.

 - (3) The poll clerk shall write in the poll book the name of each voter when he offers to vote.
 - (4) 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 signed by the candidate.
 - (5) When the name of any person claiming to vote is found upon the list of voters 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, in which case no ballot paper shall be delivered to him.
- Closing of poll and count of votes.

 - (6) At the hour of six o'clock in the afternoon the deputy returning officer shall declare the poll closed and 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, forthwith shall open the ballot box and examine the ballots therein and proceed to count the votes.
- Spoiled ballots.

 - (7) Every ballot paper
 - (a) that is not initialed by the deputy returning officer,
 - (b) on which votes are given to more candidates than are to be elected,
 - (c) on which anything is written or marked appearing to have been put there for the purpose of enabling the same to be identified as a ballot of a particular voter,
 - (d) that is unmarked, or
 - (e) from which it is uncertain for which candidate or candidates the voter votes,
 shall be void and not counted.
- Certificates of votes.

 - 40. If requested to do so by any candidate or agent of any candidate, after summing up the votes the deputy returning officer 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.
- Returning officer to declare election and make return.

 - 41. (1) After summing up the votes, the deputy returning officer shall place all the ballots, the poll books, the oaths and voters' lists in the ballot box and seal up the same and return it to the returning officer with a written statement of the votes cast for each candidate and the number of rejected ballots.
 - (2) As soon as possible, the returning officer shall sum up the result of the returns of all the deputy returning officers and shall declare the three candidates receiving the greatest number of votes elected and shall make a return thereof to the Com-

missioner and then shall deliver all voters' lists, ballot boxes, ballots and oaths to the city clerk if the school district is in a municipality or to the Territorial Secretary or his agent if the school district is outside a municipality.

42. Where any objection is made to the right of any person ^{Oath of voter.} to vote at an election of trustees held under this Part, the deputy returning officer shall require that person to make the following oath or affirmation: "I, do solemnly swear (or affirm) that I am a British subject of the full age of twenty-one years and a resident taxpayer (or the wife or husband of a taxpayer) of (name of school district) and have paid all taxes due by me in respect of property in the said school district; that I have not before voted at this election; and that I have not received either directly or indirectly nor have I any hope of receiving any reward for voting at this time and place. So help me God".

43. Every trustee elected under the provisions of this Part ^{Term of trustee.} shall hold office for two years or until his successor is sworn in.

44. (1) Before any trustee attends his first meeting with ^{Declaration of trustee.} the Board, he shall make the following declaration before a justice of the peace or commissioner for affidavits:

"I,, do hereby accept the office of trustee for the school district to which I have been elected and I will to the best of my ability honestly and faithfully discharge the duties devolving on me as such trustee."

45. Within ten days after the election the trustees shall meet ^{First meeting.} for the purpose of choosing one of their number as chairman and appointing a secretary and treasurer or secretary-treasurer and transacting such other business as is necessary.

46. The minority of the taxpayers of any school district, ^{Separate school district.} whether Protestant or Roman Catholic, may petition the Commissioner to establish a separate school district therein and in such case the taxpayers of such Protestant or Roman Catholic separate school shall be liable only for the assessment of such school taxes as they impose upon themselves in respect thereof.

47. (1) The petition for the erection of a separate school ^{Petition for separate school district.} district shall be signed by three resident taxpayers of the religious faith indicated in the name of the proposed district.

- (2) The petition shall set forth
 - (a) the religious faith of the petitioners;
 - (b) the proposed name, stating whether Protestant or Roman Catholic, of the district;
 - (c) the proposed limits and approximate area and definite location of the proposed school district; and

(d) the total number of taxpayers and of children between the ages of five and sixteen years inclusive of the religious faith, Protestant or Roman Catholic, of the petitioners residing within the limits of the proposed district.

(3) Such petition shall be supported by the solemn declaration of one of the petitioners verifying the facts set forth in their petition.

Erection of separate school district.

48. Where the Commissioner is satisfied that the proposed separate school district contains

(a) fifteen children of the religious faith, Protestant or Roman Catholic, of the petitioners; and

(b) four resident taxpayers who on the erection of the separate school district would be liable to assessment for school taxes;

he shall by proclamation order the erection of such separate school district.

Election of trustees for separate school district.

49. For a separate school district, the number of trustees, their term of office and the time and manner of their nomination and election shall be the same as for the public school district within which it is situate.

Electors of separate school district.

50. (1) The persons qualified to vote for the election of trustees of a separate school district are the persons qualified to vote under sections 29 and 30 who are of the same religious faith, Protestant or Roman Catholic, as the petitioners and have not voted at the election of trustees for the public school held in the same year.

(2) No person who votes at the election of the trustees for the public school shall vote at the election of the trustees for the separate school held in the same year.

Oath of voter.

51. Where any objection is made to the right of any person to vote at an election of trustees in any separate school district, the deputy returning officer shall require that person to make the following oath or affirmation:

"I,, do solemnly swear (or affirm) that I am a British subject of the full age of twenty-one years and a resident taxpayer (or wife or husband of a taxpayer) of (name of school district) and have paid all taxes due by me in respect of property in the said school district; that I am of the faith and a supporter of said separate school; that I have not before voted at this election; 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."

Board of separate school district.

52. After the establishment of a separate school district under the provisions of this Part, such separate school district and the Board thereof shall possess and exercise all powers, rights, privi-

leges and be subject to the same liabilities and methods of government as are herein provided in respect to public school districts.

53. An annual meeting of the taxpayers of every 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. Annual tax payers meeting.

54. The meeting shall be called by the Board which shall at least eight days before the day for which the meeting is called, post 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. Notice of annual meeting.

55. (1) 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. Conduct of annual meeting.

(2) In the absence of the chairman the taxpayers present shall forthwith elect one of their number to preside.

56. 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. When chairman may vote.

57. The business of the annual meeting may be conducted in the following order: Business of annual meeting.

- (a) reading and adopting minutes of the last annual meeting;
- (b) receiving and considering the statements prepared by the teacher, trustees, treasurer, collector and auditor;
- (c) receiving and considering the report of the Superintendent of Schools; and
- (d) miscellaneous business.

58. 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: Reports considered.

- (a) a statement of the teacher signed by him giving the following particulars:
 - (i) the number of days on which school was kept open during each term succeeding the last annual meeting;
 - (ii) the total number of children attending school during that period specifying the number of males and females;

- (iii) the number of children of school age residing in the district who did not attend school during the year;
 - (iv) the average daily attendance for each term and for the year;
 - (v) the classification of pupils and the number of pupils in each class;
 - (vi) the subjects taught in the school and the number of children studying each;
 - (vii) the number of scholars suspended or expelled for misbehaviour or other causes; and
 - (viii) the date upon which the public examination of the school was held and the number of visitors present;
- (b) a statement prepared by the trustees showing
- (i) the names of the trustees;
 - (ii) the officers of the district appointed by the trustees, and their salaries;
 - (iii) 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;
 - (iv) the engagements entered into during the year by the Board as well as an account of those entailed upon them by their predecessors;
 - (v) 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; and
 - (vi) the number of visits made by each member of the Board to the school while it was in operation;
- (c) the treasurer's statement for the fiscal year ending the 30th day of June preceding the annual meeting, in which shall be set forth
- (i) the amounts of money received by the district from each source of revenue including government grants whether paid directly to the teachers or not;
 - (ii) the amount of money paid out by the district with particulars of payment;
 - (iii) the amount of money due to the district from all sources with the particulars; and
 - (iv) the amount of money due by the district and the terms and times of payment;
- (d) a statement prepared by the collector of taxes and signed by him giving the following particulars:
- (i) the total assessed value of all property as shown by the last revised assessment roll;
 - (ii) the rate of the school tax;
 - (iii) the total amount of taxes levied during the year;
 - (iv) the current taxes collected during the year;
 - (v) the arrears of taxes collected during the year; and

- (vi) the total arrears of taxes which are due together with a statement of the amount owing by each taxpayer;
- (e) the Auditor's report;
- (f) the Superintendent of School's report received since the preceding annual meeting was held; and
- (g) such further statements in relation to the affairs of the district as is deemed advisable.

59. Where, 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 residents taxpayers or by the Commissioner to call a meeting of the taxpayers 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.

Deferred school meetings.

60. A special meeting of the taxpayers of any district may be held at any time for any necessary purpose not otherwise provided for in this Ordinance.

Special taxpayers meetings.

61. It shall be the duty of the secretary of the Board to call any special meeting when required to do so

- (a) by the Board;
- (b) by the Commissioner; or
- (c) by the Superintendent of Schools.

Special meetings called by secretary.

(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.

62. At the meeting so held the taxpayers 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.

Conduct of special meeting.

63. 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.

Auditor.

64. 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."

Trustees a body corporate.

65. Within ten days after his election every trustee shall make the declaration of office provided for in section 44.

Declaration of trustee.

66. 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.

First meeting.

Appointment of chairman and secretary.

67. (1) 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 the school district may be appointed secretary but not treasurer, nor secretary-treasurer.

How meetings called.

68. A meeting of the Board may be called by the chairman or any trustee.

Notice of meeting.

69. (1) 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; but 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.

Waiver of notice of meeting.

(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.”

Acts of Board to be valid must be adopted at meeting.

70. (1) No act or proceeding of any Board shall be valid or binding on any party that 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.

One trustee not to transact business.

71. Where the number of trustees is 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.

Seconder not required for motion.

72. All questions shall be submitted to the Board on the motion of the chairman or any other trustee, and no seconder shall be required.

Questions to be decided by majority of votes.

73. (1) 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.

(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. In absence of chairman trustees to elect one.

74. The Board of every district shall

Duties of Board.

- (a) appoint a chairman, a secretary and treasurer or a secretary-treasurer and such other officers and servants as are required by this Ordinance;
- (b) procure a corporate seal for the district;
- (c) see that all the reports and statements required by this Ordinance or by the Superintendent of Schools are transmitted to the Department without delay;
- (d) 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;
- (e) provide the officers of the Board with the books necessary for keeping proper records of the district;
- (f) take possession and have the custody and safe keeping of all the property of the district;
- (g) purchase or rent school sites or premises, and build, repair, furnish and keep in order the school house or houses, furniture, fences and all other school property; keep the wells, closets and premises generally in a proper sanitary condition, and make due provision for properly lighting, heating, ventilating and cleaning the school-room or rooms under its control and if deemed advisable purchase or rent sites or premises for a residence for the teacher and build, repair and keep in order such residence;
- (h) provide wholesome drinking water for the use of the children during school hours;
- (i) provide suitable sanitary facilities for pupils and teachers;
- (j) insure and keep insured the school building and equipment;
- (k) provide when deemed expedient a suitable library for the school and make regulations for its management;
- (l) 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;
- (m) require that no text books or apparatus be used in the school under its control other than those authorized by the Superintendent;
- (n) exempt, in its discretion, from the payment of school taxes wholly or in part any indigent persons resident within the district, and where necessary provide for the children of such persons text books and other supplies at the expense of the district;

- (o) 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, and the contract with such teacher shall be in writing and must be in the form prescribed by the Superintendent of Schools and a certified copy of such contract shall be transmitted to the Department;
- (p) 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 transmit a written statement of the facts to the Department;
- (q) see that the school is conducted according to the provisions of this Ordinance and the regulations of the Commissioner or Department;
- (r) provide for the payment of teachers' salaries at least once in every three months;
- (s) make regulations for the management of the school;
- (t) provide in the cases of graded schools at what age pupils may be admitted to Grade I;
- (u) settle all disputes arising in relation to the school between the parents or children and teacher;
- (v) discipline as they see fit 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;
- (w) see that the law with reference to compulsory education and truancy is observed; and
- (x) perform such other duties as are required by this Ordinance or the regulations of the Commissioner or Department.

**Duties of
chairman.**

75. The chairman of the Board

- (a) has the general supervision of the affairs of the district; and
- (b) shall certify all accounts against the district passed by the Board before such accounts are paid by the treasurer.

**Duties of
secretary.**

76. The secretary or secretary-treasurer of the Board shall

- (a) keep a full and correct record of the proceedings of every meeting of the Board in the minute book provided for that purpose and see that the minutes when confirmed are signed by the chairman;
- (b) conduct the correspondence of the Board as he is directed by the Board;
- (c) 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;

- (d) 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;
- (e) call, at the request in writing of the chairman or any trustee, a meeting of the Board;
- (f) 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;
- (g) prepare the statement of the trustees to be submitted at the annual meeting of the taxpayers; and
- (h) give the notice required by this Ordinance of each annual meeting of the taxpayers and call special meetings of the taxpayers as provided by section 60.

- 77.** The treasurer or secretary-treasurer of the Board shall Duties of
treasurers.
- (a) 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 funds 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; and 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, but 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;
 - (b) receive all school moneys collected from the taxpayers or other persons for the purpose of the district of which he is treasurer and disburse such moneys in the manner directed by the Board;
 - (c) pay all accounts against the district only when they are certified by the chairman of the Board;
 - (d) 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 that may have been paid directly to the teacher;

- (e) give and take receipts for all school moneys received and paid out and keep on file all vouchers of expenditure;
- (f) close and balance the books of the district at the end of the school year;
- (g) 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 hand over the same to the trustees or any person named by them upon his ceasing to hold office;
- (h) 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 taxpayers; and
- (i) 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.

Returns and reports.

78. (1) 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) Where the Board of any district neglects or refuses to have prepared and transmitted to the Department any returns and reports required by this Ordinance or the regulations of the Department or by the Commissioner or Superintendent, the trustees through whose neglect or refusal such returns and reports have not been prepared or transmitted shall be jointly and severally liable to a penalty of ten dollars for each week that the reports or returns are delayed which amount may be recovered by action in the Territorial Court by any person authorized by the Superintendent to bring such action.

Resignation of Trustee.

79. (1) 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.

Vacation of office by trustee.

80. 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.

81. (1) 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 of any work, engagement, employment or duty on behalf of such corporation except as secretary, treasurer or secretary-treasurer for a school district.

Trustee may not 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.

82. Where any vacancy is created in the Board of any school district, it is the duty of the remaining trustee or trustees in office to 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; but if any vacancy is not filled within one month the Commissioner may appoint some qualified person to fill the same.

Election to fill vacancy.

83. 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 44.

Trustee to fill vacancy holds seat only for unexpired term.

84. The Board of any district may by resolution authorize its chairman and treasurer to borrow from any chartered bank of Canada such sum, not exceeding sixty per cent of the school taxes to be levied for the current year, as is required to meet the expenditures of the school district until such time as the school taxes levied for the current year are available, and such loan shall be paid out of and shall be first charge upon the taxes which are collected for the year in which the loan was made, and may be secured by the promissory note or notes of the chairman and treasurer of the Board given on behalf of the Board.

Borrowing for current expenditures.

85. (1) The Board of any district may upon receiving the approval of the Commissioner borrow a sum of money not to exceed two thousand dollars 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;

Borrowing for special purposes.

(2) 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.

Assessment
for school
district.

86. The provisions of the *Municipal Ordinance* respecting assessment, rating and collection of taxes shall be deemed to form part of this Ordinance and shall, so far as they are not inconsistent with the provisions of this Ordinance, be deemed to apply to all school districts established throughout the Territory.

Rating and
collection
of school
taxes.

(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 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 twenty-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) Subject to this Ordinance the property liable to assessment and taxation for school purposes shall be the property liable to assessment and taxation for municipal or Territorial purposes.

Assessment
for separate
school
district.

87. After a separate school district is established the assessor shall add a column to the assessment roll, in which he shall state the religion (Protestant or Roman Catholic) of the person assessed.

Joint interests
of persons of
different
religions
assessed
separately.

88. 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 taxpayers.

Assessment
of property
owned by a
corporation.

89. (1) A company may by notice in that behalf to be given to the clerk 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 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 the 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.

(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 a clerk of a municipality 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 clerk'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 school taxes.

(5) Any company fraudulently giving such notice or making false statements therein is liable to a penalty not exceeding one hundred dollars, and any person giving for a company such a statement fraudulently or wilfully inserting in any such notice a false statement is guilty of an offence and liable on summary conviction to a like penalty.

90. Any writ of execution against the Board of any district may be endorsed with a direction to the sheriff to levy the amount thereof by rate; and the proceedings thereon shall be as follows: Executions
against
Boards.

- (a) the sheriff shall deliver a copy of the writ and endorsement 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;
- (b) in case the amount with interest thereon from the day mentioned in the statement is 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;
- (c) the sheriff 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;

- (d) at the time for levying the annual rate after 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;
- (e) 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; and
- (f) 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.

"Treasurer" defined.

91. In section 90 the word "treasurer" means

- (a) in the case of a school district situate wholly or partially within a municipality, the treasurer of said municipality; and
- (b) in the case of any other school district, the Territorial Treasurer.

No fees for certain pupils.

92. No fees shall be charged by the Board of any district on account of the attendance at its school of any child whose parent or lawful guardian is a taxpayer of the district; but if the Board of any district maintains one or more departments in its school exclusively for pupils above Grade 8 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 six dollars for the first term and nine dollars for the second term in any year if such parent or lawful guardian is a resident taxpayer of the district, and in case such parent or lawful guardian is not a resident taxpayer of the district, a fee not exceeding eight dollars for the first term and thirteen 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.

93. The school year shall begin on the first day of September School year. and end on the thirtieth day of June.

94. School shall be held between nine o'clock and twelve School hours. o'clock in the forenoon and one o'clock and four o'clock 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.

95. The Superintendent shall apportion holidays to all schools. Holidays.

96. Ash Wednesday, Good Friday, Easter Monday, Arbour Statutory Day (second Friday in May) the birthday of the reigning holidays. sovereign, Empire Day, Dominion Day, Discovery Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, New Years Day and any day specially appointed as a holiday by the Governor General, the Commissioner of the Yukon Territory or the mayor of a city or town shall be holidays; and it shall be at the discretion of the Board to permit any other holidays not exceeding one day at a time.

97. (1) All schools shall be taught in the English language, English to be taught. 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 Special language courses. 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 has power to raise such sums of moneys 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.

98. (1) No religious instruction except as hereinafter Religious instruction. 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.

(2) It shall be permissible for the Board of any district to direct that the school be opened by the recitation of the Lord's Prayer.

99. Any child has the privilege of leaving the school at the Child may leave during religious instruction. time at which the religious instruction is commenced as provided for in section 98, or of remaining without taking part in any religious instruction that is given, if the parents or guardians so desire.

100. 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.

Kindergarten. **101.** 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 five dollars per month for each pupil to cover cost of maintaining such department.

102. The Board of any district may engage a teacher for and make necessary arrangements at the expense of the district for the maintenance of a night school; and if the school is kept open for one month, a fee may be charged of not more than ten dollars a month for each month or portion of month that the pupil is in attendance.

Compulsory education. **103.** (1) The provisions of sections 16, 17 and 18 respecting truancy and compulsory education apply to parents, guardians and other persons having charge of any child of school age resident in a school district established under this Part.

(2) For the purposes of giving effect to the law respecting truancy and compulsory education the Board of any school district may appoint a truant officer who within such district shall have all the powers of a truant officer appointed under Part I.

Qualification of teacher. **104.** No person shall be engaged, appointed, employed or retained as a teacher in any school established under this Part unless his qualifications for such position are approved by the Superintendent.

Engagement of teacher. **105.** 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.

Contract with teacher. **106.** 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 if such alterations or amendments are not inconsistent with any of the provisions of this Ordinance or the regulations of the Department.

Executions of contract. **107.** The contract shall be valid and binding if signed by the teacher and by the chairman on behalf of the Board.

Suspension or dismissal of teacher. **108.** (1) 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.

(2) 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.

109. 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 180 and multiplying the result obtained by the number of actual teaching days within the period of his engagement; but if a teacher has taught more than 180 days in any calendar year, he shall only be entitled to a year's salary.

Salary for teaching less than school year.

110. Every teacher in case of illness certified by a qualified medical practitioner shall be entitled to his salary during such illness for a period not to exceed four weeks for the entire year, which period may be increased by the Board.

Teachers leave for illness.

111. A teacher whose agreement with a Board has expired or who is dismissed by it is entitled to receive forthwith all moneys due him for his services as teacher while employed by such Board; when such payment is not made by the Board or tendered to the teacher he is entitled to recover the full amount of his salary due and unpaid with legal interest in any court of competent jurisdiction.

Teacher may recover salary.

112. Every teacher shall

Duties of teacher.

- (a) teach diligently and faithfully all the subjects required to be taught by the regulations of the Department;
- (b) maintain proper order and discipline and conduct and manage the school according to the regulations of the Department;
- (c) keep in a conspicuous place in the school room a time-table which shall show the classification of pupils, and submit such time-table to the Superintendent of Schools for his approval and signature on the occasion of his visit to the school.
- (d) keep in the prescribed form the school registers and give access to them to trustees, officers of the Board, the Superintendent of Schools and any other person authorized thereto by the Commissioner;
- (e) make at the end of each term or at any other time promotions from one class to another as he may deem expedient, subject to the ratification of the Superintendent of Schools at his next visit;
- (f) 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) 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) encourage the observance of Arbour Day by holding suitable exercises, and take an interest in the cleanliness and tidiness of the school grounds;
- (i) 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 report to the Board any defect with respect thereto;
- (j) exercise vigilance over the school property, the building, fences, furniture and apparatus so that they may not receive unnecessary injury, and give prompt notice in writing to the Board of any such injury;
- (k) 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) see that the provisions of paragraph (i) of section 74 have been complied with, and if not report to the Board and in case of any neglect on the part of the Board notify the Commissioner;
- (m) 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, scarlatina, diphtheria, whooping cough, measles, mumps or other infectious or contagious disease; and 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, public health nurse 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) suspend from school any pupil for violent opposition to authority and 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) assist the Board and its officers in making the prescribed returns to the Department;
- (p) furnish to the Commissioner, the Superintendent of Schools, the Board or any person appointed by the Commission any information which it is in his power to give respecting anything connected with the operation of the school or in anywise affecting its interests or character;
- (q) 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; and
- (r) attend all meetings of the teachers called by the Superintendent of Schools where more than one teacher is employed.

Principal.

113. In every school in which more teachers than one are employed, the head teacher shall be called the principal.

114. The principal shall prescribe with the concurrence of the Board the duties of the teachers and shall be responsible for the organization and general discipline of the whole school. Duties of principal.

115. 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 and discussing educational matters. Association of teachers.

116. 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 is the duty of the Board to admit such child; but 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. Children of non-residents admitted to school.

117. The parent or lawful guardian of any child residing within the limits of any district and who is not a taxpayer thereof may send his children to the school operated within the district. Residents who are not taxpayers.

118. 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 property shall be deemed to be within the school district on whose assessment roll it is placed. Assessment for school tax of land outside school district.

119. With respect to a school established under this Part the Superintendent shall exercise all the powers and perform all the duties described in section 5 except those which are by the provisions of this Part especially given to or imposed upon the Board of such school. Duties of Superintendent.

120. 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 is personally responsible for the fulfilment of such contract or agreement. Liability of Board and members.

Liability of trustees for debts.

121. Where the Board of any district wilfully contracts liabilities in the name of the district, greater or other than as provided or allowed by this Ordinance, or appropriates 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 member 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.

Penalty for false reports.

122. If any trustee knowingly signs a false report, or any teacher keeps a false school register or knowingly makes a false return, he is guilty of an offence and liable on summary conviction to a fine not exceeding twenty dollars.

Penalty for retaining money or books.

123. 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, thereby incurs a penalty not exceeding twenty dollars 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.

Penalty on returning officer for prejudicing result of election.

124. Any returning officer of any district or proposed district acting under the provisions of this Ordinance who knowingly and wilfully prejudices 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, is liable to a penalty of not less than ten dollars and not more than one hundred dollars.

Penalty for disturbing meeting.

125. 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 or exercises of the school, is 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 twenty dollars.

Teacher not to be trustee.

126. No school trustee is eligible to be appointed as teacher within the district of which he is trustee, nor shall the teacher of any school hold the office of school trustee.

127. All moneys accruing from fines or penalties under this Ordinance unless otherwise provided belong to the Yukon Consolidated Revenue Fund.

SCHEDULE.

FORM A.

(Section 28)

Public notice is hereby given to the voters of the School District of..... that nominations of candidates for the office of trustee for said district shall be delivered to me at..... in said District before the hour of five o'clock in the afternoon on..... the day of..... 19.....

Public notice is hereby given to the said voters that if a poll shall be granted for the election now pending for the said trustees such poll will be open on....., the..... day....., 19....., from the hour of nine o'clock in the forenoon till six o'clock in the afternoon at the polling stations hereinafter designated in and for each of the following polling divisions; that is to say; For Polling Division No. 1 consisting of those electors whose surnames commence with the letters from to (or whose residences are in the area bounded as follows, or as the division is otherwise designated) at..... (here clearly describe the polling place) For Polling Division No..... (and so continue for all the other polling divisions in the school district).

And I will at....., 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 the..... of..... in the Yukon Territory, this day of 19.....

FORM B.

RETURNING OFFICER.

(Section 38)

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 School District of	JOHN DOE	X
	RICHARD ROE	X
	GEOFFREY STILES	X
	JOHN STILES	X

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.

CHAPTER 100.

AN ORDINANCE RESPECTING SCIENTISTS AND EXPLORERS.

SHORT TITLE.

1. This Ordinance may be cited as the *Scientists and Explorers Short Title. Ordinance.*

LICENCES.

2. (1) The Commissioner may issue a licence, subject to such Issue. conditions as to duration, area or otherwise as he may prescribe. to a person to enter the Territory for scientific or exploration purposes and to carry out those purposes in the Territory.

(2) The Commissioner may, at any time, for any cause that Extension. etc. to him seems sufficient, extend, renew, alter or revoke a licence issued under this section.

3. (1) In addition to any conditions prescribed with respect Conditions applicable to all licences. to a licence issued under section 2, every licence is subject to the following conditions:

- (a) that the objects of entry of the holder of the licence into No political or commercial objects. the Territory are exclusively for scientific or exploration purposes and not, in any way, political or commercial; and
- (b) that, subject to section 4, the licensee will strictly comply Compliance with other Ordinances. with the provisions of all laws of the Territory.

(2) Every applicant for a licence shall furnish to the Commissioner an accurate statement showing the number, identity and nationality of the persons who will accompany him as well as his own identity and nationality. Statement of identity, etc.

4. No person shall enter the Territory for scientific or exploration purposes and no person shall carry out such purposes in the Territory unless he is the holder of a valid licence issued under this Ordinance. No entry without licence.

RETURNS.

5. (1) Every licensee shall, at the close of the scientific or Returns to Commissioner. exploration work in respect of which his licence was issued, furnish, in duplicate, to the Commissioner

- (a) a statement setting forth the scientific information he has acquired in carrying out the purposes in respect of which the licence was issued;
- (b) a report setting forth the localities visited and the time spent in each locality;
- (c) a descriptive catalogue of all specimens collected;

(d) copies of all photographs taken and maps and plans made in connection with the work together with explanatory notes; and

(e) such other information as the Commissioner may prescribe.

Returns to
R.C.M.P.,
etc.

(2) Every licensee shall forthwith after being requested by him to do so, furnish to a member of the Royal Canadian Mounted Police or an officer in charge of a government patrol, or other Crown officer, a log of voyages by water taken by the licensee, or information of the route followed on journeys by land or air taken by him, as the case may be, together with full particulars of such voyages or journeys.

Specimens.

6. The Commissioner may require a licensee to submit to him or to such person as the Commissioner may designate, any or all of the specimens collected by the licensee, and such specimens may be disposed of in any manner the Commissioner thinks fit.

REGULATIONS.

Regulations.

7. The Commissioner may, from time to time, make rules and regulations for carrying out the purposes and provisions of this Ordinance.

PENALTY.

Offence and
penalty.

8. Any person who violates any provision of this Ordinance or the regulations or the conditions of a licence issued under this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

CHAPTER 101.

AN ORDINANCE TO FACILITATE THE INCORPORATION OF SOCIETIES FOR PROVIDENT AND OTHER USEFUL PURPOSES, AND TO PROVIDE FOR THEIR REGULATION.

SHORT TITLE.

1. This Ordinance may be cited as the *Societies Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance, Definitions.
- (a) "by-laws" means the by-laws prescribing regulations for a society; "By-laws."
- (b) "Commissioner" means the Commissioner of the Yukon Territory; "Commissioner."
- (c) "constitution" means the constitution established for a society under the provisions of this Ordinance; and in applying the word to a society subject to the Ordinance repealed by this Ordinance means the declaration for incorporation of that society or other similar document; "Constitution."
- (d) "declaration" means the declaration for incorporation of a society incorporated under the Ordinance repealed by this Ordinance, and includes the declaration for incorporation and any other similar document of a society or association to which section 59 applies; "Declaration."
- (e) "director" includes trustee, officer, member of an executive committee and any person occupying such position by whatever name called; "Director."
- (f) "document" includes notice, order, summons and other legal process and registers; "Document."
- (g) "extraordinary resolution" means a resolution passed by a majority 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, such majority being either three-fourths or two-thirds, according as the by-laws provide, and in the absence of such provision a majority of three-fourths; "Extraordinary resolution."
- (h) "Registrar" means the Registrar of Joint-Stock Companies or other duly authorized person performing his duties; "Registrar."

- "Society." (i) "society" means a society incorporated under this Ordinance, and includes a society to which section 59 applies; and
- "Subscription." (j) "subscription" includes fee, due, assessment or other like sum payable by a member under the by-laws of a society.

INCORPORATION.

- Objects of society. **3.** A society may be incorporated under this Ordinance to promote any object of a national, patriotic, religious, philanthropic, charitable, provident, scientific, artistic, educational, social, professional, agricultural or athletic character or any useful object, but not for the purpose of carrying on any trade, industry or business.
- No power to grant degrees. **4.** No society shall have power to grant or confer any degree or diploma of literary, technical or scientific standing.
- No personal liability. **5.** No member of a society is, in his individual capacity, liable for any debt or liability of the society.
- No share capital or dividends. **6.** No society shall have a capital divided into shares or declare any dividend or distribute its property among the members during the existence of the society, and the interest of a member in a society shall not be transferable.
- Application for certificate. **7.** (1) Any five or more persons proposing to incorporate a society shall make and subscribe, in duplicate, according to the Form in Schedule A, the constitution and by-laws of the society, and shall transmit the same with the proper fees to the Registrar, together with a list of the persons appointed by the subscribers to act as the first directors of the society, stating their full names, addresses and occupations and the period for which they will so act; a notice setting forth the address of the society, and, if the Registrar requires it, the consent of an existing society to the incorporation.
- Registrar to issue certificate of incorporation. (2) Where the objects of the society do not appear to the Registrar to be within the scope of this Ordinance or to be sufficiently set forth, he may require that the objects be altered accordingly, but where the constitution and by-laws appear to the Registrar to comply with this Ordinance, he shall issue under his seal of office a certificate showing that the society is incorporated and stating the locality in which its operations will be chiefly carried on; except that incorporation may after investigation be refused by the Registrar, but an appeal may be taken from his refusal to the Commissioner in Council; and, in the case of a society whose objects include that of operating a social club, the Registrar shall not issue a certificate unless the written consent of the Commissioner to incorporation is filed with the Registrar.
- May be refused.
- Appeal from refusal.
- Social club.

(3) Upon incorporation the Registrar shall retain and register one copy of the constitution and by-laws and return the other copy to the applicants, certified as having been registered by him, and shall forthwith at the cost of the applicants publish the certificate with a statement of the objects of the society in one issue of the *Yukon Gazette*.

Copy of constitution and by-laws registered.
Certificate published.

(4) A certificate of incorporation given by the Registrar in respect of a society shall be conclusive evidence that the requirements of this Ordinance in respect of incorporation have been complied with, and that the society is duly incorporated according to the provisions of this Ordinance.

Certificate conclusive evidence that Ordinance complied with.

8. From the date of the certificate of incorporation the subscribers to the constitution and by-laws, and such other persons as may from time to time become members of the society, shall be a body politic and corporate by the name therein described, having perpetual succession and the right to a common seal, and with such powers as its constitution entitles it to, subject to this Ordinance.

A body politic and corporate.

POWERS.

9. (1) A society may sue and be sued, contract and be contracted with, in its corporate name.

To contract.

(2) A society may adopt a common seal and alter or change the same at its pleasure, but shall in all cases have its name engraved in legible characters on its common seal.

Common seal.

10. A society may acquire and take by purchase, donation, devise or otherwise land and personal property, and may sell, exchange, mortgage, lease, let, improve and develop the same and may erect and maintain any necessary buildings.

Re real property.

11. The funds and property of the society shall be used and dealt with for its legitimate objects only and in accordance with its by-laws, and a society shall invest its funds only in securities in which trustees are for the time being authorized by law to invest.

Funds.

12. For the purpose of carrying out its objects, a society may borrow or raise or secure the payment of money in such manner as it thinks fit, and in particular by the issue of debentures, but none of these powers shall be exercised except in accordance with the provisions of the by-laws of the society, and debentures shall not be issued without the sanction of an extraordinary resolution of the society.

Borrowing powers.

13. For the purpose of carrying out its objects, a society may, subject to its by-laws, draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable or transferable instruments.

Bills of exchange.

Association with other societies.

14. A society may, if authorized so to do by an extraordinary resolution, subscribe to, become a member of and co-operate with any other society or association, whether incorporated or not, whose objects are in whole or part similar to its own objects.

Alteration of objects, name or locality.

15. (1) A society, by extraordinary resolution, may change its name or its objects so as to include some object or objects that may conveniently or advantageously be combined with the existing objects of the society, or so as to restrict or abandon any object specified in the constitution or the locality in which its operations are chiefly carried on.

Registrar's approval necessary.

(2) No resolution pursuant to subsection (1) shall take effect unless it is approved by the Registrar, and the Registrar shall not give his approval unless, in the case of a resolution for a change of the locality in which its operations will be chiefly carried on by a society whose objects include, or by virtue of the resolution will include, that of operating a social club, the resolution has been consented to in writing by the Commissioner.

Certificate of approval.

(3) When the Registrar has given his approval to the resolution he shall issue a certificate under his seal of office setting forth particulars of the change.

Publication.

(4) A notice of any alteration under this section shall, if the Registrar thinks it advisable, be published in the *Yukon Gazette* by the Registrar at the cost of the society.

Certificate may be refused.

(5) Where a society is in default in respect of any requirement of this Ordinance the Registrar may refuse to issue any certificate under this section.

Certificate evidence that this section complied with.

(6) Any certificate issued by the Registrar pursuant to this section shall be conclusive evidence that the requirements of this section have been complied with.

Change in name not to affect obligations of society.

16. A change of name shall not affect any rights or obligations of the society, or render defective any legal proceedings by or against the society, 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.

Unalterable provisions of constitution.

17. Where the constitution of a society contains any provision other than the statement of its name, objects and locality of operations, that provision shall be unalterable and the constitution shall so state.

Power of existing society to alter any provision of its declaration.

18. A society to which section 59 applies has power in addition to the powers conferred by section 15, to alter or rescind, by extraordinary resolution, any provision of its declaration.

Branch societies.

19. (1) A society may, if authorized by its by-laws, establish and maintain one or more branch societies which shall have such powers, not exceeding the powers of the society, as the society may from time to time confer.

(2) Where a society establishes a branch society, it shall forthwith send to the Registrar a notice setting forth the date on which the branch society was authorized, its title, locality and powers, and such other information as the Registrar may require, and shall likewise notify the Registrar when any branch ceases to exist.

Notice to Registrar.

(3) Subsection (1) does not apply to a society whose objects include that of operating a social club.

Society operating club may not establish branch society.

20. (1) Where a branch of an incorporated or unincorporated society desires to be incorporated under this Ordinance, it shall, in addition to any other requirement of this Ordinance, file with the Registrar a certificate under the seal, if any, of that society consenting to such incorporation, and shall comply with any term or condition mentioned in the certificate.

Incorporation of a branch of a society.

(2) No branch society so incorporated may exercise any power conferred on a society under this Ordinance, if the exercise of such power is prohibited by or in conflict with the constitution or by-laws of the society to which it belongs or any term or condition of the certificate filed under subsection (1), without first obtaining the written consent of that society.

(3) Where the certificate filed under subsection (1) so provides, the constitution and by-laws of the branch society shall be deemed to include the constitution and by-laws of the society giving the certificate, or the portion thereof mentioned in the certificate, but in no case shall the powers of a branch society exceed the powers permitted to a society by this Ordinance.

21. (1) Contracts on behalf of a society may be made as follows:

Contracts of a society.

- (a) any contract that, if made between private persons, would be by law required to be in writing and under seal may be made on behalf of the society in writing under the common seal of the society, and may in the same manner be varied or discharged;
- (b) any contract that, if made between private persons, would be by law required to be in writing, signed by the persons to be charged therewith, may be made on behalf of the society in writing signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged; and
- (c) any contract that, if made between private persons, would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the society by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

(2) All contracts made, varied or discharged according to this section shall so far as concerns the form thereof be effectual in law and binding on the society and all other parties thereto.

(3) A bill of exchange or promissory note shall be deemed to have been made, accepted or endorsed on behalf of a society, if made, accepted or endorsed in the name of, or by or on behalf of, or on account of the society by any person acting under its authority, express or implied.

ADMINISTRATION.

Members.

22. (1) The members of a society shall be the subscribers of the constitution and by-laws and those persons admitted to membership therein according to the by-laws.

(2) Subject to the provisions of the by-laws,

(a) a person under the age of twenty-one years may be admitted as a member of a society or appointed to any office therein, and shall be liable for the payment of a subscription as if he were of full age;

(b) a corporation admitted to membership in a society may be represented by some person authorized on behalf of the corporation; and

(c) every member of a society shall have a vote.

(3) No member shall be entitled to vote on an extraordinary resolution unless he is in good standing in accordance with the by-laws.

Permanent proxies invalid.

(4) Permanent proxies or proxies entitling any person or member to vote at other than one meeting or any adjournment shall be invalid.

Matters to be contained in by-laws.

23. (1) The by-laws of a society incorporated under this Ordinance shall contain provisions in respect of the several matters mentioned in Schedule B.

Alteration of by-law.

(2) The by-laws of a society shall not be altered or added to except by an extraordinary resolution of the society.

Filed with Registrar.

(3) Every such resolution shall be filed in duplicate with the Registrar, who shall register one copy and return the other copy, certified as having been registered by him.

By-laws not to conflict with constitution.

(4) Nothing that is in conflict with the constitution of a society shall be included in the by-laws, and the by-laws shall not contain anything contrary to law.

Directors.

24. (1) Subject to the by-laws, the members of a society may nominate, elect or appoint any of its members as directors for conducting the business, discipline and management of the society and its affairs.

(2) Subject to this Ordinance and the by-laws, the directors may exercise all the powers of a society.

Director may be required to give security.

25. A society may require any director or officer to give such security as may from time to time be deemed sufficient for the faithful discharge of his duties.

26. The by-laws of a society may provide that any dispute arising out of the affairs of the society, between any members thereof or between a member, or any person aggrieved who has for not more than six months ceased to be a member, or any person claiming through such member or person aggrieved, or claiming under the by-laws, and the society or a director or officer thereof, shall be decided by arbitration, which shall be under the *Arbitration Ordinance* unless the by-laws prescribe some other method.

By-laws may provide for arbitration of disputes.

27. (1) A society may by its by-laws impose a fine not exceeding five dollars on any member who has contravened any by-law of the society.

Fines for contravention of by-laws.

(2) Any fine may be recovered as a debt due from the member to the society, and all fines so recovered shall belong to the society.

DUTIES AND OBLIGATIONS.

28. Every society shall have an address in the Territory to which all communications and notices may be sent and at which all process may be served, and shall file with the Registrar notice of every change therein within fourteen days after the change is made.

Address for service.

29. Every general meeting of a society shall be held in the Territory.

General meetings in Y. T.

30. Every society shall hold an annual general meeting, and shall on or before the 28th day of February in each year file with the Registrar a statement in the form of a balance-sheet containing general particulars of its liabilities and assets, and a statement of its income and expenditures audited and signed by the auditor of the society, or, if there is no auditor, by two directors.

Annual general meeting.

Annual statement filed with Registrar.

31. Every society shall file with the Registrar with its annual statements a list of its directors, with their addresses and occupations, and also, upon request of the Registrar, at any time, furnish him with particulars of its directors; the list of directors shall state the date of the appointment or election of each director.

Annual list of directors filed with Registrar.

32. (1) Every society shall keep in one or more books a register of its members, and shall enter therein the names of the subscribers of the constitution and by-laws and the name of every other person who is admitted as a member of the society, together with the following particulars:

Register of members.

- (a) the full name, address and occupation of every such subscriber and person;
- (b) the date on which each person is admitted as a member; and

(c) the date on which any person ceases to be a member.

(2) Every society that fails to comply with this section is guilty of an offence against this Ordinance.

Copy of every extraordinary resolution filed with Registrar.

33. Every society shall file with the Registrar, in duplicate, every extraordinary resolution, and he shall register one copy and return the other, certified as having been registered by him.

Authentication.

34. Every notice, return or resolution required to be filed with the Registrar shall be authenticated by a director, secretary or other authorized officer of the society.

Copy of constitution to be furnished to member on request.

35. Every society shall furnish to a member at his request, and on payment of a sum not exceeding fifty cents, a copy of its constitution and by-laws.

DISSOLUTION.

Revocation and cancellation of incorporation.

36. Upon sufficient cause being shown and upon such conditions and subject to such provisions as may be deemed proper, the Commissioner in Council may revoke and cancel the incorporation of a society and declare the society to be dissolved; and without limiting the generality of the foregoing a conviction obtained against a society for a violation of the provisions of this Ordinance or the regulations made thereunder shall constitute sufficient cause within the meaning of this section.

Voluntary surrender of certificate of incorporation.

37. A society may, by extraordinary resolution, surrender its certificate of incorporation, and the Registrar may, after being satisfied that sufficient notice of the society's intention has been given and that no debts, liabilities or obligations of the society are outstanding, accept the surrender of the certificate and cancel it, and fix a date from which the society shall be dissolved.

Registrar to notify society after two year period of default in filing.

38. (1) Where a society has failed for any period of two years to make or send or file any return, notice or document required to be made or sent to or filed with the Registrar pursuant to this Ordinance or where the Registrar has reasonable cause to believe that a society is not operating, he shall send to the society by post a registered letter enquiring whether such society is in operation and notifying it of its default if any.

Notice of intention to strike off register.

(2) If within two months no reply to such letter is received by the Registrar or such society fails to fulfil the lawful requirements of the Registrar or notifies the Registrar that it is not in operation, he may at the expiration of fourteen days send to such society a notice that at the expiration of two months from the date of that notice the name of such society mentioned therein will, unless cause be shown to the contrary, be struck off the register and the society will be dissolved.

(3) At the expiration of the time mentioned in the notice, the Registrar shall, unless cause to the contrary is previously shown by such society, strike the name of such society off the register and shall publish notice thereof in one issue of the *Yukon Gazette* and upon such publication the society shall be dissolved or if an extra-territorial society shall be deemed to have ceased to operate in the Territory, except that the liability, if any, of every director, officer, member or employee of such society shall continue and may be enforced as if the name of such society had not been struck off the register.

Striking off register.

Publication.

Proviso.

(4) Where a society or any member or creditor thereof or any person to whom the society is under any legal obligation is aggrieved by the society having been struck off the register, the Registrar may restore the society to the register on application to him in such form as he prescribes by the society, member or creditor, but the Registrar shall not restore the society to the register unless he is satisfied that the society was at the time of the striking-off in operation or that it is just that the society be restored to the register, and in the case of a society carried on chiefly as a social club unless it has obtained the written consent of the Commissioner; such returns and other information as the Registrar requires shall be filed with him.

Application for restoration to register.

(5) On compliance with such requirements the Registrar may restore the society to the register, and thereupon the society shall be deemed to have continued in existence as if it had not been struck off, without prejudice to the rights of parties acquired prior to the date on which the society is restored.

Restoration.

(6) Where the application is not made within one year from the date on which the society was struck off, and another society has been incorporated under the same or a similar name, the Registrar shall require the society to take a new name before it is restored.

Name of society on restoration.

(7) A society may be restored for a limited period or for the purpose of carrying out a particular purpose, and after the expiration of that period or the execution of that purpose the society shall again be struck off the register by the Registrar.

Restoration for limited time.

39. The provisions of the *Companies Ordinance* relating to the winding-up of companies apply, *mutatis mutandis*, to a society under this Ordinance, but wherever those provisions prescribe a special resolution, an extraordinary resolution shall be sufficient under this Ordinance.

Winding-up.

40. (1) Any two or more societies may amalgamate and form a new society by passing extraordinary resolutions which shall authorize their respective directors to make and subscribe jointly a constitution and by-laws according to the form in Schedule A, and to comply in other respects with section 7.

Amalgamation of two or more societies.

(2) After the issue of a certificate of incorporation to the new society the former societies shall stand dissolved, and all property and rights of such societies shall pass to and be vested

Assets and liabilities to new society.

in the new society without any further act or deed, but no amalgamation under this section shall affect the rights of any creditor, and the new society shall be liable for all debts and obligations of the former societies.

Land to be registered in name of new society.

(3) The estate and interest of the former societies in any land as registered under the *Land Titles Act* shall be registered in the name of the new society.

EXTRA-TERRITORIAL SOCIETIES.

"Extra-territorial society" defined.

41. For the purposes of sections 42 to 50, "extra-territorial society" means a society or association formed outside the Territory, and includes a branch of any such society or association, but does not include a society or association that is formed for the acquisition of gain or that has a capital divided into shares.

Registration of an extra-territorial society.

42. (1) The Registrar may require any extra-territorial society that carries on any operations in the Territory to apply for registration under this Ordinance, and any society so required to apply shall, unless registration is granted, cease to operate in the Territory, and the Registrar shall fix the date after which it shall cease to operate.

(2) Any extra-territorial society may apply for registration under this Ordinance.

(3) An extra-territorial society whose objects include that of carrying on a social club shall not be registered without the written consent of the Commissioner, and every branch of such a society shall, if the Registrar so requires, apply for separate registration and consent.

Granting of certificate of registration to an extra-territorial society.

43. (1) Application for registration shall be made to the Registrar according to a form prescribed by him and shall be accompanied by such documents as he requires.

(2) Where the Registrar determines that the requirements of this Ordinance have been complied with and that the society should be registered, he shall issue under his seal of office a certificate showing that the society is registered under this Ordinance as an extra-territorial society, and stating the place of formation or incorporation and the locality in which its operations will be chiefly carried on, and, if he thinks it advisable, shall at the cost of the society publish in one issue of the *Yukon Gazette* a copy of the certificate with a statement of the operations to be carried on in the Territory.

(3) The Registrar may attach to a certificate of registration such conditions and limitations as seem to him advisable; and the extra-territorial society shall comply with and observe these conditions and limitations.

(4) The Registrar may after investigation refuse registration, but an appeal may be taken from his refusal to the Commissioner in Council.

44. Subject to this Ordinance and the laws of the Territory, an extra-territorial society registered under this Ordinance may, within the Territory, carry on its operations in accordance with its certificate of registration.

Operation of an extra-territorial society.

45. (1) The Registrar may require an extra-territorial society within a time specified by the Registrar to appoint some person resident in the city or place in the Territory where the society will chiefly carry on its operations its attorney, with authority on its behalf to accept service of process in all suits and proceedings by or against the society within the Territory and to receive all lawful notices to the society.

Attorney of an extra-territorial society.

(2) The society shall within one week after the appointment file a copy of the appointment with the Registrar, and the appointment shall contain the name, occupation and address of the attorney.

(3) If the person appointed ceases to act the society shall, within three weeks after he ceases to act, appoint a new attorney, and shall, within one week after the appointment, file a copy of the appointment, and the appointment shall contain the name, occupation and address of the attorney.

46. An extra-territorial society registered under this Ordinance shall file with the Registrar

Statements to be filed by an extra-territorial society.

- (a) a verified copy of any amendment to its constitution and by-laws or corresponding instrument within one month after the amendment takes effect;
- (b) the notice prescribed by section 28; and
- (c) the statements and list prescribed by sections 30 and 31.

47. The Commissioner may for good cause suspend or revoke the registration of an extra-territorial society under this Ordinance, and may remove or cancel a suspension or revocation, subject to any condition thought advisable.

Suspension and revocation of registration of an extra-territorial society.

48. No person shall, directly or indirectly, represent or act as agent of an extra-territorial society required by the Registrar to apply for registration under this Ordinance unless the society holds a subsisting certificate of registration.

Prohibition.

49. An extra-territorial society not registered as required by this Ordinance 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 part in the Territory in the course of or in connection with its operations.

Non-registered extra-territorial society may not maintain action.

50. Sections 51 to 58 and 60 also apply to an extra-territorial society.

Miscellaneous provisions to apply to extra-territorial society.

MISCELLANEOUS.

Investigation of affairs and conduct of a society.

51. (1) Where it appears to the Registrar that a society exists for an illegal purpose, or that a society carried on chiefly as a social club is not conducted in a proper manner or as a bona fide club, the Registrar shall report the facts to the Commissioner, and thereupon the Commissioner may appoint by writing under his hand some person to investigate the affairs and conduct of the society and to make a written report to him of his findings.

Powers of investigator.

(2) The person so appointed may examine on oath any director, manager, officer, agent or employee of the society or other person in relation to the affairs of the society and may administer an oath accordingly and may require the production of all books and papers of the society, and of all relevant books and papers.

Offence.

(3) Every director, manager, officer, agent or employee of the society or other person who on examination under this section refuses to answer any question relating to affairs of the society or to produce any book or paper in his custody is guilty of an offence against this Ordinance.

Order made on report.

(4) The Commissioner may upon a report from the Registrar or after an investigation order, subject to such terms and conditions as he thinks advisable, that the society discontinue any illegal action, or, if a social club, conduct itself in a proper manner, as the case may be, and may, subject to such terms and conditions as he thinks advisable, suspend any of the powers of the society.

Documents filed with Registrar open for inspection.

52. (1) Any person may inspect the documents filed in the office of the Registrar relating to a society on payment of a fee of twenty-five cents for each inspection, and may require a copy or extract of any document or part thereof on payment for the copy or extract of fifteen cents for each folio, and of a further fee not exceeding one dollar if such copy or extract is required to be certified as a true copy.

Fee.

Certified copy shall be evidence.

(2) A copy of or extract from any document filed in the office of the Registrar, certified to be a true copy under the hand and seal of the Registrar, shall in all legal proceedings be admissible in evidence as of equal validity with the original document, and it shall not be necessary to prove the handwriting, seal of office or official position of the person certifying the same.

Service on a society.

53. A document may be served on a society by leaving it at or mailing it by registered post to the address of the society as registered under this Ordinance, or by serving a director or officer of the society.

Offence.

54. Every society that fails, refuses or neglects to observe or perform any duty or obligation or that violates any restriction or prohibition created or imposed by this Ordinance and the regulations made thereunder is guilty of an offence against this Ordinance.

55. Every society guilty of an offence against this Ordinance ^{Penalty.} or the regulations made thereunder is liable on summary conviction to a penalty not exceeding five hundred dollars.

56. (1) Where a society is convicted of any offence against this Ordinance or the regulations made thereunder and the conviction adjudges a pecuniary penalty to be paid by the society, the justice by the conviction after adjudging payment of such penalty with costs may order and adjudge that in default of payment of such penalty forthwith or within a stipulated time such penalty shall be levied by distress and sale of the goods and chattels of the society. ^{Distress for penalty.}

(2) In any such case and in addition to the other remedies hereby provided, a copy of the conviction or order certified to by any justice or by the officer in whose custody the same is by law required to be kept may be filed in the office of the Clerk of the Territorial Court and the conviction or order shall thereupon become a judgment of that Court and all proceedings therefrom may be taken and had as on any other judgment of that Court; nothing herein contained shall be construed as in any way affecting, limiting or restricting any proceedings which otherwise may be taken for the recovery of fines and penalties.

57. Where an offence against this Ordinance or the regulations made thereunder is committed by a society, the officer, agent or employee of the society in charge of the premises in which the offence is committed shall prima facie be deemed to be a party to the offence so committed and shall be personally liable to the penalties prescribed for the offence as a principal offender, but nothing in this section shall relieve the society or the person who actually committed the offence from liability therefor. ^{Responsibility of officer, agent and employee of society.}

58. There shall be paid to the Registrar in respect of the several matters mentioned in Schedule C the several fees therein specified, and such fees shall be by him paid into the Yukon Consolidated Revenue Fund. ^{Fees.}

59. The provisions of this Ordinance, *mutatis mutandis*, apply to an existing society subject to the Ordinance repealed by this Ordinance in the same manner as if the society had been incorporated under this Ordinance. ^{Ordinance applies to existing societies.}

60. (1) For the purpose of carrying into effect the provisions of this Ordinance according to their true intent, the Commissioner may make such regulations as he considers necessary or advisable. ^{Regulations.}

(2) Without thereby limiting the generality of subsection (1), the Commissioner may make regulations

(a) prescribing the terms and conditions of contracts between societies and their employees;

- (b) prescribing the method of inspection of societies' books of accounts and records;
- (c) prescribing the qualifications to be held by any servant or employee of any society;
- (d) prescribing the minimum membership fees and dues payable to any society by its members; and
- (e) in the case of a society whose objects include that of operating a social club, prescribing or limiting the form of social or recreational activity which may be made available to its members.

SCHEDULE A.

(Sections 7, 17, 40)

SOCIETIES ORDINANCE.

CONSTITUTION.

- (1) The name of the Society is
- (2) The object of the Society is (state particulars)
- (3) The operations of the Society are to be chiefly carried on in (state exact locality)

(If any other provisions are added there shall be included a statement that such provisions are unalterable.)

BY-LAWS.

(Here set forth in numbered clauses the by-laws providing for the matters referred to in Schedule B and any other by-laws)

Dated the _____ day of _____, 19

(Full names, addresses and occupations of subscribers)
Witness:

(Full name, address and occupation)

SCHEDULE B.

(Section 23)

(1) Terms of admission of members and their rights and obligations.

(2) Conditions under which membership ceases and manner (if any) in which a member may be expelled.

(3) Month for holding annual general meeting and mode and notice required for calling general and special meetings of the society and number constituting a quorum at any such meeting, and rights of voting.

(4) Appointment and removal of directors and other officers and their duties, powers and remuneration.

(5) Exercise of borrowing-powers.

(6) Audit of accounts.

(7) Custody and use of the seal of the society.

(8) Alteration of by-laws by extraordinary resolution, stating requisite majority.

(9) Preparation and custody of minutes of proceedings of meetings of the society and of the directors, and other books and records of the society

(10) Time and place (if any) at which the books and records of the society may be inspected by members.

SCHEDULE C.

(Section 58)

TABLE OF FEES.

(1) For filing or registering	
(a) the constitution and by-laws	\$ 10.00
(b) any resolution, notice, list, return or other document required by this Ordinance .....	.50
(2) For every certificate, other than the certificate of incorporation .....	.50
(3) For each search .....	.25
(4) For publication in the <i>Yukon Gazette</i> , according to the scale of charges in force	
(5) For restoration under section 38	2.50
(6) For registration of an extra-territorial society	10.00

CHAPTER 102.

AN ORDINANCE RESPECTING STEAM BOILERS
AND PRESSURE VESSELS.

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as the *Steam Boilers Ordinance*.

INTERPRETATION.

- Definitions. **2.** In this Ordinance,
- "Boiler." (a) "boiler" means a vessel in which steam is generated or contained under pressure and includes all engines, apparatus and appliances connected therewith, but does not include any such vessel that is capable of developing,
- (i) in respect of a school, hospital, church, theatre, hall, auditorium or building where the public assembles, not more than two horsepower, or
- (ii) in respect of any place except those places mentioned in subparagraph (i), not more than five horsepower, and that is less than three cubic feet in capacity;
- "Country of the British Commonwealth." (b) "country of the British Commonwealth" means a country of the British Commonwealth as defined in the *Evidence Ordinance*;
- "Design pressure." (c) "design pressure" means the pressure that a pressure vessel is designed to withstand;
- "Engineer." (d) "engineer" means a person who holds a valid and subsisting engineer's certificate or a renewal thereof issued under this Ordinance;
- "Heating surface." (e) "heating surface" means any part of the surface of a boiler or hot-water boiler that is in contact with water on one side and the products of combustion on the other side, and for the purpose of computing the area of heating surface where curved surfaces are involved the surface having the greater radius shall be taken;
- "Horsepower." (f) "horsepower" means the power of a boiler or a hot-water boiler calculated,
- (i) where the heating surface is regularly shaped, by dividing the number of square feet of heating surface by ten;
- (ii) where the heating medium is electric current, by dividing the maximum kilowatt capacity of the heating element by ten; or
- (iii) where the heating surface is irregularly shaped, by multiplying each square foot of fire grate area by one and one-half;

- (g) "hot-water boiler" means a vessel that has a capacity not exceeding three cubic feet and is used for heating water to a temperature not exceeding two hundred degrees Fahrenheit and includes all apparatus and appliances connected therewith but does not include a hot-water boiler, ^{"Hot-water boiler."}
- (i) in respect of a school, hospital, church, theatre, hall, auditorium or building where the public assembles that is capable of developing not more than two horsepower, and
- (ii) in respect of any place other than those places mentioned in subparagraph (i), that is capable of developing not more than five horsepower;
- (h) "inspection certificate" means a valid and subsisting certificate of inspection of a pressure vessel issued under this Ordinance; ^{"Inspection certificate."}
- (i) "inspector" means an inspector appointed under section 4; ^{"Inspector."}
- (j) "owner" when used in respect of a pressure vessel or steam plant includes a lessee and a person in charge of the pressure vessel or steam plant; ^{"Owner."}
- (k) "portable boiler" means a boiler mounted in such a way as to be movable; ^{"Portable boiler."}
- (l) "prescribed" means prescribed by the regulations; ^{"Prescribed."}
- (m) "pressure vessel" means a boiler, a hot-water boiler or a receiver; ^{"Pressure vessel."}
- (n) "receiver" means a vessel used for receiving or containing ammonia or gaseous substances under pressure and all apparatus and appliances connected therewith, but does not include a vessel that ^{"Receiver."}
- (i) is less than six inches in diameter or one and one-half cubic feet in volume,
- (ii) is operated at less than fifty pounds pressure to the square inch, or
- (iii) is used only for compressed air and not over ten cubic feet in capacity; and
- (o) "steam plant" means the complete installation used for generating or utilizing steam and includes any boiler, receiver, pipe, fitting, machinery and other equipment used in connection therewith. ^{"Steam plant."}

APPLICATION.

3. (1) This Ordinance does not apply to pressure vessels that ^{Application.}
- (a) are part of the equipment of railways subject to the *Railway Act*,
- (b) are subject to inspection under the *Canada Shipping Act* or the *Explosives Act*, or
- (c) are used exclusively for heating private residences that house less than three families.

(2) This Ordinance does not apply to any portable boiler while used for thawing purposes by a person who is the owner and operator of such boiler.

APPOINTMENT OF INSPECTORS.

Appointment of inspectors.

4. The Commissioner may appoint inspectors of pressure vessels.

Inspector not to be interested in sale of vessels, etc.

5. No inspector shall be directly or indirectly interested in the sale of pressure vessels or machinery used in connection therewith.

Oath.

6. An inspector shall, before entering upon the performance of his duties, take and subscribe to an oath that he will faithfully and impartially perform the duties of his office.

INSPECTION OF PRESSURE VESSELS.

Inspector may enter upon lands, etc.

7. An inspector may at any reasonable time enter upon any lands and into any building where he believes a pressure vessel to be in operation or in the course of construction or repair and may examine it.

Owner to assist inspector.

8. (1) The owner of a pressure vessel shall allow an inspector free access thereto and furnish him with any information and assistance required to enable him to carry out his duties including where necessary the supplying of water and filling of a pressure vessel therewith and the removing of the jacket or cover of a pressure vessel when directed by the inspector for the purpose of making any test.

Operator to assist inspector.

(2) A person who operates a pressure vessel shall assist an inspector in his examination thereof and point out to the inspector any defect that he knows of or believes to exist in the pressure vessel.

Work may be done at owner's expense.

(3) Where the owner of a pressure vessel fails to furnish an inspector with any assistance required by him pursuant to subsection (1), the inspector may have any work so required performed at the expense of the owner.

LICENSING AND OPERATION OF PRESSURE VESSELS.

Operation prohibited without certificate.

9. Subject to this Ordinance, no owner shall operate or allow to be operated a pressure vessel unless he holds an inspection certificate for the pressure vessel.

No certificate issued without inspection.

10. (1) Subject to subsection (2) and section 13, no inspection certificate shall be issued in respect of

(a) a pressure vessel other than a receiver described in paragraph (b) unless that pressure vessel has been inspected by an inspector at least once during the year preceding the day on which the certificate is to come into effect, and

- (b) a receiver that is not used in a school, hospital, church, theatre, hall, auditorium or building where the public assembles unless that receiver has been inspected by an inspector at least once during the two years preceding the day on which the certificate is to come into effect.
- (2) The Commissioner may order that an inspection required by subsection (1) be dispensed with in respect of a pressure vessel that
 - (a) is insured and inspected each year by a duly incorporated boiler insurance company doing business in Canada, if the owner or the insurance company files with the Territorial Secretary a copy of the annual inspection report within thirty days after such inspection; or
 - (b) is inspected each year by an inspector employed by the Government of Canada.
- (3) Where a pressure vessel has been inspected as required under this Ordinance and found to be in good and safe working order, the Territorial Secretary may issue an inspection certificate for the pressure vessel upon payment of the prescribed fee. Issue of certificate.
- (4) An inspection certificate expires on the expiration of one year following the day upon which it came into effect. Expiration of certificate.

- 11.** (1) In this section, "shop inspector" means "Shop inspector."
- (a) in respect of a pressure vessel built in Canada, Europe or a country of the British Commonwealth, a person approved or appointed as such in accordance with the law of the place where the pressure vessel was built; and
 - (b) in respect of a pressure vessel built in the United States of America, a person approved as such by the National Board of Boiler and Pressure Vessel Inspectors.
- (2) A purchaser to whom a new pressure vessel is delivered shall forward to the Commissioner Purchaser to send data to Commissioner.
- (a) a manufacturer's data sheet showing all dimensions, material specifications and the design pressure of the pressure vessel; and
 - (b) a shop inspector's report attached to the data sheet mentioned in paragraph (a) that includes a statement of the discharge capacity of the safety valves of the pressure vessel and the pressure at which the safety valves are set to relieve.
- (3) Notwithstanding section 9, the Commissioner may grant to a person who has complied with subsection (2) permission in writing to operate a new pressure vessel for any period not exceeding one year. Commissioner may grant permission to operate.

12. (1) An inspector shall examine and inspect at any time specified by the Commissioner any pressure vessel and if the inspector finds it to be unsafe he shall so declare, and shall notify in writing the owner of such pressure vessel to make such repairs as the inspector deems necessary to render the pressure vessel safe for use. Inspection of unsafe pressure vessels.

Certificate or permission suspended where vessel unsafe.

(2) Where an inspector declares a pressure vessel to be unsafe, the inspection certificate issued or permission to operate given under section 11 in respect of that pressure vessel shall forthwith be suspended.

Reinstatement of certificate or permission.

(3) Where a pressure vessel declared to be unsafe has been repaired to the satisfaction of an inspector, the inspection certificate or permission to operate in respect of that pressure vessel may be reinstated in writing by the Territorial Secretary.

Where no inspection or fee required.

13. Where the owner of a pressure vessel proves to the satisfaction of an inspector that it has not been operated since the date of the previous inspection and is in as good condition as when last inspected, the inspector may recommend the issue of an inspection certificate without inspection of the pressure vessel and the Territorial Secretary may issue an inspection certificate in respect of the pressure vessel without payment of the prescribed fee.

Owner to pay costs of certain inspections.

14. The Commissioner may determine the cost of any inspection or investigation, other than the inspection provided for in section 10, and may assess the owner of the pressure vessel inspected or investigated for all or any part of such cost, and where payment of the amount assessed is not made, the Commissioner may recover the same from the owner in the same manner as a judgment of the Court.

QUALIFICATION OF PRESSURE VESSEL OPERATORS.

No person to operate steam plant without engineer's certificate.

15. (1) Subject to this Ordinance, no person shall operate or take charge of a steam plant having a capacity exceeding five horsepower unless he holds an engineer's certificate entitling him to operate steam plants of the capacity of that steam plant.

When owner may operate steam plant without certificate.

(2) Notwithstanding subsection (1), an owner who has attained the age of twenty-one years may operate his own steam plant where the pressure in any part thereof does not exceed fifteen pounds per square inch.

Issue of engineer's certificates.

16. (1) The Territorial Secretary may issue
- (a) a first class engineer's certificate, entitling the holder thereof to operate or take charge of any steam plant;
 - (b) a second class engineer's certificate, entitling the holder thereof to operate or take charge of any steam plant not exceeding seven hundred and fifty horsepower and to act as assistant engineer of any steam plant;
 - (c) a third class engineer's certificate, entitling the holder thereof to operate or take charge of any steam plant not exceeding five hundred horsepower and to act as assistant engineer of any steam plant not exceeding seven hundred and fifty horsepower;
 - (d) a fourth class engineer's certificate, entitling the holder thereof to operate or take charge of any steam plant not

exceeding two hundred horsepower and to act as assistant engineer of any steam plant not exceeding five hundred horsepower; and

- (e) a fifth class engineer's certificate, entitling the holder thereof to operate under the supervision of any engineer, other than an engineer holding a fifth class engineer's certificate, any steam plant not exceeding two hundred horsepower;

to a person who

- (f) has attained
 - (i) in the case of an applicant for a fourth or fifth class engineer's certificate, the age of eighteen years, and
 - (ii) in the case of an applicant for any other class of engineer's certificate, the age of twenty-one years;
- (g) has passed the prescribed examination for the class of certificate; and
- (h) has paid the prescribed fee.

(2) Where an owner of a steam plant is unable to obtain the services of an engineer who holds an engineer's certificate entitling him to operate steam plants of that type, the Territorial Secretary may, upon receiving from the owner an application in the prescribed form and the prescribed fee, issue a provisional engineer's certificate for a period not exceeding one year to a person recommended by the owner.

(3) A provisional certificate issued pursuant to subsection (2) shall be subject to such terms and conditions as the Territorial Secretary shall, upon recommendation of an inspector, prescribe.

17. Upon receiving an application in prescribed form and the prescribed fee, the Territorial Secretary may issue to a person who is the holder of a valid and subsisting certificate of qualification for the operation of a pressure vessel issued by

- (a) an incorporated body authorized under the laws of Canada or a province thereof to issue such certificate;
- (b) an officer of the Government of Canada;
- (c) an officer of the government of any province of Canada;
- or
- (d) a competent authority in a country of the British Commonwealth;

an engineer's certificate under this Ordinance equivalent to the certificate of qualification held by him.

18. Upon undertaking to operate or take charge of any steam plant or upon leaving such a position, an engineer shall notify the Territorial Secretary accordingly.

19. (1) An engineer's certificate, other than a provisional engineer's certificate expires on the 31st day of March following the day upon which it came into effect but, subject to subsection (2), may be renewed in any year thereafter on payment of the prescribed fee in respect of the certificate.

Commissioner may require examination. (2) The Commissioner may require a person who has not renewed his engineer's certificate to write a prescribed examination and if the person fails to pass the examination he is not entitled to a renewal.

Display of certificates. 20. Every person who holds a certificate under this Ordinance shall display it at all times in a conspicuous place, protected by glass or other transparent covering, (a) in the case of an inspection certificate, in the room or other place where the pressure vessel in respect of which the certificate was issued is operated; and (b) in the case of an engineer's certificate, in the room or other place where the person is employed, or attached to the pressure vessel of which he has charge.

Penalty. 21. Any engineer who fails to display his engineer's certificate as required by section 20 is guilty of an offence and liable upon summary conviction to a fine not exceeding fifty dollars.

SECOND-HAND PRESSURE VESSELS.

Sale of second-hand pressure vessels. 22. (1) Subject to subsections (2) and (3), no person shall sell, exchange or otherwise dispose of any pressure vessel.

Permission to sell. (2) The Commissioner may upon such terms and conditions as he sees fit grant permission to a person to dispose of a pressure vessel if that person has sent to the Commissioner by registered mail a notice setting forth (a) the names and addresses of all parties to the intended transaction; (b) a description of the pressure vessel; and (c) the number assigned to the pressure vessel on its initial inspection.

Application. (3) This section does not apply to the sale of a new pressure vessel or to the transfer of a pressure vessel by an owner to a manufacturer or dealer.

No person to use second-hand vessel until permission granted. 23. No person shall use a second-hand pressure vessel acquired by him until he has ascertained that the permission required by section 22 has been granted.

Importer of used vessels to notify Commissioner. 24. (1) A person who brings into the Territory a pressure vessel that has been used previously outside the Territory shall, before installing it, notify the Commissioner in writing of the description, design, specifications and make of the pressure vessel and shall not install it until it has been approved by the Commissioner.

Permission to operate. (2) Notwithstanding section 9, the Commissioner may grant to a person who has complied with subsection (1) permission in writing to operate the pressure vessel for any period not exceeding one year.

EXPLOSIONS.

25. (1) Where an explosion occurs in connection with a pressure vessel, the owner shall Owner to report on explosions.

- (a) report the explosion to the Commissioner by the speediest practicable means; and
- (b) forward a full written report to the Commissioner forthwith, setting out
 - (i) a list of the persons injured or killed,
 - (ii) the exact place of the explosion, and
 - (iii) the probable cause and the particulars of the explosion.

(2) Except for the purpose of rescuing injured persons or removing the bodies of the persons killed, where an explosion has occurred in connection with a pressure vessel, no person shall remove any part of the pressure vessel or the machinery connected therewith without the permission of an inspector until it has been examined by the inspector. No person to move machinery without permission.

GENERAL.

26. The owner of a pressure vessel shall at all times keep an adequately equipped first aid kit for the treatment of minor injuries in a place near the pressure vessel where it is easily visible and readily accessible. First aid kit.

27. No person shall install or sell, exchange or otherwise dispose of a pressure vessel or an accessory thereto unless the pressure vessel or the accessory has been constructed in accordance with the regulations governing its design and mode of construction. No person to install or sell vessels and accessories unless properly constructed.

28. The Commissioner may cancel or suspend any certificate issued under this Ordinance, and may direct that no certificate be issued under this Ordinance. Commissioner may cancel certificates, etc.

REGULATIONS.

29. (1) The Commissioner may make regulations for carrying out the purposes and provisions of this Ordinance, and without limiting the generality of the foregoing, may make regulations Regulations.

- (a) respecting the construction, installation, inspection and operation of pressure vessels and accessories thereto, and the approval of their design and specifications;
- (b) respecting the examination of applicants for engineer's certificates or renewals thereof, including the nature of the examination and the standard of qualification for any certificate;
- (c) respecting the issue, renewal, suspension or cancellation of any certificate;
- (d) respecting the issue of and conditions attached to written permission to operate a new pressure vessel;

- (e) fixing the fees payable for any renewal, inspection or examination and for issuing any certificate or written permission;
- (f) respecting the records to be kept by inspectors;
- (g) respecting the classification of pressure vessels for the purpose of inspection or otherwise; and
- (h) prescribing such forms as are necessary for carrying out the purposes and provisions of this Ordinance.

Tabling of regulations.

(2) The Territorial Secretary shall table all regulations before the Council when made or, if the Council is not then sitting, on the first day next thereafter that the Council is sitting.

PENALTIES.

Obstruction of inspector.

30. No person shall interfere with or obstruct an inspector in the performance of his duties.

Penalty.

31. Every person who violates any provision of this Ordinance or the regulations for which no other penalty is provided in this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

Limitation.

32. No prosecution for an offence under this Ordinance shall be commenced after one year from the day on which the offence is alleged to have been committed.

CHAPTER 103.

AN ORDINANCE TO PROVIDE FOR THE IMPOSITION AND COLLECTION OF TAXES ON REAL PROPERTY FOR THE RAISING OF REVENUE FOR TERRITORIAL PURPOSES.

1. This Ordinance may be cited as the *Taxation Ordinance*. Short Title.
2. In this Ordinance, Definitions.
- (a) "assessment roll" includes any supplementary assessment roll; "Assessment roll."
- (b) "Assessor" includes Deputy Assessor; "Assessor."
- (c) "claim" means a Crown granted mineral claim in respect of which the tax is imposed and includes the ground or soil and everything annexed to it by nature and all improvements and works thereon excepting such mining plant and buildings as may be removed without injury to any tunnel, drift or other mining or development work begun, done or constructed upon the claim; "Claim."
- (d) "Collector" includes Deputy Collector; "Collector."
- (e) "Commissioner" means the Commissioner of the Yukon Territory; "Commissioner."
- (f) "Court" means the Territorial Court of the Yukon Territory; "Court."
- (g) "improvements" means buildings, fixtures and things erected upon or affixed to land, and improvements done to land; "Improvements."
- (h) "land" includes land covered by water and trees and underwood growing upon land and all improvements, fixtures, buildings, machinery or other things erected upon or affixed to land or any building thereon, and any instrument, device or structure, whether affixed to the land or floating upon water, or movable, which is used in placer mining of minerals to gather or take by dragging at the bottom of water, but shall not include, save as aforesaid, such improvements, fixtures, machinery or things other than buildings as if so erected or affixed by a tenant would as between landlord and tenant be removable by the tenant as personal property. "Land."
- (i) "legal description" means any description which would be sufficient to describe a property for the purpose of its registration in a Land Titles Office; "Legal description."

- "Occupier." (j) "occupier" means the person in possession of land, the property of the Crown, which is held by him under any homestead entry, lease, licence, agreement for sale, accepted application to purchase, or other record from the Crown, or which is simply occupied;
- "Owner." (k) "owner", when used in respect of any land, means the registered owner, or in case of a certificate of purchase or agreement for sale of the land has been registered, means the registered holder of the last registered certificate of purchase or agreement for sale, and in case a Crown grant has been issued and has not been registered, means the grantee named therein;
- "Person."
"Taxpayer." (l) "person" and "taxpayer" include persons male and female, and all partnerships, syndicates, associations, corporations, agents and trustees;
- "Registered."
"Registration." (m) "registered" and "registration", when used in respect of land, refer to registration in the books of the Land Titles Office for Yukon Territory;
- "Taxes." (n) "taxes" includes all taxes on property, assessed or assessable under this Ordinance, and all interest added to taxes which are delinquent under this Ordinance;
- "Tax sale." (o) "tax sale" means the sale of any land or property at public auction for the levying of delinquent taxes under this Ordinance; and
- "Trustee." (p) "trustee" includes executor, administrator, guardian, committee and receiver, and any person having or taking upon himself the possession, administration or control of property affected by any express trust, or having by law the possession, management or control of the property of a person under any legal disability.

Assessor. **3.** The Commissioner shall appoint a Territorial Assessor and Collector.

Taxation. **4.** (1) To the extent and in the manner provided in this Ordinance, and for the raising of revenue for Territorial purposes

- (a) all property within the Territory is liable to taxation;
- (b) every person shall be assessed and taxed on his property, and on the property held or controlled by him in a representative capacity; and
- (c) every occupier of Crown land shall be assessed and taxed on the land held by him as an occupier.

(2) Every person so assessed has a right of appeal as provided in this Ordinance, against the assessment to the Court of Revision, and to the Court of Appeal.

Trustee. **5.** Every agent and every trustee assessed in respect of property controlled by him in his representative capacity shall be assessed therefor in that capacity by the addition to his name of words describing his representative capacity.

6. All liens and remedies against the property of an individual provided by this Ordinance for the collection and enforcement of payment of taxes shall apply in like manner in respect of property held, controlled or received by an agent or trustee in his representative capacity. Liens.

7. Every agent for a person permanently or temporarily absent from or not resident in the Territory, or who is resident in the Territory but whose name and address are unknown to the Assessor, and every trustee Agent
liable.

- (a) is answerable for the doing of such acts, matters or things as are required to be done by virtue of this Ordinance for the assessment of the property which he represents, or which is subject to his trust and for paying the tax in respect thereof;
- (b) is authorized to recover from any person in whose behalf he is compelled to pay any tax the amount so paid by him;
- (c) is authorized and required to retain from time to time, in each year, out of any money which comes to him in his representative capacity so much as is sufficient to pay the tax for the then current year when assessed therefor, and any arrears of taxes in respect of any property subject to such tax while acting as agent therefor, and is hereby indemnified for all payments which he makes in accordance; and
- (d) is personally liable for the tax payable in respect of the property if, while the tax remains unpaid, he
 - (i) alienates, charges or disposes of the property; or
 - (ii) disposes of any fund or money which comes to him in his representative capacity;
 but shall not otherwise be liable personally for the tax so payable, and his personal liability for the tax so payable in any year shall cease upon his obtaining a certificate from the Collector that no taxes for that year in respect of the property remain outstanding.

8. The following land is exempt from taxation:

Taxation
of land.

- (a) land situate within the limits of any municipality;
- (b) land of which any municipal corporation is the owner;
- (c) land comprised in any public road, way, highway or public square or park used exclusively for public purposes;
- (d) every place of public worship, and all land used exclusively for any public burying ground or cemetery, but not exceeding five acres;
- (e) land vested in or held by Her Majesty, or held in trust for Her Majesty, either in right of Canada or the Government of the Yukon, or held in trust for the public use of the Government of the Yukon, and land vested in or held by Her Majesty or any person in trust for or for the use

of any tribe or body of Indians, and either unoccupied, or occupied by some person in an official capacity, or by the Indians;

- (f) all buildings, with the land attached thereto, not exceeding one acre, of every public library, or farmers', mechanics', women's, mining, literary or scientific institute, or society, where the buildings and land are used exclusively for the purpose of the respective library, institute or society;
- (g) all buildings with the land attached thereto, not exceeding twenty acres, of every agriculture or horticulture society, where the buildings and land are used exclusively for the purpose of agriculture or horticulture; and
- (h) all buildings and land of every public school or university, and of every orphanage, public hospital, asylum or home for the care of the sick or the aged and infirm, or of persons who are mentally or physically defective or disabled, or for the reformation of fallen women, where the school or other institution is supported in whole or in part by public donations, private charity or by grants from the Crown, and the buildings and the land are used exclusively for the purpose of the respective school or other institution.

**Liability
for taxation.**

9. Every person shall be assessed and taxed annually on his land in the assessment district in which the land is situate, and where any parcel of land is situate partly in one district and partly in another the assessment in respect of that parcel shall be made within the district within which the greater part of the parcel is situate.

**Assessment
in name
of owner.**

10. (1) Subject to subsections (2) and (3), land shall be assessed and taxed in the name of the owner.

(2) Where a statement, verified by statutory declaration, is furnished to the Assessor showing that any land has been sold or leased by the owner to another person, the name of that other person shall be noted on the assessment roll, and like notice of the assessment shall be sent to him as the owner, in which case the tax assessed in respect of that land may be recovered either from the owner or from the purchaser or tenant, or from any future owner, purchaser or tenant, saving his recourse against any other person; but in case of a sale, if the registered owner furnishes a statement to the Assessor, pursuant to this section, showing that a deed of the land has been executed and delivered to the purchaser, the registered owner shall not be personally liable to pay any taxes assessed thereafter in respect of the land.

**Crown lands
occupied.**

(3) Land of the Crown which is held under any homestead entry, lease, licence, agreement for sale, accepted application for purchase, or otherwise, and land held in trust for any tribe or body of Indians which is occupied by some person not an Indian, in other than an official capacity, shall be assessed and taxed

in the name of the occupier; but no assessment or taxation in respect of land so held or occupied shall in any way affect the rights of Her Majesty in the land.

11. Where the land is owned by two or more persons, it shall be assessed in the names of the owners jointly, and where land of the Crown is occupied by two or more persons, and their names are known to the Assessor, it shall be assessed in the names of the occupiers jointly.

12. (1) Land shall be assessed at its actual cash value in money.

(2) In determining the actual cash value of land in money, the Assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation, nor shall he adopt as a criterion of value the price for which the land would sell at auction, or at a forced sale, or in the aggregate with all the land in the assessment district, but he shall value the land by itself, and at such sum as he believes the same to be fairly worth in money at the time of assessment.

(3) The true cash value of land shall be that value at which the land would generally be taken in payment of a just debt from a solvent debtor.

13. (1) Every railway company that operates in, into or through the Territory, or that owns lands or improvements within the Territory, shall transmit on or before the first day of September in each year, to the Territorial Assessor, a statement showing

- (a) the total number of miles of single track of railway, including main lines, branches, sidings, spurs and switches, of such company within the Territory;
- (b) the number of miles of such railway situate respectively upon
 - (i) public roads or highways, and
 - (ii) rights of way or property of such company, separately and respectively;
- (c) all station houses, engine houses, round houses, turn tables, docks, wharves, freight sheds, shipyards, power houses, transmission stations, sub-stations and the separate equipment of each of them the property of such company within the Territory, and the separate value of each;
- (d) every parcel of land owned by such company, and the value thereof, and the improvements, if any, upon each parcel and the value thereof; and
- (e) an address within the Territory to which all notices to be given the said company may be addressed.

(2) Every such railway company shall transmit on or before the first day of September in each year to the Territorial Assessor a return showing all such lands within the Territory disposed of or alienated by such company by sale, agreement for

sale, grant or lease, since the date of the last return; and each such return shall show in detail, and in tabulated form, a legal description of the land, number of acres sold or agreed to be sold or leased, date of transfer, agreement, grant or lease, and the real consideration therefor.

(3) Every such railway company, entitled under the provisions of any Act of the Parliament of Canada, or Ordinance, to any exemption from the payment of Territorial taxes and rates, or any portion thereof, shall nevertheless transmit the statement required by the provisions of subsection (1), and, in addition, shall indicate

- (a) under what Act or Ordinance exemption is claimed; and
- (b) the extent of such exemption as claimed.

Shipping.

14. (1) Every person or company engaged in passenger and freight traffic, or either of them, on waters within the Territory, shall transmit on or before the first day of September in each year, to the Territorial Assessor, a statement showing

- (a) the name and net tonnage, Customs House measurement, of each vessel propelled by mechanical power, the property of such person or company which was engaged at any time during the year in such traffic;
- (b) the name and number and net tonnage, Customs House measurement, of each barge or vessel not propelled by mechanical power, the property of such person or company, which was engaged at any time during the year in such traffic;
- (c) all docks, wharves, shipyards, freight sheds, power houses, transmission stations, sub-stations, landing places, and the separate equipment of each of them, the property of such person or company within the Territory, and the separate value of each of them;
- (d) every parcel of land owned by such person or company in the Territory, and the value thereof, and the improvements, if any, upon each parcel, and the value thereof; and
- (e) an address within the Territory to which all notices to be given to such person or company may be addressed.

(2) Nothing in this section shall be deemed to apply to any vessel or barge of foreign registry.

(3) Every such person or company shall transmit on or before the first day of September in each year to the Territorial Assessor, a return showing all such lands within the Territory disposed of or alienated by such person or company by sale, agreement for sale, grant or lease, since the date of the last return; and each such return shall show in detail, and in tabulated form, a legal description of the land, number of acres sold, agreed to be sold, granted or leased, and the date of the transfer, agreement, grant or lease, and the real consideration therefor.

(4) Every such person or company entitled under the provisions of any Act of Parliament of Canada, or Ordinance, to any exemption from the payment of Territorial taxes and rates, or any portion thereof, shall nevertheless transmit the statement required by the provisions of subsection (1), and, in addition, shall indicate

- (a) under what Act or Ordinance exemption is claimed; and
- (b) the extent of such exemption as claimed.

15. Every electric light, electric power, telephone or telegraph ^{Utilities.} company which operates or carries on business in, into or through the Territory, or which owns any lands or improvements or carries any poles, wires or other equipment through or within the Territory, shall transmit, on or before the first day of September in each year, to the Territorial Treasurer, a statement showing

- (a) every parcel of land owned by such company within the Territory, and the value thereof, and the improvements, if any, upon each said parcel, and the value thereof;
- (b) the number of miles of pole line, cables and wires, the property of such company within the Territory, whether the same is situate under, upon or above streets or public highways, or otherwise; and
- (c) an address within the Territory to which all notices to be given to such company may be addressed.

16. Every water company which has laid water pipes or other equipment, or which operates or carries on business in, into or through the Territory, shall transmit on or before the first day of September in each year, to the Territorial Assessor, a statement showing

- (a) every parcel of land owned by such company within the Territory, and the value thereof, and the improvements, if any, upon each said parcel, and the value thereof;
- (b) the number of feet of water pipe laid in the Territory, and the sizes thereof respectively laid in, upon or under public streets or highways, the right-of-way, or property of such company, or any other property, and the name of the owner thereof; and
- (c) an address within the Territory to which all notices to be given to such company may be addressed.

17. Any person or company failing to transmit its appropriate ^{Penalty.} statement or return, as provided in sections 13 to 16, at the time appointed therefor, shall be liable to a penalty of fifty dollars for each day during which failure in transmitting such statement or return continues, to be recovered by proceedings at the instance of the Territorial Assessor, and, in addition to such penalty, to the payment of all taxes which would have been payable had such statement been duly transmitted.

Separate assessment.

18. (1) For the purposes of taxation, land, except as hereinafter provided, shall be assessed at its actual value, and improvements shall be assessed for the amount of the difference between the actual value of the whole property and the actual value of the land as if there were no improvements; but land and improvements shall be assessed separately.

Value of land of utilities.

(2) The pole line, cables and wires of any telephone, telegraph, electric light or power company within the Territory shall for the purposes of assessment and taxation be deemed to be land and the amount of assessment thereon shall be five hundred dollars per mile of pole line, cables and wires.

Value of land for railways.

(3) There shall be levied and collected annually on every railway within the Territory, if such railway has been, or as soon as it has been, in operation for two years or more, a tax on an assessment of \$5,280.00 per mile on every mile of single track of every railway company mentioned in paragraph (a) of subsection (1) of section 13, whether the same be upon a public highway, or privately owned right-of-way; and any privately owned right-of-way shall be assessed in addition and separately at its actual value as land.

Value of land for water Co.

(4) The water pipes or other equipment of any water company on a public highway or street or road allowance shall be deemed to be land, and shall be assessed as such at the rate of forty cents per running foot.

Taxation of occupied Crown land.

19. (1) All unpatented lands, and lands of which the registered owner is Her Majesty, either in the right of the Government of Canada, or the Government of the Yukon, or in the Commissioner or the Controller of the Yukon Territory, or the Government of the Yukon Territory, but which are held under pre-emption or lease, or are agreed to be sold, or which have been granted, sold or conveyed, and any of such lands which are held or occupied otherwise than by or on behalf of the owner thereof as aforesaid, and lands which are held by any person by agreement to purchase under the *Veterans' Land Act*, are with the improvements thereon liable, while so held or occupied or during the existence of such agreement, to assessment and taxation in the manner provided in this section from the date of the pre-emption record, lease or agreement to sell or of the sale, grant or conveyance or of the occupation as the case may be, but such taxation shall not in any way affect the rights of the owner as aforesaid in the lands.

(2) Such lands, with the improvements thereon, shall be entered in the assessment roll in the name of the holder or occupier thereof, whose interest shall be assessed at the actual value of the lands and improvements, subject to the provisions of subsection (3); the taxes imposed on such lands and improvements shall be a liability only of the holder or occupier thereof recoverable in the manner set out in sections 55 and 56, and subject as aforesaid, such lands and improvements shall not be liable to tax sale nor shall such taxes become a lien or charge on the

lands or improvements; but the interest of any person in land held under timber lease or timber licence from Her Majesty, in the right of the Government of Canada, shall, while so held, be liable to assessment and taxation in respect of the actual value of his interest only.

(3) Lands that have been sold, granted or conveyed by the Government of the Yukon Territory, or the Commissioner or the Controller of the Yukon Territory, and in respect of which the transfer has not been registered with the improvements thereon, shall be liable to tax sale and the taxes imposed thereon shall become a lien and charge on the land and improvements and all the provisions of this Ordinance as to assessment, taxation, recovery of taxes and tax sale shall apply *mutatis mutandis* to the assessment, taxation, recovery of taxes and tax sale of such lands and improvements.

20. Where any interest in or occupation of land or improvements other than the ownership of the fee simple can be assessed within the Territory under this or any other Ordinance, the same shall be assessed, except as provided in section 19 upon the basis of the value of such interest; such value being taken to be the sum which a willing purchaser would be expected to pay to a willing vendor for such interest and without including the value of the good will of any business connected with such interest. Value of interest.

21. (1) Any land of which a railway company is registered owner, and which by any Ordinance or agreement in force in the Territory has been exempt from Territorial taxation until alienated or sold, and which is held under an agreement for sale or lease, or which is occupied otherwise than by the railway company, shall be liable, while so held or occupied, to assessment and taxation. Taxation of exempt land.

(2) Such land shall be entered in the assessment roll in the name of the holder or occupier thereof, and the taxes imposed thereon shall be a liability of such holder or occupier, recoverable in the manner set out in this Ordinance.

22. All property under the control of any person as executor, administrator, trustee, guardian or agent, the separate property of a married woman, and the property of an infant, shall be assessed and rated in the name of the person exercising control over such property, but such rating and assessment shall be kept separate and distinct from any rating and assessment of such person in his own right. Trusteeship.

23. (1) The Territorial Assessor, before the twentieth day of September in every year, shall prepare an assessment roll in which he shall set down with respect to each and every parcel of land liable for Territorial assessment and taxation Duties of Assessor.

(a) a short description thereof by which the same can be identified in the register of the Land Titles Office;

- (b) the extent or area thereof;
- (c) the value thereof;
- (d) the value of all improvements thereon;
- (e) the name or names of the registered owners thereof, or of the holders or occupiers under the provisions of sections 19 and 20;
- (f) the name or names of the holder of any mortgage, charge or encumbrance registered against the parcel of land in the Land Titles Office;
- (g) the name or names of any persons claiming notice of assessment and taxes under subsection (3);
- (h) the addresses of such persons as aforesaid;
- (i) the name and address of any person who shall have furnished to the Territorial Assessor a statutory declaration showing that he is the holder of the last agreement to purchase the land by the terms of which he is liable to pay the taxes thereon;
- (j) the name and address of any person interested in any assessable land the registered owner of which is Her Majesty, in the right of the Government of Canada, or the Government of the Yukon, or the Commissioner of the Yukon Territory, or the Controller of the Yukon Territory, and the value of her interest; and
- (k) the particulars set out in the statements and returns required by sections 13, 14, 15 and 16, with such values as the Assessor shall deem fair and equitable, notwithstanding the values which may be assigned in such statements respectively.

Address of
owner.

(2) The Territorial Assessor shall exercise reasonable care in obtaining and setting down the names and addresses of the persons mentioned in subsection(1), and shall more particularly adopt the following alternatives in the order named:

- (a) the name and address as known to such Assessor; and
- (b) the name and address as appearing in the records of the Land Titles Office as at the thirty-first day of August in each year.

(3) Any person claiming to be interested in any land may give notice at any time to the Assessor of the nature of his interest and claim to receive notice of assessment and all tax notices thereafter issued during the duration of his interest, as stated in the said notice, and shall give an address to which such notices may thereafter be sent.

(4) In case a building is situate upon two or more parcels of land under a single ownership, those parcels of land may be placed on the assessment roll as one parcel and may be so assessed, and any taxes then existing upon any one of the several parcels imposed under this or any other Ordinance and remaining unpaid shall be deemed to be taxes upon all the lands so placed upon the assessment roll as one parcel.

(5) The assessment roll referred to in subsection (1) shall consist of such system of written records, or bookkeeping, or set of books as shall be approved by the Commissioner, and, subject to the approval of the Commissioner, such system may include or consist of a card index or loose leaf ledger system.

24. (1) Before rating the assessment roll, the Territorial Assessor with respect to each parcel of land assessed shall mail to the person or persons named in such assessment roll as the owner of such parcel of land or as entitled to notice under the provisions of subsection (3) of section 23, at the address set out in the assessment roll, a notice showing

- (a) a short description of the land;
- (b) the value at which the land is assessed;
- (c) the value at which the improvements thereon are assessed; and
- (d) the date of the first session of the Court of Revision for the consideration of such roll;

and a copy of section 26 shall be printed on each such notice.

(2) Any number of parcels of land assessed in the name of the same owner or owners may be included in one notice.

(3) The Territorial Assessor shall enter upon the roll, opposite the name of the person to whom notice has been sent, the date of the transmitting of such notice.

(4) Before returning the roll to the Commissioner, the Territorial Assessor shall transmit by registered mail a true copy of any such notice to any person from whom he shall have received during the then current year a request in writing for such copy, provided such request shall contain a short description covering the property in respect of which such copy may be required, and shall be accompanied by a fee of twenty-five cents for each such parcel of land.

25. The Territorial Assessor shall return his roll in each year completed to the Commissioner, not later than the thirtieth day of September in each year, and on returning the roll the Territorial Assessor shall make a statutory declaration in Form A which shall be annexed to the roll.

26. (1) If any person is of the opinion that an error or omission exists in or upon the assessment roll as prepared by the Assessor in that the name of any person has been wrongfully inserted in or omitted from the roll or that any land or improvements has or have been wrongfully entered upon or omitted from the roll, or that any land or improvements has or have been valued at too high or too low an amount, he may personally, or by means of a written communication over his signature, or by a solicitor, or by an agent authorized by him in writing to appear on his behalf, come before the Court of Revision and make a complaint of such error or of complaint and the Court of Revision shall either confirm the assessment or direct the alteration thereof.

Court of
Revision.

Appeal by
any person.

Appeal by Government.

(2) The Territorial Government or the Commissioner may, by its solicitor or otherwise, make complaint against the said roll or any individual entry therein and upon any ground whatever and the Court of Revision shall deal with the matter of such complaint and either confirm the assessment or direct the alteration thereof.

Complaint to be in writing.

(3) Every complaint shall be made in writing and shall be delivered to the Territorial Assessor at least ten days prior to the first annual meeting of the Court of Revision.

Inspection of roll.

27. On and after the assessment roll is completed by the Territorial Assessor and until ten days after such roll is revised and corrected by the Court of Revision, the same or a copy thereof certified to be a true copy by the Territorial Assessor shall be open for inspection in the office of the Territorial Assessor, and in the offices of the Territorial agents during office hours.

Posting of complaints.

28. The Territorial Assessor shall cause to be posted up in some convenient and public place within each municipality a list of all complaints made by persons on their own behalf against the returned roll and a list of complaints made on account of the assessment of other persons stating the name of each complainant with a concise description of the matter complained against.

Exemption of airports.

29. The Council of the Yukon Territory by resolution passed unanimously by the members thereof may exempt from taxation in whole or in part for such period of years as the Council by such resolution determines any land or land and improvements within the Territory that are owned, operated or used for the purposes of an air base, seaplane base or landing area for aircraft but such lands and improvements shall be subject to such exemption only so long as they are used for those purposes.

Hearing of complaints.

30. (1) The Territorial Assessor shall enter the complaints on the list in the order in which they are received by him and the Court of Revision shall proceed with the complaints as nearly as may be in the order in which they are so entered.

Adjournment.

(2) The Court of Revision may grant adjournment or postponement of the hearing of any complaint.

Mailing of decision.

31. Any person making a complaint as provided in section 26 shall leave with the Territorial Assessor an address to which all notices to that person in respect of the complaint may be sent and forthwith after a decision has been made by the Court of Revision the Territorial Assessor shall forward to that person a notice setting out the decision of the Court of Revision.

32. (1) Every assessment shall be considered and dealt with by a Court of Revision which shall consist of a Chairman and not more than three members appointed for that purpose by the Commissioner. Constitution of Court.

(2) Every member of the Court of Revision before entering upon his duties shall take and subscribe the following oath or affirmation: Oath.

“I,, do solemnly swear (or affirm) that I will decide honestly, to the best of my judgment and ability and without fear, favour or partiality, the complaints to the Court of Revision which may be brought before me for trial as a member of said Court.”

- (3) The powers of the Court of Revision are
 - (a) to meet on or before the second Tuesday in each year at a place to be designated by the Commissioner, and to try all complaints lodged with the Territorial Assessor in accordance with the provisions of this Ordinance;
 - (b) to adjourn from time to time and from place to place as it deems necessary;
 - (c) to investigate the assessment roll and the various assessments therein made whether complained against or not and so adjudicate upon the same that they shall be fair and equitable and fairly represent the actual value of the land and improvements within the Territory;
 - (d) to direct such alterations to be made in the assessment roll as may be necessary to give effect to its decision; and
 - (e) to confirm the roll either with or without amendment.

(4) Any member of the Court of Revision may issue a summons in writing to any person to attend as a witness and any member of the said Court may administer an oath to any person or witness before his evidence is taken. Witnesses.

(5) No increase in the amount of assessment shall be directed until after fourteen days' notice of the intention to direct such change and of the time and place of holding the adjourned sitting of the Court of Revision at which such direction is to be made shall have been given by the Territorial Assessor by pre-paid registered mail or personal service to the assessed owners of the land on which the assessments are proposed to be increased and any party interested or his solicitor or agent if appearing shall be heard by the Court of Revision. Notice of increase in assessment.

(6) The Territorial Assessor shall be the Clerk of the Court of Revision and shall make and keep minutes of the proceedings of the Court of Revision and alter the assessment roll in accordance with the directions contained in such minutes. Assessor to be Clerk of Court.

(7) A majority of the members of the Court of Revision shall form a quorum. Quorum.

Majority.

(8) All decisions before the Court of Revision shall be decided by a majority of the members present and the Chairman shall vote as an ordinary member of the Court of Revision.

(9) If a complainant fails to appear the Court of Revision may proceed *ex parte*.

Additional Courts.

33. (1) If in any year the Commissioner deems it necessary or expedient he may appoint one or more additional Courts of Revision and direct in what municipalities or places such Courts of Revision shall meet.

(2) The Commissioner shall describe and designate from what area in the Territory each of such additional Courts of Revision shall have jurisdiction to hear complaints against the assessment roll and only one Court of Revision shall have power to hear and adjudicate complaints from any one area so designated.

(3) The Territorial agent for the municipality or district where such additional Court of Revision meets shall act as Clerk of such Court of Revision.

(4) All the provisions of this Ordinance as to the powers and duties of and appeals from the Court of Revision apply *mutatis mutandis* to each such additional Court of Revision.

Witnesses fees and penalty.

34. Any person who has been summoned to attend the Court of Revision as a witness and has been paid or tendered such fees as a witness as he would be entitled to in a civil case in the Territorial Court without good and sufficient reason fails to attend, he is 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.

Completion of roll by Court.

35. (1) It is the duty of the Chairman of the Court of Revision to see that alterations are made in the assessment roll in accordance with the directions contained in the minutes of the proceedings of the Court, and to initial in red ink each such alteration.

(2) It is the duty of the Court of Revision to identify, confirm and authenticate the roll by inscribing or endorsing thereon or attaching thereto a certificate in the following form which shall be signed by a majority of the members of the Court of Revision:

“The within roll (or the within roll as amended) is hereby confirmed by the Court of Revision for the Yukon Territory (or for the District of the Yukon Territory) and except as may be amended upon further appeal, is hereby certified to be the assessment roll of the Yukon Territory (or of the District of the Yukon Territory) for the year.....”

.....”

36. (1) Where any person or the Territorial Assessor is dissatisfied with the decision of the Court of Revision, he may appeal therefrom to a judge of the Territorial Court. Appeal to the Territorial Court.

(2) Notice in writing of such appeal signed by the appellant or his solicitor or agent shall be given to the Territorial Assessor, or if the Territorial Assessor be the appellant, to the owner or owners of the property of which the assessment is appealed or any person claiming an interest therein or his or their solicitor or agent as the same are named in the assessment roll, both before and after revision, within two days after such decision has been given. Notice of appeal.

(3) Upon any such notice of appeal being given the Territorial Assessor shall apply to the judge to fix the time and place for hearing the appeal and notice of such hearing by the judge shall be given by publication once in a newspaper published in the Territory. Time of hearing.

(4) The judge shall hear the appeal and evidence adduced upon oath before him at the time and place appointed in a summary manner and may adjourn the hearing from time to time and defer judgment thereon at pleasure but so that all appeals may be determined within one month from the final revision by the Court of Revision of the assessment roll, and if the appeal is not decided within the time herein limited the decision of the Court of Revision shall stand. Summary hearing.

(5) The Territorial Assessor shall on any appeal from the decision of the Court of Revision produce before the judge at the time and place appointed for hearing the appeal the assessment roll and all papers and documents in his possession in any way affecting the matter. Assessor to provide all documents.

(6) The appellant or any person interested in such appeal may call and examine witnesses on oath or affirmation before the judge and if the appeal is on the ground that any land or improvements or land and improvements has been assessed at too high or too low a value he shall produce professional expert evidence to support his appeal. Evidence by appellant.

(7) The judge or the appellant or any person interested in such appeal shall have power to issue subpoena *ad testificandum* or *duces tecum* for the attendance of witnesses before the judge and any person served with 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 and not more than one hundred dollars, and in default of payment to imprisonment for a period not exceeding ninety days. Summons to witness.

(8) The costs of such appeal shall be in the discretion of the presiding judge who shall fix the amount thereof not to exceed the sum of fifty dollars and disbursements, and order by whom and to whom the same shall be paid, and the payment thereof may be enforced by execution issued out of the Territorial Court upon an order of the said judge. Costs.

(9) The decision of the judge shall in all cases be final.

Final roll.

37. (1) The assessment roll as confirmed by the Court of Revision and authenticated as required by section 35 except insofar as the same may be further amended on appeal under section 36, shall be valid and bind all parties concerned notwithstanding any omission or any defect or error committed in or with regard to any such roll, or any defect, error or misstatement in any notice required or the omission to transmit such notice and the roll, except as provided in section 38, shall be taken and held for all purposes to be the assessment roll of the Territory until a new roll has been revised, confirmed or passed by the Court of Revision.

(2) It is the duty of the Court of Revision to see that alterations are made in the assessment roll in accordance with the directions or judgment of the judge upon appeal as aforesaid and, after the making of such alterations, to identify, confirm and authenticate the roll as so altered and amended, by initialling each change so made by the Chairman of the Court of Revision and if on several sheets by the signing of each such sheet by the said Chairman of the Court of Revision and the addition of the date of such change being made.

Adoption of roll by Council.

38. (1) The Council of the Territory, if it thinks fit, may adopt by resolution for any year the assessment roll of the previous year with such amendments and alterations as are by this section made permissible.

(2) The adopted assessment roll so amended and so altered, upon the passing of such resolution, shall be deemed to be the assessment roll prepared by the Territorial Assessor for the year under section 23, and shall be subject to the like incidents, powers of revision and appeal as hereinbefore mentioned.

Amendments.

(3) Before the passing of any resolution under the provisions of this section, the Territorial Assessor may make in red ink, noting in each case upon the margin the date of making the same, upon the assessment roll so proposed to be adopted, the following alterations:

- (a) where any parcel of land since the date of the preparation of the said assessment roll has changed ownership either by transfer or by devolution of interest, the name or names of the new owner or owners shall be substituted for the name or names appearing upon the said assessment roll;
- (b) where any manifest error or misstatement in the name of the person assessed or in the description or particulars of the land or improvements assessed appears upon the said assessment roll, the correct name, description or particulars may be inserted; and
- (c) where since the preparation of the said assessment roll improvements to an extent exceeding two hundred dollars have been destroyed or depreciated by fire or otherwise

and have not been reconstructed or have been reconstructed at a reduced cost and the reduction in cost exceeds two hundred dollars or an addition has been made to the improvements upon the lands assessed the cost whereof has exceeded two hundred dollars, the reduction or increase in the assessable value of such improvements may be deducted or added.

39. Upon the enactment of any Ordinance granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory for the year, the Commissioner shall determine upon and levy a rate or rates of so much on the dollar of the assessed value of the lands or improvements or the lands and improvements within the Territory which are not exempt from Territorial taxation under the provisions of this or any other Ordinance. ^{Territorial rates.}

40. In determining such rate or rates the Commissioner shall make allowance for ^{Method of determining rates.}

- (a) the probable amount of the receipts from all sources of revenue, other than taxes, for the year;
- (b) the probable amount of any abatement, losses and expenses which may occur in the collection of Territorial taxes;
- (c) the probable amount of taxes which may not be collected or collectible; and
- (d) the amount necessary to defray the expenses of the public service of the Territory for the year as stated in such Ordinance including any deficiency from any preceding year.

41. No individual taxpayer who is the owner of land liable to Territorial taxation shall pay an amount less than two dollars on all his land and after the rate is levied the collector is empowered to collect at least two dollars from each such taxpayer. ^{Minimum rate.}

42. The taxes imposed or levied for any year shall be considered to have been imposed on and from the first day of April of the then current year unless otherwise expressly provided for by the Ordinance under which the same are, or are directed to be, levied. ^{Taxation year.}

43. (1) Notwithstanding anything in the *Creditors Relief Ordinance*, the taxes accrued and to accrue on the improvements thereon, and any judgment obtained under section 55 with respect to such taxes, shall be a special lien on such land and on the improvements thereon having preference over any claim, lien, privilege or encumbrance of any person except Her Majesty in right of Canada and shall not require registration to preserve it. ^{Prior lien for taxes.}

(2) If it shall be necessary or advisable to protect or enforce the said lien by any action or proceedings the same may be done by order of a judge of the Territorial Court upon application therefor and upon such notice thereof as to the said judge shall seem meet.

Tax roll.

44. After the final revision of the assessment roll and the passage of an Ordinance under section 39, the Territorial Assessor or some other person appointed by him shall make out a Collector's roll which may be an extension of the assessment roll in which he shall with respect to each parcel of land upon which taxes have been imposed set down the following information as it appears on the assessment roll:

- (a) the short description of the land;
 - (b) the name and address of the assessed owner or owners;
 - (c) the classification of the land; and
 - (d) the value at which the improvements thereon are assessed;
- and shall in addition thereto set down:
- (e) the total amount of taxes imposed for the current year;
 - (f) the total amount of taxes in arrears;
 - (g) the total amount of delinquent taxes; and
 - (h) the amount of all taxes due.

Collection of Territorial taxes.

45. (1) Upon the making out of the Collector's roll as provided in section 44, the Commissioner shall transmit the said roll to the Territorial Collector who shall forthwith proceed to collect the taxes therein set out.

Collector to accept tender on account.

(2) The Territorial Collector shall accept such payment as may be tendered on account of taxes due and the penalty, if any, thereafter to be added under sections 50, 52 and 53 shall be added upon any unpaid amount only, but nothing herein contained shall affect in any way the liability of any person to make full payment or the liability of the land for the amount or amounts of taxes unpaid.

No power to waive payment.

(3) The Territorial Collector has no power or authority to waive full payment or to make any agreement for the extension of time or postponement of the exercise of any proceedings to collect the taxes.

Notice of tax due.

46. (1) The Territorial Collector, upon receiving his Collector's roll and not later than the first day of February in each year, shall with respect to each parcel of land upon the roll mail to or leave for the owner or his duly authorized agent and to the person or persons claiming notice under subsection (3) of section 23 a statement showing the taxes due upon such parcel of land and upon the improvements thereon in tabulated form as follows:

- (a) a short description of the land;
- (b) the classification of the land;
- (c) the value at which the land is assessed;
- (d) the value at which the improvements thereon are assessed;

- (e) the total amount of taxes imposed for the current year;
 - (f) the total amount of arrears of taxes; and
 - (g) the total amount of delinquent taxes and penalties.
- (2) The notice shall show the rates imposed under section 39.
- (3) The notice may be served by mailing to the address as shown on the Territorial Collector's roll or by personal service, and if service cannot be so effected, by conspicuously posting up the notice on the property affected.
- (4) Any number of parcels of land assessed in the name of the same owner or owners may be included in one notice.
- (5) The Territorial Collector shall mail by registered mail a true copy of the notice provided for in this section to every person from whom he shall have received during the then current year a request in writing for such copy containing a description of the land in respect of which such copy may be required and a fee of twenty-five cents.

47. (1) The Territorial Assessor or other proper officer of his Department shall on demand furnish or give to the owner of any land liable for Territorial taxation a written statement of the arrears of taxes, if any, charged against such land at that date or to any person a certificate showing the arrears of taxes or other Territorial charges, if any, charged against any land within the Territory at that date and also showing whether such land has or has not been sold or advertised for sale for arrears of taxes within two years previous to the date of such certificate and, if so sold, within what time it may be redeemed and what amount is required to redeem it. Statement of arrears.

(2) The Territorial Assessor may charge a fee not exceeding one dollar for the making and delivering or mailing of each such certificate but no charge shall be made for a statement of arrears without such certificate.

(3) The Territorial Assessor or other proper officer of his Department shall on demand and without charge give to any taxpayer who has paid his taxes and assessments on lands or on lands and improvements a certificate that all Territorial taxes and assessments and charges charged against or levied against the land or lands and improvements described in the certificate of such taxpayer have been fully paid to the date of such certificate. Certificate of payment.

(4) Any error in any statement or certificate given under the provisions of this section shall not subject the Territorial Government to damages.

48. All taxes and assessments become due and payable within five days after the service, mailing or posting of such notice as provided by section 46 at the office of the Territorial Collector. Date taxes due.

Bank account. **49.** The Territorial Collector, or his agent, shall pay over the amounts collected to the Territorial Treasurer or deposit them to the credit of the Territory in a chartered bank designated by the Territorial Treasurer.

Penalty. **50.** Upon all taxes remaining due and unpaid on the thirty-first day of March of the fiscal year in which such taxes were levied there shall be added an additional sum in the amount of a penalty of six per cent of such unpaid taxes.

Discount. **51.** All persons paying taxes on or before the twenty-eighth day of February of the taxation year in which such taxes were levied shall be entitled to a reduction of six per cent on the amount of such taxes.

Arrears. **52.** (1) The taxes on lands and improvements together with the penalty provided in section 50 that are unpaid on the thirty-first day of March in every year shall be deemed taxes in arrears and shall bear interest from the said date at the rate of six per cent per annum and such interest shall be deemed to become part of the said arrears of taxes.

(2) Such total amount of arrears of taxes shall be deemed to be a charge upon the parcel of land or improvements in all respects as if the said penalty and interest had originally formed part of the taxes levied thereon.

Delinquent taxes. **53.** (1) All taxes on lands and improvements remaining unpaid on the thirty-first day of March in the year following that taxation year in which the taxes are imposed shall be deemed to be delinquent on the said thirty-first day of March.

(2) All taxes that become delinquent at the date mentioned in subsection (1) shall thereafter bear interest at the rate of six per cent per annum until paid or recovered.

(3) Such added interest shall be deemed to be part of the said delinquent taxes and a charge upon the parcel of land or improvements in all respects as if the said interest had originally formed part of the taxes levied thereon.

Payments credited to arrears. **54.** Except as in this Ordinance otherwise provided, no money received by the Territorial Collector in payment of taxes due upon any parcel of land or improvements shall be applied to the payment of taxes of the then current taxation year until all taxes which became due in the previous years have been fully paid.

Liability of owner. **55.** (1) Any person whose name appears on the assessment roll of the Territorial Assessor in any year as the owner of any land or improvements or any taxable interest therein within the Territory is liable for all taxes imposed under this Ordinance.

(2) The liability imposed by this section shall be a debt recoverable by action brought on behalf of the Territorial Government in the Territorial Court by the Commissioner.

(3) Production of a copy of the Territorial Collector's roll or of so much of the said roll as refers to the taxes payable by such person, written or printed without any erasure or interlineation and certified as a true copy by the Territorial Assessor shall be prima facie evidence of the debt without proof of the signature of the Territorial Assessor or production of the original Territorial Collector's roll or of a part of which such certified copy purports to be a copy.

(4) The liability imposed by this section shall not be enforced by action against any person whose name appears on the assessment roll by reason of the fact that he is an executor, administrator or trustee of any estate except to the extent and value of the assets of such estate which shall have come into his hands.

56. (1) Where any person fails to pay the Territorial Collector the taxes due and payable by him within thirty days after the same have become due and payable notwithstanding anything to the contrary contained in any Ordinance, the Territorial Collector may by himself or his agent levy the same with the costs by distress of the goods and chattels of the person who ought to pay the same.

Distress for
delinquent
taxes.

(2) The costs chargeable in such distress shall be those made payable in cases of distress for rents and penalties by the *Distress Ordinance*.

(3) Where any person fails to pay to the Territorial Collector the taxes due and payable to him within thirty days after the same have become due and payable, the Territorial Assessor or Collector may give notice to any person from whom any debt is due or accruing due to such first mentioned person and the person served with such notice shall at once or as soon as such debt accrues due pay such taxes to the Territorial Collector to the extent of such debt or to the full amount of such taxes whichever is the lesser and such payment shall be a discharge and release *pro tanto* of such debt to the extent of the amount of such payment to the Territorial Collector and after such notice has been given and such debt is due or has accrued due the Territorial Collector may levy distress of the goods of the person to the amount of such debt or so much as is sufficient to pay such taxes and such distress shall be a discharge and release as aforesaid.

(4) No warrant shall be necessary to enable the Territorial Collector or his agent to levy distress under this section or to justify him in so doing but it shall be sufficient for him to serve a notice personally or by prepaid registered letter on the person on whose goods, or on goods in whose possession he is about to make distress of the amount claimed by him for rates and taxes and of the fact that he is about to make such distress.

(5) Goods distrained under this section 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 Collector may leave any person or persons in charge of the same if he deems it necessary for their safe-keeping.

Sale of goods
distrained.

57. The Territorial Collector or his agent after giving five days' notice of sale by hand bills posted in at least five conspicuous places in the district in which the sale is to take place shall sell such goods on the premises or at any other place in the Territory for the best price to be gotten therefor and shall apply the proceeds of such sale towards the satisfaction of the rates and taxes due and expenses incurred and shall pay the surplus, if any, to the owner of such goods if known or to the person in whose possession they were when the distress was levied.

58. Where a distress and sale of goods is made by the Territorial Collector or agent under section 57, the Territorial Collector may sue for any balance of rates and taxes due and unpaid after such sale in the manner provided by section 55.

Distress
where taxes
owing by
person
leaving
Territory.

59. (1) Where any person who is indebted for Territorial rates and taxes due, and who has been served with a notice requiring him to pay the same, is about to leave the Territory the Territorial Collector or any Territorial agent may make an affidavit before a judge of the Territorial Court or before any police magistrate or justice of the peace that such person is indebted to the Territorial Government for such rates and taxes and that he believes that such person is about to leave the Territory and that such rates and taxes will be lost unless the goods of such person are forthwith distrained or unless such person is forthwith arrested, and thereupon such judge, police magistrate or justice of the peace, notwithstanding that the time named in such notice has not expired, may by order direct the Territorial Collector or agent 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 taxes and probable costs as to such judge, police magistrate and justice of the peace seems proper.

(2) It is not necessary for the Territorial Collector or agent to state in the affidavit mentioned in subsection (1) the grounds of his belief.

(3) Such order directing the Territorial Collector or agent to levy distress shall authorize and justify him in making any distress that he could have made if such rates and taxes were due and payable; any order that a person be arrested and held to bail shall be subject to the Rules of Court made pursuant to the *Judicature Ordinance* respecting the arrest of defendants, insofar as they relate to the execution of a special order and the imprisonment of any person thereunder.

Certificate
by Assessor
proof of
debt.

60. In any action brought against any person for the recovery of rates and taxes owing to the Territorial Government where there is a defence pleaded, a certificate in writing purporting to be signed by the Territorial Assessor or Collector or a Territorial agent that the defendant's name appears on the Collector's roll

for the sum claimed from him for rates and taxes and that the said sum has not been paid shall without proof of handwriting be prima facie evidence in any court of such rates and taxes being due and unpaid.

61. Any person absent or absconding from the Territory who is indebted for Territorial rates and taxes may be proceeded against for such rates and taxes under the Rules of Court made pursuant to the *Judicature Ordinance* respecting the attachment of personal property, notwithstanding that the amount of such rates and taxes is less than one hundred dollars. Amounts
under
\$100.00.

62. The Territorial rates and taxes of any person who becomes insolvent or assigns his property 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 and taxes may be collected from such trustee or assignee in the same manner and by the same proceedings as if such rates and taxes had been rated on such trustee or assignee personally, unless he satisfies the Territorial Assessor or Collector that sufficient money or property of such person to satisfy such rates and taxes has not come into his possession or under his control. Insolvency.

63. On the fifteenth day of July in each year at such place or places as the Commissioner may designate at the hour of three o'clock in the afternoon, the Territorial Assessor and the Territorial agents shall offer for sale by public auction all and every parcel of land and improvements, if any, thereon upon which the taxes are delinquent. Tax sale.

64. (1) The Territorial Collector shall prepare a list of the lands to be sold as authorized by this Ordinance showing the respective owners thereof and the amounts 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 designate at what place the sale of each parcel shall be held.

(2) The Territorial Collector shall cause the said list to be posted in a conspicuous place in his office and in the office of every Territorial agent and in three other places within each municipality for four consecutive weeks before the day fixed for such sale and also, at least four weeks before the day fixed for such sale, he shall publish once a copy of said list in the *Yukon Gazette* and in any newspaper or newspapers published in the Territory which the Commissioner may designate.

(3) The list described in subsection (1) shall be headed as follows:

"Sale of Lands in the Yukon Territory for Delinquent Territorial Taxes

Notice is hereby given that the following lands in the Yukon Territory will be offered for sale for delinquent

taxes on the fifteenth day of July, 19....., at three o'clock in the afternoon at the places hereinafter designated."

(4) Such posting and publication shall constitute good and effective service of said notice upon all persons named therein and all persons having any interest in the lands described therein.

65. (1) At the time and places appointed for such sale the Territorial Collector or agents shall proceed to sell such lands and improvements at public auction to the highest bidder therefor.

(2) From the proceeds of such sale the Territorial Collector and agents shall be authorized to receive a price equal to or exceeding the sum of the following amounts:

- (a) the total amount of delinquent taxes upon the land and upon the improvements thereon;
- (b) the total amount of taxes in arrears upon such land and upon the improvements thereon;
- (c) the total amount of the interest and penalty due to date;
- (d) the amount of the current year's taxes upon such lands and upon the improvements thereon; and
- (e) a sum equal to the costs and expenses in and to such sale; which said sum shall be the upset price and shall be the lowest amount for which the land may be sold.

(3) If the price realized at the sale exceeds the sum of the amounts provided in subsection (2), the Territorial Assessor shall pay the balance to the owner of such land and improvements, if he is known to the Territorial Assessor, unless the said land and improvements are subject to a lien or encumbrance.

(4) If the owner of such land and improvements is not known to or cannot be found by the Territorial Assessor, or if such land and improvements are subject to a lien or encumbrance, the Territorial Assessor shall pay such balance into the Territorial Court to abide the order of the judge thereof.

(5) Upon the sale of such land and improvements, the Territorial Collector or agent shall deliver to the purchaser a receipt for the price in Form B in the Schedule.

(6) Every purchaser at a Territorial tax sale, other than the Territorial Government, at the time of such sale and before he is given a receipt in Form B, shall by himself or his agent sign a statement setting out his full name, occupation and Post Office address.

(7) In the event of there being no bid for, or no bid equal to the upset price of any land and improvements, the Territorial Government shall be declared to be the purchaser thereof.

66. Any mortgagee, judgment creditor or other person having an encumbrance or lien upon or against the land or land and improvements advertised for sale under this Ordinance may pay the sum provided in subsection (2) of section 65 and obtain from

the Collector a certificate to that effect and thereupon shall be entitled to add the amount so paid to the amount due on such mortgage, judgment, encumbrance or lien.

67. (1) No error, informality or irregularity on the part of the Territorial Assessor, the Court of Revision, the Territorial Collector or of any Territorial 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 tax or rate levied, distrained for or collected. Errors and omissions.

(2) The invalidity, irregularity or illegality of any individual assessment, tax or rate shall not extend to affect the validity of any general assessment, tax or rate of any other assessment, tax or rate.

68. (1) No application for an order for confirmation for a sale of lands or improvements for taxes made under this Ordinance shall be heard by a judge until three months have elapsed since the date of the sale to be confirmed. Order confirming sale.

(2) With leave of the judge, notice of such application may be given by one publication in the *Yukon Gazette*, at such time in advance of the day on which the application is to be made as the judge shall direct.

(3) In such notice the names of all persons appearing by the records of the Land Registry Office on the date of the sale to be confirmed and of all persons appearing on the Territorial Collector's roll to have any interest in the lands and improvements sold shall be set forth.

(4) The notice shall be given by summons of the judge obtained *ex parte* returnable in such time as the judge directs after service thereof.

(5) Application to confirm a tax sale made under this Ordinance shall be made by the Territorial Collector.

69. Any person having an interest in lands or improvements sold for taxes under this Ordinance may redeem the same at any time before the time for hearing of the application for confirmation of the sale of such lands or improvements by paying to the purchaser or his assignee the amount of the purchase money paid therefor and any further sums charged against the said lands and improvements and lawfully paid together with twenty per cent of the said amount and sums and such costs as a judge may allow. Redemption.

70. From the time of the payment to the purchaser or his assignee of the amount mentioned in section 69 all right and interest of the purchaser in said lands and improvements shall cease and determine and he shall give a receipt for such payment and the person making such payment shall advise the Territorial Collector of such redemption.

Receipt
evidence of
tax sale.

71. (1) Subject to the foregoing sections, on any application for an order for the confirmation of such sale the production of a receipt for the price paid for the land or lands and improvements signed by the Territorial Collector or a Territorial Agent shall be prima facie evidence that all conditions have existed and all acts been performed and all requirements of this Ordinance in that behalf have been complied with which are necessary to entitle the applicant to the order of confirmation.

(2) Where such application is not made until after the expiration of six months from the date of the receipt, such receipt is conclusive evidence that all conditions have existed and all costs have been performed and all requirements of this Ordinance in that behalf have been complied with which are necessary to entitle the applicant to the order of confirmation, except on proof of any one or more of the following:

- (a) fraud or collusion;
- (b) that all taxes have been paid previous to the sale; or
- (c) that the land was not liable to assessment.

Transfer
after order.

72. Upon the granting of an order of a judge confirming the sale, the Territorial Collector shall in his own name as Territorial Collector execute and deliver to the purchaser a transfer in Form C, which shall be as effectual to transfer and convey all the estate of the registered owner thereof in the land sold as if the same had been executed and delivered by such owner to such purchaser and as if such land was free of all liens and encumbrances.

Limitation
of action.

73. No action shall be commenced for any thing done in pursuance of any provisions of this Ordinance after six months from the date of the act complained of.

Taxation of
Crown
granted
mineral
claims.

74. (1) There shall be assessed upon and levied and collected from the owner or occupier of every mineral claim situate in the Territory, for which a Crown grant has been issued pursuant to regulations for the disposal of quartz mining claims, a tax of twenty cents for every acre and fractional part of an acre of land conveyed by the grant.

(2) The tax shall be payable on the first day of August in each year.

Development
in lieu of
taxes.

75. (1) Notwithstanding section 74, where the owner of such a mineral claim establishes to the satisfaction of the Collector that the sum of not less than two hundred dollars has been expended upon such claim in bona fide mining development work during the year preceding the date when the tax becomes payable, the tax shall not be levied in respect thereof for that year.

(2) Such work shall be valued by the Collector in accordance with the schedule of values in force from time to time required as assessment work on quartz mineral claims and any owner of adjoining mineral claims, whether Crown granted or not, not

exceeding eight in number, shall be allowed to perform in mining development work during the year preceding the date when the tax became payable upon any one or more of such adjoining claims of the full value required at the rate of two hundred dollars on each claim to entitle all of such mineral claims to exemption from the payment of the tax.

(3) To secure the benefit of this section, the owner shall file with the Collector a statement showing

- (a) in detail the nature of the work performed;
- (b) the amount expended on the claim;
- (c) the name and address of the owner or occupier; and
- (d) if the owner or occupier is not a resident of the Territory, the name and Post Office address of his agent within the Territory;

duly verified by the affidavit of the owner, occupier or his agent on or before the first day of August in each and every year in which such exemption is claimed.

(4) Within thirty days after the receipt of any statement of expenditure, unless the Collector is satisfied as to the correctness and bona fides of the same, he shall give notice to the person who filed the same that he is not satisfied with his statement. Notice by
Collector.

(5) The owner or occupier or his agent may within thirty days after the service of a notice under subsection (4) refer the statement questioned to the Commissioner, who shall enquire into and determine the matter and, for the purposes of such enquiry, may examine on oath or affirmation such witnesses as may be produced and such documents, books and instruments as he may deem necessary and shall have the same power to enforce the attendance of witnesses and to compel them to give evidence as is vested in the Court in civil cases.

(6) The decision and determination of the Commissioner as to the correctness of such statement and the bona fides of the expenditure shall be final and conclusive and shall be reported to the Collector in writing.

76. (1) All notices required by this Ordinance to be given to or served upon any owner or occupier may be served personally on such owner or occupier or his agent or may be served by sending the same by prepaid post to such owner or occupier or agent at the address which he files in the office of the Collector, or sets out in a statement filed under section 75. Address
for service.

(2) When any notice required by this Ordinance is sent or served by post, service of such notice shall be deemed to have been effected by properly addressing, prepaying and mailing such notice and such notice shall be deemed to have been served on the day on which the notice is mailed.

77. (1) On or before the first day of August in each year, the Collector shall prepare a tax list upon which shall be entered alphabetically the names of the owners, the name and description of each claim subject to the tax, the acreage of each such Tax roll.

claim, the amount of the arrears of taxes and penalties, if any, and the amount of the current year's tax and the total of such amounts in respect of each claim and shall date and sign the list.

(2) On or before the first day of August in each year the Collector shall date and sign and deposit a copy of the tax list in the Office of the Mining Recorder for the districts in which the claims therein designated are situate and in the Land Titles Office for the District and in the Office of the Collector.

(3) The copies of the tax list shall be posted up in each of the offices in which they are deposited under the provisions of subsection (2) and be open to inspection, without fee, by any person during the hours when such offices are open to the public.

Penalty.

78. Where the tax imposed by this Ordinance remains unpaid on and after the first day of December in any year, there shall be added to the amount of such tax at the beginning of each month thereafter as a penalty an additional sum in the amount of three-fourths of one per cent of such tax until payment of the tax and the tax shall not be deemed to have been paid until the amount thereof with the penalty added shall have been fully paid to the Collector.

Interest not divided.

79. The tax is payable to the Collector in one sum upon the total acreage of the claim and the Collector shall not receive any portion of the tax from any person on account of alleged divided or undivided interests or shares in the claim, and unless the full amount of the tax on the total acreage of the claim, together with all penalties and charges made under this Ordinance, is tendered and paid, no receipt shall be issued.

Prior lien.

80. The tax shall form a first charge upon the claim in respect to which the same is levied.

Notice of delinquency.

81. On or before the first day of January in each year, the Collector shall mail to the last known address of the owner of the claim in respect to which such tax is unpaid and to the address of his agent filed under section 74 a notice stating that the tax on the claim has become delinquent and that the penalty will be added thereto monthly until the tax and all penalties thereto added are paid, and that, if the tax and penalties are not paid, the claim will be advertised and offered for sale at public auction on the third Tuesday in the month of July occurring in the second year after the expiration of the year in which the tax became payable.

Publication.

82. (1) The Collector shall give notice of every such sale by publication in three consecutive weekly issues of a newspaper published in the Territory nearest to the location of the lands to be sold, and once in the *Yukon Gazette*.

(2) The first publication of the notice of sale shall be made not less than sixty days before the date of the sale.

(3) Notice of sale published under this section shall state in respect to each claim

- (a) the name of the owner of the claim;
- (b) the name and description of the claim;
- (c) the amount of the unpaid taxes and penalties due and that will accrue due on the day of the sale;
- (d) the costs of advertising and other expenses;
- (e) the total amount of the tax, penalties, costs of advertising and other expenses; and
- (f) that if such total amount is not paid before the third Tuesday in the month of July, the claim will be offered for sale at public auction under the provisions of this Ordinance.

83. (1) On the day appointed for the sale of the claim, the Collector or his agent shall proceed to sell the claim at public auction to the highest bidder therefor. Tax sale.

(2) At such sale the Collector shall be authorized to receive a price equal to, or exceeding, the sum of the amounts due for taxes, penalties and costs in respect of the claim, which sum shall be the upset price and shall be the lowest amount for which the claim may be sold.

(3) Where the price realized at the sale exceeds the upset price, the Collector shall pay the balance to the owner of the claim, if he is known to the Collector, unless the claim sold is subject to a registered lien or encumbrance.

(4) If the owner of such claim is not known to or cannot be found by the Collector, or if such claim is subject to a registered lien or encumbrance, the Collector shall pay such balance into Court to abide the order of a judge.

(5) Upon the sale of a claim the Collector shall issue in triplicate an interim receipt in Form D to the purchaser for the full amount of the purchase price, and he shall deliver one of the interim receipts to the purchaser, and file one in the Land Registry Office, and retain and file one in his own office.

(6) Where the purchaser of any claim fails to pay immediately to the Collector the amount of the purchase price, the Collector forthwith shall put up again the claim for sale.

(7) Where there is no bid for, or no bid equal to the upset price of any claim, the Commissioner shall be declared to be the purchaser thereof.

84. Any mortgagee, judgment creditor or other person having an encumbrance or lien upon or against any claim advertised for sale under this Ordinance may pay the sum of the amounts due for taxes, penalties, costs of advertising and other expenses in respect of such claim to the Collector, and obtain a certificate to that effect from him, and thereupon shall be entitled to add the amount so paid to the principal sum due or owing on such mortgage, judgment, encumbrance or lien. Payment of tax by mortgagee.

Redemption.

85. (1) The owner of any claim sold for taxes may redeem the same at any time before the expiration of twelve months from the day of the sale by paying to the Collector the full amount for which the claim was sold, together with the interest thereon at the rate of twenty per cent per annum from the date of the sale until the date of such payment, and also the amount of any taxes and penalties which have accrued due in respect of such claim since the date of the sale.

(2) Upon receipt of a payment made under the provisions of subsection (1), the Collector shall issue to the owner a certificate that the claim has been redeemed and shall file a copy of the said certificate in the Land Registry Office, and at once shall notify the purchaser of such redemption, and request him to return to the Collector the interim receipt issued to him at the time of the sale, or produce to the Collector satisfactory evidence of its loss.

(3) Upon receipt of the interim receipt, or satisfactory evidence of its loss from the purchaser, the Collector shall pay to the purchaser the amount of the purchase money and interest thereon received from the owner.

(4) From the time of the issue of the notice of redemption to the purchaser under this section, he shall have no further right or interest in the claim.

86. (1) During the twelve month period of redemption, the owner shall have the right of possession of the claim, as fully as before the sale and during such period, but not after, the owner may remove from the claim such mining plant and buildings thereon as he may remove without damage to any tunnel or other mining development work begun, done or constructed upon the claim, and he shall be liable to the purchaser for any damage done to any such tunnel or works in such removal.

(2) Notwithstanding subsection (1), the purchaser of the claim shall have the right to protect the claim from spoilation and waste during the period of redemption.

Order of confirmation.

87. (1) No application for an order for confirmation of a sale of a claim or claims for taxes made under this Ordinance shall be heard by a judge until twelve months have elapsed since the date of the sale to be confirmed.

(2) Notice of such application shall be given by one publication in a newspaper published in the mining district where the claim or claims are situate, or, if there be no such newspaper, in a newspaper published in the Territory and circulating in that mining district, at least thirty days before the day on which the application will be made.

(3) In such notice, the name and description of the claim and the names of all persons appearing by the records of the Land Titles Office on the date of the sale to be confirmed, and of all persons appearing on the tax list to have any interest in the claim shall be set forth.

(4) Such publication shall constitute good and effective service of the notice upon any person having any interest in the claim sold.

88. (1) Application to confirm such sale may be made to the Court at any time after the expiry of the period mentioned in subsection (2) of section 87 by the Collector.

(2) Upon such application the production of an interim receipt for the price paid for the claim, signed by the Collector or his agent, shall be conclusive evidence that all conditions have existed, and all acts have been performed, and all requirements of this Ordinance in that behalf complied with that are necessary to entitle the applicant to the order of confirmation, except on proof of any one or more of the following:

- (a) fraud or collusion;
- (b) that all taxes have been paid previous to the sale; or
- (c) that the claim was not liable to assessment.

89. (1) Upon the granting of an order of a judge confirming the sale, the Collector shall notify the purchaser, other than the Commissioner, that such order has been granted, and that upon receipt of a payment of ten dollars, and the purchaser's interim receipt he will issue to the purchaser a transfer of the claim in Form E. Transfer on sale.

(2) Upon receipt of the payment of ten dollars and the purchaser's interim receipt, or, if the Commissioner is the purchaser, immediately after the granting of the order, the Collector shall issue and deliver to the purchaser a transfer in Form E, which shall be as effective to transfer and convey all the estate of the owner of the claim sold as if the same had been executed and delivered by such owner to such purchaser, and as if such claim were free of all liens and encumbrances.

90. All moneys received by the Collector under the provisions of this Ordinance shall be paid over to the Territorial Treasurer for the use of the Territory, and shall form a part of the Yukon Consolidated Revenue Fund. Taxes paid to Treasurer.

91. The Commissioner may transfer and convey to Her Majesty in the right of Canada any claims which have become vested in the Commissioner, or in Her Majesty in right of the Yukon Territory, by virtue of any tax sale proceedings heretofore taken, or which may become so vested by virtue of tax sale proceedings taken in future, without the payment of any consideration for such transfer to the Territorial Government. Transfer to Crown.

FORM A.

DECLARATION OF TERRITORIAL ASSESSOR.

CANADA
YUKON TERRITORY
TO WIT:

I, (Name of Territorial Assessor), do solemnly declare that the within roll has been prepared by me, under the provisions of the *Taxation Ordinance*, as the assessment roll for the Yukon Territory, for the year _____, and that I have therein set out to the best of my judgment and ability the true value of the land and improvements within the said Territory which are subject to Territorial Assessments in accordance with the said Ordinance; 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 the _____
of _____ in the Yukon Territory, this _____ day of _____, 19 ____.

A *Commissioner for taking affidavits in and for the Yukon Territory.*

FORM B.

TERRITORIAL TAX SALE INTERIM RECEIPT No.....

Roll No.

Received from _____ (name) _____ (address)
(occupation) _____, the sum of _____ Dollars,
in payment of the following property purchased at tax sale
on the _____ day of _____ 19 _____,
(here describe the land in accordance to Lot, Block Sub-
division and Townsite or Lot and Group, as the case requires)
in the Yukon Territory.

This receipt to be surrendered to the Territorial Tax Collector on delivery to purchaser of transfer of the above property under section 65 of the *Taxation Ordinance*.

*Territorial Tax Collector (or
Agent of Territorial Tax Collector)*

FORM C.

TERRITORIAL TAX TRANSFER.

I, _____ of _____, by
 virtue of authority vested in me to sell lands for arrears of
 Territorial taxes by the *Taxation Ordinance*, do hereby, in con-
 sideration of the sum of _____ Dollars paid to me by
 (name of transferee, his address and his occupation),
 transfer to the said _____ (name of transferee)
 all that piece of land being _____ (here describe the land accord-
 ing to Lot, Block, Subdivision and Townsite, or Lot and Group
 as the case requires), _____ in the Yukon Territory.

Dated the _____ day of _____, 19 _____

Signed by the above named _____

.....

In the presence of _____

.....

.....
*(Signature of Collector with
 official seal)*

(NOTE: Before this transfer is presented to the Registrar for
 registration in the Land Titles office the following affidavit
 must be completed and sworn)

AFFIDAVIT OF VALUE ANNEXED TO TRANSFER.

CANADA
YUKON TERRITORY
TO WIT:

I, (name of transferee or agent), of (address)
(occupation), make oath and say:

THAT I am the transferee (or agent of the transferee)
named in the annexed instrument and as such have a knowledge
of the property therein described.

THAT, in my belief the said property with all improvements
thereon and thereto is of the value of
Dollars, and no more.

SWORN to before me at the
of in the Yukon
Territory, this day of
, 19
A Commissioner for taking Affidavits
in and for the Yukon Territory.

FORM D.

CROWN GRANT TAX SALE INTERIM RECEIPT No.....

RECEIVED FROM (Name)
of (Address), (Occupation)
the sum of Dollars, in payment of the following
Crown Granted Mineral Claims purchased at a tax sale held
on the day of 19,
(Here describe the claim by name, if any, and by
Lot and Group number of the Claims)
in the Yukon Territory.

This receipt is to be surrendered to the Collector on delivery
to the above named purchaser of a transfer of the above claims
under section 83 of the *Taxation Ordinance*.

*Territorial Tax Collector (or Agent
of Territorial Tax Collector)*

FORM E.

TRANSFER OF CLAIM FOR TAXES.

I, _____ of _____ by virtue of authority vested in me to sell Crown Granted Mineral Claims for arrears of Territorial taxes by the *Taxation Ordinance*, do hereby, in consideration of the sum of _____ Dollars paid to me by

(name of Transferee, his address and his occupation), transfer to the said _____ (name of Transferee) all that piece of land which is described as _____ (here set out description of the claim or claims by Lot and Group numbers, and by name, if any), in the Yukon Territory.

DATED the _____ day of _____, 19 _____

Signed by the above named _____

In the presence of _____

(Signature of Collector with Official Seal)

AFFIDAVIT OF VALUE ANNEXED TO TRANSFER.

C A N A D A
YUKON TERRITORY
TO WIT:

I, _____ (name of Transferee or Agent), of _____ (Address) (Occupation) _____, make oath and say:

THAT, I am the transferee (or Agent of the Transferee) named in the annexed instrument and as such have a knowledge of the property therein described.

THAT, in my belief the said property with all improvements thereon and thereto is of the value of _____ Dollars, and no more.

SWORN to before me at the _____

of _____, in the Yukon

Territory, this _____ day of _____

, 19 _____

A Commissioner for taking Affidavits in and for the Yukon Territory.

CHAPTER 104.

**AN ORDINANCE RESPECTING TRANSFERS OF
LAND TO JOINT OWNERS.**

Short Title.

1. This Ordinance may be cited as the *Tenants in Common Ordinance*.

Owners to hold as tenants in common unless intention otherwise.

2. Where by letters patent, transfer, conveyance, assurance, will or other assignment, land or an 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, transfer, conveyance, assurance, will or other assignment that they are to take such land or interest in land as joint tenants.

CHAPTER 105.

AN ORDINANCE RESPECTING TRUSTEES AND EXECUTORS AND THE ADMINISTRATION OF ESTATES.

SHORT TITLE.

1. This Ordinance may be cited as the *Trustee Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance, "trustee" includes an executor or administrator and a trustee whose trust arises by construction or implication of law as well as an express trustee, and includes several joint trustees. Definition of "trustee".

INVESTMENTS.

3. (1) Trustees having in their hands trust money that it is in their discretion to invest at interest may, subject to the terms of the trust, invest trust money in Investments by trustees.

- (a) securities that are a first charge upon land in the Territory or any province of Canada; and
- (b) the debentures or securities of the Government of Canada, of the Territory or of any of the provinces of Canada or any debentures or securities the payment of which is guaranteed by the Government of Canada, by the Territory or by any province of Canada, if such investments are in other respects reasonable and proper.

(2) Trustees may at their discretion call in any trust funds invested in securities other than those mentioned in subsection (1) and invest the trust funds in any stock, debentures, or securities of a nature authorized by this Ordinance, and vary any such investments for others of the same nature.

(3) Money already invested in the manner authorized by subsection (1) shall be held and taken to have been lawfully and properly invested.

4. (1) A trustee may, unless expressly forbidden by the instrument, if any, creating the trust, deposit trust funds in his hands with or invest such funds in terminable debentures or debenture stock of a society or company mentioned in subsection (2), if such deposit or investment is in other respects reasonable and proper, the debentures are registered and are transferable only on the books of the society or company in his name as trustee for the particular trust estate for which they are held and the deposit account in the ledger of the company or society is in the name of the trustee for the particular trust estate for which it is held and the deposit, receipt or pass book is not transferable by indorsement or otherwise. Trustees may invest or deposit trust funds in certain debentures or debenture stock.

(2) An incorporated society or company authorized to lend money upon mortgages on real estate and having a capitalized, fixed paid up and permanent stock not liable to be withdrawn amounting to at least four hundred thousand dollars and a reserve fund of not less than twenty-five per cent of its paid up capital, and the stock of which has a market value of not less than seven per cent premium, is a society or company for the purposes of subsection (1).

(3) The trustees may from time to time vary any investments authorized by this section.

(4) No deposits or investments shall be made under the authority of this section with or in the debentures or debenture stock of any society or company that has not obtained an order of the Commissioner approving of the deposits or investments, and such approval shall not be granted to any society or company that does not appear to have kept strictly within its legal powers in relation to borrowing and investment.

(5) The Commissioner may at any time revoke an order approving of deposits with or investments in the debentures or debenture stock of any society or company, and such revocation does not affect the propriety of deposits or investments made before revocation.

Additional powers given.

5. The powers conferred by sections 3 and 4 are in addition to the powers conferred by the instrument, if any, creating the trust; but nothing in this Ordinance authorizes a trustee to do anything that he is in express terms forbidden to do or to omit anything that he is in express terms directed to do by the instrument creating the trust.

When trustee not chargeable on insufficient security.

6. (1) No trustee lending money upon the security of property is chargeable with breach of trust, by reason only of the proportion borne by the amount of the loan to the value of the property at the time when the loan was made where it appears to the court that in making the loan the trustee was acting upon a report as to the value of the property made by a person whom the trustee reasonably believed to be an able practical surveyor or valuer instructed and employed independently of any owner of the property whether such surveyor or valuer carried on business in the locality where the property is situated or elsewhere and that the amount of the loan does not exceed two-thirds of the value of the property as stated in the report and that the loan was made under the advice of the surveyor or valuer expressed in the report.

(2) This section applies to a loan upon property upon the security of which the trustee can lawfully lend and to transfers of existing securities as well as to new securities and to investments made as well before as after the commencement of this Ordinance.

7. Where a trustee has improperly advanced trust money on mortgage security that would at the time of the investment have been a proper investment in all respects for a less sum than was actually advanced thereon the security shall be deemed an authorized investment for such less sum and the trustee is only liable to make good the sum advanced in excess thereof with interest.

Trustees lending more than authorized amount.

8. No trustee is liable for breach of trust by reason only of his continuing to hold an investment that has ceased to be an investment authorized by the instrument of trust or by the general law.

Liability in case of change of character of investment.

RIGHTS AND LIABILITIES OF TRUSTEES.

9. Every deed, will or other document creating a trust either expressly or by implication shall without prejudice to the clauses actually contained therein be deemed to contain a clause in the words or to the effect following, that is to say:

Every trust instrument to be deemed to contain clause for the indemnity and reimbursement of the trustees.

“That the trustees or trustee for the time being of the said deed, will or other instrument shall be respectively chargeable only for such moneys, stocks, funds and securities as they shall respectively actually receive notwithstanding their respectively signing any receipt for the sake of conformity and shall be answerable and accountable only for their own acts, receipts, neglects or defaults and not for those of each other nor for any banker, broker or other person with whom any trust moneys or securities may be deposited; nor for the insufficiency or deficiency of any stocks, funds or securities nor for any other loss unless the same shall happen through their own wilful neglect or default respectively; and also that it shall be lawful for the trustees or trustee for the time being of the said deed, will or other instrument to reimburse themselves or himself or pay or discharge out of the trust premises all expenses incurred in or about the execution of the trusts or powers of the said deed, will or other instrument.”

10. (1) Whenever it is expedient to appoint one or more trustees, and it is inexpedient, difficult or impracticable so to do without the assistance of the court, a judge may make an order for the appointment of a new trustee or new trustees, either in substitution for or in addition to any existing trustee or trustees, or although there is no existing trustee; and in particular, and without limiting the generality of the foregoing provision, the judge may make an order for the appointment of a new trustee in substitution for a trustee who is convicted of an indictable offence, or is insolvent.

Appointment of new trustees by judge.

(2) No order under subsection (1) or a consequential vesting order or conveyance shall operate further or otherwise as a discharge to any former or continuing trustee than an appointment of new trustees under a power for that purpose contained in an instrument would have operated.

(3) Nothing in this section gives power to appoint a personal representative.

Appointment of new trustees by surviving or continuing trustees.

11. (1) Where a trustee dies or desires to be discharged from the trust or refuses or becomes unfit to act or incapable of acting therein, the person nominated for that purpose by the deed, will or other instrument creating the trust, if any, or if there be no such person, or no such person able and willing to act, then the surviving or continuing trustees or the personal representative of the last surviving and continuing trustee, may appoint any other person or persons to be a trustee or trustees in place of the trustee or trustees dying, or desiring to be discharged, or refusing, or becoming unfit, or incapable of acting.

(2) So often as any new trustee or trustees is or are appointed under subsection (1) all the trust property that for the time being is vested in the surviving or continuing trustees or trustee or in the heirs, executors or administrators of any trustee or trustees shall with all convenient speed be assigned and transferred so that the same may be legally and effectually vested in such new trustee or trustees either solely or jointly with the surviving or continuing trustees or a surviving or continuing trustee as the case may require.

(3) Every new trustee, as well before as after a conveyance, assignment or transfer pursuant to subsection (2), and every trustee appointed by the judge, shall have the same powers, authorities and discretions, and shall in all respects act as if he had originally been nominated a trustee by the deed, will or other instrument creating the trust.

12. On the appointment of a new trustee for the whole or any part of trust property

Increase in number of trustees.

(a) the number of trustees may be increased;

Separate trustees for part of trust property.

(b) a separate set of trustees may be appointed for any part of the trust property held on trusts distinct from those relating to any other part of the trust property notwithstanding that no new trustees or trustee are or is to be appointed for other parts of the trust property and any existing trustee may be appointed or remain one of such separate set of trustees; or, if only one trustee was originally appointed, then one separate trustee may be so appointed for any such part of the trust property;

Minimum number of trustees.

(c) it is not obligatory to appoint more than one new trustee where only one trustee was originally appointed, or to fill up the original number of trustees where more than two trustees were originally appointed; but, except where only one trustee was originally appointed, a trustee is not discharged under section 11 from his trust unless there remain at least two trustees to perform the trust; and

(d) any assurance or thing requisite for vesting the trust property or any part thereof jointly in the persons who are the trustees shall be executed or done. Vesting of trust property.

13. Every new trustee appointed has, as well before as after the trust property becomes by law or by assurance or otherwise vested in him, the same powers, authorities and discretions and may in all respects act as if he had been originally appointed a trustee by the instrument, if any, creating the trust. Powers of new trustee.

14. The provisions of this Ordinance relative to a trustee who has died include the case of a person nominated trustee in a will but dying before the testator, and those relative to a continuing trustee include a refusing or retiring trustee if willing to act in the execution of the provisions of section 11. Interpretation of certain provisions.

15. Sections 11 to 14 apply only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust and shall have effect subject to the terms of that instrument. Application of sections 11 to 14.

16. (1) Where there are more than two trustees, if one of them by deed declares that he is desirous of being discharged from the trust, and if his co-trustees and such other person, if any, as is empowered to appoint trustees, consent by deed to the discharge and to the vesting of the trust property in the co-trustees alone, then the trustee desirous of being discharged shall be deemed to have retired from the trust and shall, by the deed, be discharged therefrom without any new trustee being appointed in his place. Discharge of retiring trustee.

(2) Any assurance or thing requisite for vesting the trust property in the continuing trustees alone shall be executed or done.

(3) This section applies only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust and shall have effect subject to the terms of that instrument.

17. (1) Where an instrument by which a new trustee is appointed to perform any trust contains a declaration by the appointor to the effect that any estate or interest in any land subject to the trust, or in any chattel so subject, or the right to recover and receive any debt or other thing in action so subjected shall vest in the persons who by virtue of such instrument become and are the trustees for performing the trust, that declaration shall, without any conveyance or assignment but subject to the provisions of the *Land Titles Act*, operate to vest in these persons as joint tenants and for the purposes of the trust, that estate, interest or right. Vesting of trust property in new or continuing trustees without conveyance.

(2) Where an instrument by which a retiring trustee is discharged under this Ordinance contains a declaration made under this section by the retiring and continuing trustees and by the

other person, if any, empowered to appoint trustees, such declaration shall, without any conveyance or assignment but subject to the conditions in subsection (1), operate to vest in the continuing trustees alone as joint tenants and for the purposes of the trust, the estate, interest or right to which the declaration relates.

(3) This section does not extend to any share, stock, annuity or property transferable only in books kept by a company or other body, or in manner prescribed by or under any Ordinance.

(4) For the purposes of registration of an instrument the person or persons making the declaration shall be deemed the conveying party or parties and the conveyance shall be deemed to be made by him or them under a power conferred by this Ordinance.

Trustee's death.

18. Where an estate or interest of inheritance in real property is vested on an express trust in any person solely, the estate or interest shall on his death, notwithstanding any testamentary disposition, devolve to and become vested in his executor or administrator in like manner as if the same were personal estate vesting in him and, accordingly, all the like powers for one only of several joint executors or administrators as well as for a single executor or administrator and for all the executors and administrators together to dispose of and otherwise deal with the same shall belong to the deceased's executor or administrator with all obligations as if the same were personal estate vesting in him, and for the purposes of this section the executor or administrator of the deceased shall be deemed in law his heirs and assigns within the meaning of all trusts and powers.

PURCHASE AND SALE.

Power of trustee for sale to sell by auction, etc.

19. (1) Where a trust for sale or a power of sale of property is vested in a trustee he may sell or concur with any other person in selling all or any part of the property either subject to prior charges or not, and either together or in lots by public auction or by private contract subject to any such conditions respecting title or evidence of title or any other matter as the trustee thinks fit with power to vary any contract for sale and to buy in at any auction or to rescind any contract for sale and to resell without being answerable for any loss.

(2) This section applies only if and as far as a contrary intention is not expressed in the instrument creating the trust or power and shall have effect subject to the terms of that instrument and to the provisions therein contained.

Power to sell subject to depreciatory conditions.

20. (1) No sale made by a trustee shall be impeached by any beneficiary upon the ground that any of the conditions subject to which the sale was made may have been unnecessarily depreciatory unless it also appears that the consideration for the sale was thereby rendered inadequate.

(2) No sale made by a trustee shall after the execution of the conveyance be impeached as against the purchaser upon the ground that any of the conditions subject to which the sale was made may have been unnecessarily depreciatory unless it appears that the purchaser was acting in collusion with the trustee at the time when the contract for sale was made.

(3) No purchaser upon any sale made by a trustee shall be at liberty to make any objection against the title upon the grounds in this section mentioned.

21. Upon the death of a bare trustee of any corporeal or incorporeal hereditaments of which such trustee was seized in fee simple the hereditaments shall vest in the legal personal representative, from time to time, of such trustee.

Fee simple estates of bare trustee to vest in their personal representatives.

22. Where a freehold hereditament is vested in a married woman as bare trustee she may convey or surrender the same as if she were a *feme sole* and without her husband joining in the conveyance.

Conveyances by married woman as bare trustee.

23. (1) Where in the management or administration of property vested in trustees, a sale, lease, mortgage, surrender, release or other disposition, or a purchase, investment, acquisition, expenditure or other transaction, is in the opinion of a judge expedient, but the same cannot be effected by reason of the absence of any power for that purpose vested in the trustees by the trust instrument, if any, or by law, the judge may by order confer upon the trustees, either generally or in any particular instance, the necessary power for the purpose, on such terms, and subject to such provisions and conditions, if any, as the judge may think fit and may direct in what manner any money authorized to be expended, and the costs of any transaction, are to be paid or borne as between capital and income.

Power of judge to make order.

(2) A judge may, from time to time, rescind or vary any order made under this section, or may make any new further order.

(3) An application to a judge under this section may be made by the trustees, or by any of them, or by any person beneficially interested under the trust.

24. The bona fide payment of any money to and the receipt thereof by any person to whom the same is payable upon any express or implied trust, or for any limited purpose, and such payment to and receipt by the survivors or survivor of two or more mortgagees or holders or the executors or administrators of such survivors or survivor on their or his assigns, effectually discharges the person paying the same from seeing to the application or being answerable for the misapplication thereof, unless the contrary is expressly declared by the instrument creating the trust or security.

Receipts of trustees effectual discharges.

VARIOUS POWERS AND LIABILITIES.

Appointment of agents by trustees for certain purposes.

25. (1) A trustee may appoint a solicitor to be his agent to receive and give a discharge for any money or any valuable consideration or property receivable by such trustee under the trust; and no trustee shall be chargeable with breach of trust by reason only of his having made or concurred in making the appointment; but nothing in this section exempts a trustee from any liability that he would have incurred but for this section for permitting such money, valuable consideration or property to remain in the hands or under the control of the solicitor for a period longer than is reasonably necessary to enable the solicitor to pay or transfer the same to the trustee.

(2) A trustee may appoint a chartered bank or solicitor to be his agent to receive and give a discharge for any money payable to such trustee under or by virtue of a policy of assurance or otherwise; and no trustee shall be chargeable with a breach of trust by reason only of his having made or concurred in making any such appointment; but nothing in this section exempts a trustee from any liability that he would have incurred but for this section for permitting such money to remain in the hands or under the control of the bank or solicitor for a period longer than is reasonably necessary to enable him to pay the same to the trustee.

Powers of trustees to insure property.

26. (1) A trustee may insure against loss or damage by fire any building or other insurable property to any amount, including the amount of any insurance then in effect, not exceeding three-fourth parts of the full value of such building or property and to pay the premiums for such insurance out of the income thereof or out of the income of any other property subject to the same trusts without obtaining the consent of any person entitled wholly or partly to such income.

(2) This section does not apply to any building or property that a trustee is bound forthwith to convey absolutely to any *cestui que trust* upon being requested to do so.

Trustee committing breach of trust at instigation of beneficiary.

27. Where a trustee has committed a breach of trust at the instigation or request or with the consent in writing of a beneficiary, a judge may, if he thinks fit, and notwithstanding that the beneficiary is a married woman entitled for her separate use, whether with or without a restraint upon anticipation, make such order as to the judge seems just for impounding all or any part of the interest of the beneficiary in the trust estate by way of indemnity to the trustee or person claiming through him.

Powers of trustee to give receipts.

28. The receipt in writing of any trustee for any money, securities or other personal property or effects payable, transferable or deliverable to him under any trust or power is a sufficient discharge for the same and effectually exonerates the person paying, transferring or delivering the same from seeing to the application or being answerable for any loss or misapplication thereof.

29. (1) An executor or administrator or two or more trustees, acting together, or a sole acting trustee where by the instrument, if any, creating the trust a sole trustee is authorized to execute the trusts and powers thereof may, if and as he or they may think fit, accept any composition or any security real or personal for any debt or for any property real or personal claimed and may allow any time for payment for any debt and may compromise, compound, abandon, submit to arbitration or otherwise settle any debt, account, claim or thing whatever relating to the testator's or intestate's estate or to the trust, and for any of these purposes may enter into, give and execute such agreements, instruments of composition or arrangement and releases and do such other things as to him or them seem expedient without being responsible for any loss occasioned by any act or thing so done by him or them in good faith.

Power for executors, administrators, trustees to compound, etc.

(2) This section applies only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust and shall have effect subject to the terms of that instrument.

30. Where a power or trust is given to or vested in two or more trustees jointly then unless the contrary is expressed in the instrument, if any, creating the power or trust the same may be exercised or performed by the survivor or survivors of them for the time being.

Powers of surviving trustees.

31. (1) A trustee acting or paying money in good faith under or in pursuance of any power of attorney is not liable for any such act or payment by reason of the fact that at the time of the payment or act the person who gave the power of attorney was dead or had done some act to avoid the power if this fact was not known to the trustee at the time of his so acting or paying.

Exoneraton of trustee in respect of certain powers of attorney.

(2) Nothing in this section affects the right of any person entitled to the money against the person to whom the payment is made and the person so entitled shall have the same remedy against the person to whom the payment is made as he would have had against the trustee.

MAINTENANCE OF INFANTS.

32. Where any property is held by trustees in trust for an infant, either absolutely or contingently on his attaining the age of twenty-one years or on the occurrence of any event previously to his attaining that age, the trustees may at their sole discretion pay to the guardians, if any, of such infant, or otherwise apply for or towards the maintenance of education of such infant, the whole or any part of the income to which such infant may be entitled in respect of such property whether there be any fund applicable to the same purpose or any other person bound by law to provide for such maintenance or education or not, and such trustees shall accumulate all the residue of such income by way of compound interest by investing the

In case property held in trust for infant, trustees may apply income for maintenance of infant.

same and the resulting income thereof from time to time in proper securities for the benefit of the person who ultimately becomes entitled to the property from which such accumulation arose; but such trustees at any time if it appears to them expedient may apply the whole or any part of such accumulations as if the same were part of the income arising in the then current year.

Property held in trust for infants may be sold by leave of judge.

33. Where any property either real or personal is held by trustees in trust for an infant either absolutely or contingently on his attaining the age of twenty-one years or on the occurrence of any event previously to his attaining that age and where the income arising from such property is insufficient for the maintenance and education of such infant the trustee by leave of a judge to be obtained in a summary manner, may sell and dispose of any portion of such real or personal property and pay the whole or any part of the money arising from the sale to the guardians, if any, of the infant or otherwise to be applied for or towards the maintenance or education of such infant; and in the event of the whole of the money arising from any sale of the real or personal property not being immediately required for the maintenance and education of such infant then the said trustees shall invest the surplus moneys and the resulting income therefrom from time to time in proper securities and shall apply such moneys and the proceeds thereof from time to time for the education and maintenance of such infant and shall hold all the residue of the moneys and interest thereon not required for the education and maintenance of such infant for the benefit of the person who ultimately becomes entitled to the property from which such moneys and interest have arisen.

PAYMENT INTO COURT—RELIEF.

Trustees may pay trust moneys or securities into Court.

34. (1) Trustees, or the majority of trustees, having in their hands or under their control money or securities belonging to a trust, or to the estate of a deceased person, may as provided in the *Judicature Ordinance* pay the same into Court; and the same shall subject to the Rules of Court be dealt with according to the order of a judge.

(2) The receipt or certificate of the Clerk of the Court shall be a sufficient discharge to trustees for the money or securities so paid into Court.

(3) Where any moneys or securities are vested in any persons as trustees and the majority are desirous of paying the same into Court but the concurrence of the other or others cannot be obtained a judge may order the payment into Court to be made by the majority without the concurrence of the other or others, and where any such moneys or securities are deposited with any banker, broker or other depository, a judge may order payment or delivery of the moneys or securities to the majority of the trustees for the purpose of payment into Court and every transfer, payment and delivery made in pursuance of

any such order is valid and takes effect as if the same had been made on the authority or by the act of all the persons entitled to the moneys and securities so transferred, paid or delivered.

35. Whenever in any proceeding affecting trustees or trust property it appears to the Court that a trustee whether appointed by the Court or by an instrument in writing or otherwise, or that any person who in law may be held to be fiduciarily responsible as a trustee, is or may be personally liable for any breach whether the transaction alleged or found to be a breach of trust occurred before or after the passing of this Ordinance but has acted honestly and reasonably and ought fairly to be excused for the breach of trust and for omitting to obtain the directions of the Court in the matter in which he committed such breach then the Court may relieve the trustee either wholly or partly from personal liability for the same.

Relief of trustees committing technical breach of trust.

RIGHTS AND LIABILITIES OF EXECUTORS AND ADMINISTRATORS.

36. The executors or administrators of a deceased person may maintain an action for all torts or injuries to the person or to the real or personal estate of the deceased except in cases of libel and slander, in the same manner and with the same rights and remedies as the deceased would, if living, have been entitled to do; and the damages when recovered shall form part of the personal estate of the deceased; but such action shall be brought within one year after his decease.

Action by executors and administrators for torts.

37. Where any deceased person committed a wrong to another in respect of his person or of his real or personal property, except in cases of libel and slander, the person so wronged may maintain an action against the executors or administrators of the person who committed the wrong; but such action shall be brought within one year after the decease.

Actions against executors and administrators for torts.

38. In estimating the damages in any action under section 36 or 37 the benefit, gain, profit or advantage that in consequence of or resulting from the wrong committed may have accrued to the estate of the person who committed the wrong shall be taken into consideration and shall form part or may constitute the whole of the damages to be recovered, whether or not any property or the proceeds of value of property belonging to the person bringing the action or to his estate has or have been appropriated by or added to the estate or moneys of the person who committed the wrong.

Damages in actions under two preceding sections.

39. (1) The executors or administrators of a lessor may distrain upon the lands demised for any terms or at will for the arrears of rent due to the lessor in his lifetime in like manner as such lessor might have done if living.

Executors or administrators of a lessor may distrain for arrears.

(2) The arrears mentioned in this section may be distrained for at any time within six months after the determination of the

term of lease and during the continuance of the possession of the tenant from whom the arrears became due; and the law relating to distress for rent is applicable to the distress so made.

Representatives of deceased joint contractors liable although the other joint contractors be living.

40. Where one or more joint contractors, obligors or partners die, the person interested in the contract, obligation or promise entered into by such joint contractors, obligors or partners may proceed by action against the representatives of the deceased contractor, obligor or partner in the same manner as if the contract, obligation or promise had been joint and several, notwithstanding that there may be another person liable under the contract, obligation or promise still living, and an action pending against such person; but the property and effects of stockholders in chartered banks or the members of other incorporated companies are not liable to a greater extent than they would have been if this section had not been passed.

Devisee in trust may raise money by sale or mortgage to satisfy charges notwithstanding want of express power in will.

41. Where by any will a testator charges his real estate or any specific portion thereof with the payment of his debts or with the payment of any legacy or other specific sum of money and devises the estate so charged to any trustee or trustees for the whole of his estate or interest therein and does not make any express provision for the raising of such debts, legacy or sum of money out of such estate the said trustee or trustees notwithstanding any trusts actually declared by the testator may raise such debt, legacy or money by a sale and absolute disposition by public auction or private contract of the said real estate or any part thereof or by a mortgage of the same or partly in one mode and partly in the other and a mortgage so executed may reserve such rate of interest and fix such period of repayment as the person or persons executing the same think proper.

Power given by preceding section extended to survivors, devisees, etc.

42. The powers conferred by section 41 extend to every person in whom the estate devised is for the time being vested by survivorship, descent or devise, or to any person appointed under any power in the will or by the Court to succeed to the trusts created by the will.

Purchasers, etc., not bound to inquire as to exercise of powers.

43. Purchasers or mortgagees are not bound to inquire whether the powers conferred by sections 41 and 42 or any of them have been duly and correctly exercised by the person or persons acting in virtue thereof.

Directions to sell, etc., may be exercised by executor when no other person is appointed to exercise same.

44. Where there is in any will or codicil of a deceased person a direction, whether express or implied, to sell, dispose of, appoint, mortgage, encumber or lease any real estate and no person is by the said will, or some codicil thereto, or otherwise by the testator appointed to execute and carry the same into effect, the executors, if any, named in the will or codicil shall execute and carry into effect every such direction to sell, dispose of, appoint, encumber or lease such real estate, and any estate

or interest therein in as full, large and ample a manner and with the same legal effect as if the executors were appointed by the testator to execute and carry the same into effect.

45. Where in a will or codicil thereto power is given to an executor or executors to sell, dispose of, appoint, mortgage, encumber or lease any real estate, or any estate or interest therein, whether such power is express or arises by implication, and where from any cause letters of administration with such will annexed have been committed by a court of competent jurisdiction to any person and such person has given the security required by this Ordinance such person shall exercise every such power and sell, dispose of, appoint, mortgage, encumber or lease such real estate and any estate or interest therein in as full, large and ample a manner and with the same legal effect as if such last named person had been appointed by the testator to execute such power.

Administrator with will annexed may exercise powers of sale given to the executor.

46. Where a person has entered into a contract in writing for the sale and conveyance of real estate, or any estate or interest therein, and such person has died intestate, or without providing by will for the conveyance of such real estate, or estate or interest therein, to the person entitled or to become entitled to such conveyance under such contract then, if the deceased would be liable to execute a conveyance were he alive, the executor, administrator or administrator with the will annexed, as the case may be, of the deceased person, shall give to the person entitled to the same a good and sufficient conveyance or conveyances of such estates and of such nature as the said deceased, if living, would be liable to give; and such conveyances are as valid and effectual as if the deceased were alive at the time of the making thereof and had executed the same but shall not have any further validity.

Or when no person named in the will to execute powers of sale.

47. Every executor, administrator and administrator with the will annexed shall, as respects the additional powers vested in him by this Ordinance and any money or assets by him received in consequence of the exercise of such powers, be subject to all the liabilities and compellable to discharge all the duties of whatsoever kind that as respects the acts to be done by him under such powers would have been imposed upon an executor or other person appointed by the testator to execute the same or in case of there being no such executor or person would have been imposed by law or by any court of competent jurisdiction.

Duties and liabilities of an executor and administrator acting under the powers of this Ordinance.

48. (1) Where there are several executors, administrators or administrators with the will annexed and one or more of them die, the powers created by this Ordinance shall vest in the survivor or survivors.

Powers given by this Ordinance to two or more vest in survivors.

In case of deficiency of assets debts to rank *pari passu*.

(2) On the administration of the estate of a deceased person, in case of the deficiency of assets, debts due to the Crown and to the executor or administrator of the deceased person, and debts to others including therein respectively debts by judgment or order, and other debts of record, debts by speciality, simple contract debts, and such claims for damages as by any ordinance are payable in like order or administration as simple contract debts, shall be paid *pari passu* and without any preference or priority of debts of one rank or nature over those of another; but nothing in this section contained shall prejudice any lien existing during the lifetime of the debtor on any of his real or personal estate.

If claims rejected and notice given an action must be brought within a certain period.

49. (1) Where the executor or administrator gives to any creditor or other person of whose claims against the estate he has notice, or to the solicitor or agent of such creditor or other person, notice in writing that he disputes the claim and that he intends to avail himself of this section, such creditor or other person shall commence his action in respect of the claim within six months after the notice is given in case the debt or some part thereof is due at the time of the notice or within three months from the time the debt or some part thereof falls due if no part thereof is due at the time of the notice, and in default the claim shall be forever barred.

(2) Unless the creditor or other person within ten days after the receipt of the notice notifies the executor or administrator that he withdraws his claim, such executor or administrator may, if he thinks fit, apply to a judge for an originating summons calling upon such creditor or other person to establish his claim and upon the return of such summons the judge may allow or bar the claim or make such other order as to him may seem meet with or without costs against either party.

As to liability of executor or administrator in respect of covenants, etc., in leases.

50. (1) Where an executor or administrator liable as such to the rents, covenants or agreements contained in any lease or agreement for a lease granted or assigned to the testator or intestate whose estate is being administered, has satisfied all such liabilities under the said lease or agreement for a lease as have accrued due and been claimed up to the time of the assignment hereinafter mentioned and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised, or agreed to be demised, although the period for laying out the same may not have arrived, and has assigned the lease or agreement to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and among the persons entitled thereto respectively without appropriating any part or any further part, as the case may be, of the estate of the deceased to meet any future liability under the said lease or agreement for a lease; and the executor or administrator shall not, after having

assigned the lease or agreement and having, where necessary, set apart such sufficient fund, be personally liable in respect of any subsequent claim under the said lease or agreement.

(2) Nothing in this section prejudices the right of the lessor or those claiming under him to follow the assets of the deceased into the hands of the person or persons to or amongst whom the said assets may have been distributed.

51. (1) Where an executor or administrator liable as such to the rents, covenants or agreements contained in any conveyance or rent charge, whether such rent be by limitation of use, grant or reservation or agreement for such conveyance, granted or assigned to or made and entered into with the testator or intestate whose estate is being administered, has satisfied all such liabilities under the said conveyance or agreement for a conveyance as may have accrued due and been claimed up to the time of the conveyance hereinafter mentioned and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the grantee to be laid out on the property conveyed or agreed to be conveyed, although the period for laying out the same may not have arrived, and has conveyed such property or assigned the said agreement for such conveyance to a purchaser, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the persons entitled thereto respectively without appropriating any part or any further part, as the case may be, of the estate of the deceased to meet any future liability under the said conveyance or agreement for a conveyance; and the executor or administrator so distributing the residuary estate shall not, after having made or executed such conveyance or assignment and having, where necessary, set apart such sufficient fund, be personally liable in respect of any subsequent claim under the said conveyance or agreement for conveyance.

As to liability of executor or administrator in respect of rents, etc., in conveyances or rent charges, etc.

(2) Nothing in this section prejudices the right of the grantor or those claiming under him to follow the assets of the deceased into the hands of the person or persons to or among whom the said assets may have been distributed.

52. (1) Where a trustee or assignee acting under the trusts of a deed or assignment for the benefit of a particular class or classes of creditors in which the creditors are not designated by name, or an executor or an administrator has given such or the like notices as in the opinion of the court in which such trustee, assignee, executor or administrator is sought to be charged, would have been given by the court in an action for the execution of the trusts of the deed or assignment or in an administration suit, for creditors and others to send in their claims against the person for the benefit of whose creditors such deed or assignment is made or against the estate of the testator or intestate, the trustee, assignee, executor or administrator shall, at the expiration of the time named in the notices or the last of the

Notices to creditor.

notices for sending in claims, be at liberty to distribute the proceeds of the trust estate or the assets of the testator or intestate, as the case may be, or any part thereof, among the persons entitled thereto having regard to the claims of which the trustee, assignee, executor or administrator has then notice, and shall not be liable for the proceeds of the trust estate or assets, or any part thereof so distributed to any person of whose claim the trustee, assignee, executor or administrator had notice at the time of the distribution thereof or a part thereof, as the case may be.

(2) Nothing in this section prejudices the right of any creditor or claimant to follow the proceeds of the trust estate or the assets, or any part thereof, into the hands of the person or persons who may have received the same respectively.

SUMMARY APPLICATION TO COURT FOR ADVICE.

Trustee, etc., may apply for advice on management of trust property.

53. (1) Any trustee, guardian, executor or administrator may without the institution of an action apply to a judge in the maner prescribed by Rules of Court for the opinion, advice or direction of the judge on any question respecting the management or administration of the trust property or the assets of a testator or intestate.

(2) The trustee, guardian, executor or administrator acting upon the opinion, advice or direction given by a judge is deemed so far as regards his own responsibility to have discharged his duty as trustee, guardian, executor or administrator in the subject matter of the application, unless he has been guilty of any fraud or wilful concealment or misrepresentation in obtaining the opinion, advice or direction.

ALLOWANCE TO TRUSTEES, ETC.

Allowance to trustees.

54. A trustee under a deed, settlement or will, an executor or administrator, a guardian appointed by a court and testamentary guardian or other trustee, howsoever the trust is created, is entitled to such fair and reasonable allowance for his care, pains and trouble and his time expended in and about the trust estate as may be allowed by a judge.

Allowance to be made although the estate not before the judge.

55. Where application is made to a judge for the purpose of settling the amount of compensation allowed by section 54, the judge may settle such amount although the trust estate is not before a judge in any action.

Judge may order an allowance to executor, etc., out of the estate for his trouble.

56. A judge may allow to the executor or trustee or administrator acting under a will or letters of administration a fair and reasonable allowance for his care, pains and trouble and his time expended in or about the executorship, trusteeship or administration of the estate and effects vested in him under the will or letters of administration, and in administering, disposing of and arranging and settling the same and generally in arranging

and settling the affairs of the estate and may make orders from time to time therefor, and compensation shall be allowed to an executor, trustee or administrator in passing his accounts.

57. Sections 54, 55 and 56 do not apply where the allowance is fixed by the instrument creating the trust. Where allowance fixed by instrument.

58. Where a solicitor is a trustee, guardian or personal representative and has rendered necessary professional services to the estate, regard may be had, in making his allowance, to that circumstance, and the allowance shall be increased by such amount as may be deemed fair and reasonable in respect of these services. Solicitor entitled to profit costs.

JUDICIAL TRUSTEES.

59. (1) Where application is made to a judge by or on behalf of the person creating or intending to create a trust or by or on behalf of a trustee or beneficiary the judge may in his discretion appoint a person (in this Ordinance called a judicial trustee) to be a trustee of the trust either jointly with any other person or as sole trustee, and if sufficient cause is shown, in place of all or any existing trustees. Power of judge to appoint judicial trustee.

(2) The administration of the property of a deceased person whether a testator or intestate shall be a trust and the executor or administrator shall be a trustee within the meaning of this section.

(3) Any fit and proper person nominated for the purpose in the application may be appointed a judicial trustee and in the absence of such nomination or if the judge is not satisfied of the fitness of a person nominated, any other competent person may be appointed, and in any case a judicial trustee shall be subject to the control and supervision of a judge.

(4) A judge may either on request or without request give to a judicial trustee any general or special directions in regard to the trust or the administration thereof.

(5) There may be paid to a judicial trustee out of the trust property such remuneration not exceeding the prescribed limits as a judge may assign in each case and the remuneration so assigned to any judicial trustee shall, save as the judge may for special reasons otherwise order, cover all his work and personal outlay.

(6) Once in every year the accounts of every trust of which a judicial trustee has been appointed shall be audited and a report thereon made to a judge by the prescribed persons and in any case where a judge so directs an inquiry into the administration by a judicial trustee of any trust, or into any dealing or transaction of a judicial trustee shall be made in the prescribed manner.

CHAPTER 106.

AN ORDINANCE RESPECTING THE REGISTRATION
OF BIRTHS, MARRIAGES, DEATHS and OTHER
VITAL EVENTS.

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as the *Vital Statistics Ordinance*.

INTERPRETATION.

- Definitions. **2.** In this Ordinance,
- "Birth." (a) "birth" means the complete expulsion or extraction from its mother, irrespective of the duration of pregnancy, of a product of conception in which, after such expulsion or extraction, there is breathing, beating of the heart, pulsation of the umbilical cord, or unmistakable movement of voluntary muscle, whether or not the umbilical cord has been cut or the placenta is attached;
- "Burial permit." (b) "burial permit" means a permit to bury, cremate, remove or otherwise dispose of a dead body;
- "Cemetery." (c) "cemetery" means land set apart or used as a place for the interment or other disposal of dead bodies, and includes a vault, mausoleum and crematorium;
- "Cemetery owner." (d) "cemetery owner" includes the manager, superintendent, caretaker or other person in charge of a cemetery;
- "Certificate." (e) "certificate" means a certified extract of the prescribed particulars of a registration filed in the office of the Registrar General;
- "Cremation." (f) "cremation" means disposal of a dead body by incineration in a crematorium;
- "Registrar General." (g) "Registrar General" means the Registrar General of Vital Statistics provided for under this Ordinance;
- "District registrar." (h) "district registrar" means a district registrar appointed under this Ordinance;
- "Error." (i) "error" means incorrect information, and includes omission of information;
- "Funeral director." (j) "funeral director" means any person who takes charge of a dead body for the purpose of burial, cremation or other disposition;
- "Incapable." (k) "incapable" means unable because of death, illness, absence from the Territory or otherwise;
- "Indian." (l) "Indian" means an Indian within the meaning of the *Indian Act*;

- (m) "inspector" means an inspector of vital statistics provided for under this Ordinance; "Inspector."
- (n) "married woman" includes a woman who, within the period of gestation prior to the birth of the child in respect of whose birth an application for registration is made under this Ordinance, was lawfully married; "Married woman."
- (o) "occupier" means the person occupying any dwelling, and includes the person having the management or charge of any public or private institution where persons are cared for or confined, and the proprietor, manager, keeper or other person in charge of an hotel, inn, apartment, lodging-house or other dwelling or accommodation; "Occupier."
- (p) "prescribed" means prescribed by this Ordinance or the regulations; "Prescribed."
- (q) "registration district" means a registration district established under section 24; "Registration district."
- (r) "province" means a province of Canada and includes the Northwest Territories; "Province."
- (s) "state" means a state or territory of the United States of America and includes the District of Columbia; "State."
- (t) "stillbirth" means the complete expulsion or extraction from its mother after at least twenty-eight weeks pregnancy of a product of conception in which, after such expulsion or extraction, there is no breathing, beating of the heart, pulsation of the umbilical cord or unmistakable movement of voluntary muscle; and "Stillbirth."
- (u) "subregistrar" means a subregistrar appointed under this Ordinance. "Sub-registrar."

REGISTRATION OF BIRTHS AND STILLBIRTHS.

3. Every person who assists at the birth of a child in the Territory shall, within twenty-four hours thereafter, deliver or mail to the district registrar or subregistrar of the registration district in which the birth occurs a notice of the birth in Form H. Notice of births.

4. (1) The birth of every child born in the Territory shall be registered as provided in this Ordinance. Registration of births.

(2) Within thirty days after the day of the birth of a child in the Territory Statement respecting births.

- (a) the mother of the child,
- (b) if the mother is incapable, the father of the child,
- (c) if the mother and the father are incapable, the person standing in the place of the parents of the child,
- (d) if there is no person to whom paragraph (a), (b) or (c) applies, the person required to give notice of the birth under section 3, or

(e) if there is no person to whom paragraph (a), (b), (c) or (d) applies, the occupier of the premises in which the child is born, if he has knowledge of the birth,

shall complete and deliver or mail a statement in the prescribed form respecting the birth to the district registrar of the registration district in which the birth occurs, but the Registrar General may accept the statement of the father although the mother is not incapable.

Exception. (3) The father of an illegitimate child is not required to comply with subsection (2).

Plural births. (4) If more than one child is delivered during a single confinement, a separate statement for each child shall be completed and delivered or mailed as provided in subsection (2), and in each statement the number of children born during the confinement and the number of the child in the order of birth shall be given.

Child of married woman. (5) Except as provided in subsection (6), the birth of a child of a married woman shall be registered showing the surname of the husband as the surname of the child, and the particulars of the husband shall be given as those of the father of the child.

Idem. (6) Where a child is born to a married woman, if she files with the district registrar a statutory declaration that at the time of conception she was living separate and apart from her husband, and that her husband is not the father of the child, no particulars as to the father shall be given in the statement required under subsection (2) unless the mother and a person acknowledging himself to be the father jointly so request in writing, in which case the particulars of the person so acknowledging may be given as the particulars of the father, and the birth may be registered showing the surname of the person so acknowledging as the surname of the child and, if the request is made after the registration of the birth, the Registrar General may amend the registration in accordance with the request by making the necessary notation thereon.

Child of unmarried woman. (7) Except as provided in subsection (8), the registration of the birth of a child of an unmarried woman shall show the surname of the mother as the surname of the child, and no particulars as to the father shall be given.

Idem. (8) Where an unmarried woman who is the mother of a child and a person acknowledging himself to be the father jointly so request in writing, the particulars of the person so acknowledging may be given as the particulars of the father, and the birth may be registered showing the surname of the person so acknowledging as the surname of the child and, if the request is made after the registration of birth, the Registrar General may amend the registration in accordance with the request by making the necessary notation thereon.

(9) If the district registrar is not satisfied as to the truth and sufficiency of the statement, he shall refer the matter to the Registrar General who, in order to obtain such additional evidence as may be necessary, may request further details from any person whom he believes to have knowledge of the facts, or he may appoint a person to enquire into the matter.

Additional evidence required by Registrar General.

(10) If the statement is not completed and delivered or mailed in the manner and within the time herein provided, every person upon whom the duty of completing and delivering or mailing the statement is imposed remains liable to perform that duty notwithstanding the expiration of the time provided, and is, in respect of each successive period of seven days thereafter during which he neglects or fails to complete and deliver or mail the statement, guilty of a violation of this Ordinance.

Continuing liability to complete statement.

(11) Upon the receipt, within one year from the day of the birth, of a statement in Form A respecting the birth, the district registrar, if he is satisfied as to the truth and sufficiency thereof, shall register the birth by signing the statement, and thereupon the statement constitutes the registration of the birth.

Registration of birth by district registrar.

5. When a birth is not registered within one year from the day of the birth, or the district registrar has referred the matter to the Registrar General under subsection (9) of section 4, if application for the registration thereof is made by any person to the Registrar General in Form A, verified by statutory declaration and accompanied by the prescribed fee and by a statement respecting the birth and such other evidence as may be prescribed, the Registrar General, if he is satisfied as to the truth and sufficiency of the matters stated in the application and that the application is made in good faith, shall register the birth by signing the statement, and thereupon the statement constitutes the registration of the birth.

Registration of birth by Registrar General.

6. (1) Where a child is legitimated by the inter-marriage of his parents subsequent to his birth, then upon the parents delivering a statement of the birth in Form A, together with such additional information as may be required and the prescribed fee, the Registrar General shall

Registration of child legitimated by subsequent marriage.

(a) register the birth as if the parents had been married to each other at the time of the birth, and

(b) make a notation in the statement that the registration was made under this section,

and the statement constitutes the registration of the birth.

(2) Upon proof that one of the parents is incapable, the application may be made by the other parent.

(3) Where the birth has been registered under subsection (8) of section 4, the application may be made by the child.

7. (1) Except in a case to which the *Change of Name Ordinance* applies, where the birth of a child has been registered and the given name under which the child was registered is changed or the child was registered without a given name, both parents,

Alteration or addition of given names by Registrar General.

the surviving parent, the guardian of the child or the person procuring the name to be changed or given may deliver to the Registrar General an application setting forth the particulars of the change or of the name given, accompanied by a statutory declaration completed by the applicant, and

- (a) a baptismal certificate, showing the given name under which the child was baptized, or
- (b) if a baptismal certificate is not procurable, such other documentary evidence as is satisfactory to the Registrar General,

and the Registrar General, upon being satisfied that the application is made in good faith and upon payment of the prescribed fee, shall make a notation of the change in the registration of birth.

Time limit for alteration or addition.

(2) Except in a case to which the *Change of Name Ordinance* applies no alteration of or addition to a given name shall be made under this section in any registration of a birth unless that name of the child was changed or the name was given to the child within ten years next after the day of the birth.

Statutory limitation of alteration or addition.

(3) No alteration of or addition to a given name shall be made in a registration of a birth, except as provided in this Ordinance.

Changes to be shown on certificate.

(4) Any birth certificate issued after the making of a notation pursuant to this section shall be prepared as if the registration had been made containing the changed or new name at the time of registration.

REGISTRATIONS OF ADOPTIONS.

Registration of adoptions.

8. (1) Upon receipt of a certified copy of an order of adoption transmitted under the *Adoption Ordinance*, the Registrar General shall register the adoption.

Notation of adoption on birth registration.

(2) Where, at the time of the registration of the adoption or at any time thereafter, there is in the office of the Registrar General a registration of birth of the person adopted, the Registrar General, upon production of evidence satisfactory to him of the identity of the person, shall cause a notation of the adoption and of any change of name consequent thereon to be made on the registration of the birth, and shall cause a notation of the registration of the birth to be made on the registration of the adoption.

Registration of adoption order of another jurisdiction.

(3) Where a person is adopted pursuant to an order, judgment or decree of adoption made by a court of competent jurisdiction in another province, state or country, the Registrar General,

- (a) upon receipt of a certified copy of the order, judgment or decree, and
- (b) upon production of evidence satisfactory to him of the identity of the person,

shall, if there is in his office a registration of the birth of that person, register the adoption in the manner prescribed by subsection (1) and shall make the notations required by subsection (2).

(4) Where a person born outside the Territory is adopted under the *Adoption Ordinance*, the Registrar General, upon receipt of a certified copy of the order of adoption, shall transmit a certified copy of the order to the person having charge of the registration of births in the province, state or country in which the person was born. Adoption of person born outside the Territory.

(5) Where a notation of adoption and of a change of name consequent thereon has been made on a registration of birth, any birth certificate issued thereafter shall be issued as if the registration had been made in the name as changed. Certificate after adoption.

REGISTRATION OF MARRIAGES.

9. (1) Every marriage solemnized in the Territory shall be registered as provided in this Ordinance. Registration of marriages.

(2) Every person authorized by law to solemnize marriage in the Territory shall, immediately after he solemnizes a marriage, prepare a statement in Form B respecting the marriage, which statement shall be signed by Statement respecting marriage.

- (a) each of the parties to the marriage,
- (b) at least two adult witnesses to the marriage, and
- (c) the person by whom the marriage was solemnized.

(3) The person by whom the marriage was solemnized shall, within thirty days after the day of marriage, deliver or mail the completed statement in Form B to the district registrar or to a subregistrar of the registration district in which the marriage was solemnized. Time for registration.

(4) Upon the receipt within one year from the day of a marriage of a completed statement in Form B respecting the marriage, the district registrar, if he is satisfied as to the truth and sufficiency thereof, shall register the marriage by signing the statement, and thereupon the statement constitutes the registration of the marriage. Registration of marriage by Registrar General.

10. When a marriage is not registered within one year from the day of the marriage, if application for registration thereof is made by any person to the Registrar General in Form B, verified by statutory declaration and accompanied by the prescribed fee and by a statement respecting the marriage and such other evidence as may be prescribed, the Registrar General, if he is satisfied as to the truth and sufficiency of the matters stated in the application and that the application is made in good faith, shall register the marriage by signing the statement, and thereupon the statement constitutes the registration of the marriage. Registration of marriage by Registrar General.

11. (1) Where a marriage is dissolved or annulled by an order of a court of competent jurisdiction in the Territory the clerk or registrar of the Court shall transmit two copies of the document affecting the dissolution or annulment to the Registrar General who shall register the dissolution or annulment. Registration of divorces or annulments.

Notation of divorces or nullities.

(2) Where, at the time of the registration of the dissolution or annulment or at any time thereafter, there is in the office of the Registrar General a registration of the marriage dissolved or annulled, the Registrar General, upon production of evidence satisfactory to him as to the identity of the persons, shall cause a notation of the dissolution or annulment of the marriage to be made on the registration of the marriage, and shall cause a notation of the registration of the marriage to be endorsed on the registration of the dissolution or annulment.

Registration of divorce or nullity outside the Territory of marriage solemnized in the Territory.

(3) Where a marriage is dissolved or annulled by an Act of the Parliament of Canada, or by an order, judgment or decree made by a court of competent jurisdiction in a province, the Registrar General,

(a) upon receipt of the Act or a certified copy of the order, judgment or decree, and

(b) upon production of evidence satisfactory to him of the identity of the persons,

shall, if there is in office a registration of the marriage, register the dissolution or annulment in the manner prescribed by subsection (1) and shall make the notations required by subsection (2).

Certificate after divorce.

(4) Every marriage certificate issued after the making of a notation pursuant to this section shall contain a copy of the notation.

Marriage performed in a province.

(5) Where a marriage solemnized in a province is dissolved or annulled in the Territory, the Registrar General upon receipt of the statement respecting the dissolution or annulment shall transmit a certified copy of the order, judgment or decree to the person having charge of registration of marriages in the province in which the marriage was solemnized.

REGISTRATION OF DEATHS.

Registration of deaths.

12. (1) The death of every person who dies in the Territory shall be registered as provided in this Ordinance.

Particulars of deceased.

(2) The personal particulars of the deceased shall, upon the request of the funeral director, be completed in Form C and delivered to the funeral director

(a) by the nearest relative of the deceased present at the death or in attendance at the last illness of the deceased;

(b) if no such relative is available, by any relative of the deceased residing or being within the registration district;

(c) if no relative is available, by any person present at the death;

(d) by any other person having knowledge of the facts;

(e) by the occupier of the house in which the death occurred; or

(f) by the coroner who has been notified of the death and has made an inquiry or held an inquest regarding the death.

(3) The medical practitioner who was last in attendance during the last illness of the deceased, or the coroner who conducted an inquest on the body or an inquiry into the circumstances of the death, shall forthwith after the death, inquest or inquiry, as the case may be, complete and sign the medical certificate in Form C, stating therein the cause of death according to the International List of Causes of Death, as last revised by the International Commission assembled for that purpose, and shall forthwith cause the medical certificate to be delivered to the funeral director.

Certification
by medical
practitioner
or coroner.

(4) Where a death occurs without medical attendance, or where a medical practitioner is not available to complete the medical certificate in Form C, and there is no reason to believe that the death was the result of any of the circumstances set forth in subsection (5), the district registrar or subregistrar shall thereupon inquire into the facts and shall complete the medical certificate.

Death without
medical
attendance.

(5) Subject to subsection (2) of section 15, where there is reason to believe that a person has died

Deaths by
violence or
misadventure.

- (a) as a result of violence or misadventure,
- (b) by unlawful means,
- (c) as a result of negligence or misconduct on the part of others, or
- (d) under circumstances that require investigation, no acknowledgement of registration of the death and no burial permit shall be issued by the district registrar unless
- (e) the body has been examined by the coroner and inquiry has been made into the circumstances of the death,
- (f) the coroner has signed the medical certificate of the cause of death in accordance with subsection (3), and
- (g) the other provisions of this Ordinance respecting the registration of the death have been complied with.

(6) Upon receipt of the personal particulars respecting the deceased and of the medical certificate in Form C, the funeral director shall complete the form, and shall forthwith deliver the completed form to the district registrar or to a subregistrar of the registration district in which the death occurred, or if the place of death is not known, to the district registrar or to a subregistrar of the registration district in which the body was found.

Duty of
funeral
director.

13. (1) Upon the receipt within one year from the day of a death of a statement in Form C, respecting the death, the district registrar, if he is satisfied as to the truth and sufficiency thereof, shall register the death by signing the statement, and thereupon the statement constitutes the registration of the death, and if he is requested to do so, he shall issue a burial permit in Form D.

Registration
of death by
district
registrar.

(2) Where it is impracticable to deliver Form C to the proper district registrar or to a subregistrar, the form may be delivered to the nearest district registrar who shall

Statement
received by
registrar
of another
district.

- (a) register the death by signing the form and issue a burial permit, in Form D, and
- (b) forward the registration forthwith to the Registrar General with a copy to the appropriate district registrar.

Registration of death by Registrar General.

14. When a death is not registered within one year from the day of death, or the district registrar refuses to register a death, if application for registration thereof is made by any person to the Registrar General in Form C verified by statutory declaration, and accompanied by the prescribed fee and by a statement respecting the death and such other evidence as may be prescribed, the Registrar General, if he is satisfied as to the truth and sufficiency of the matters stated in the application and that the application is made in good faith, shall register the death by signing the form, and thereupon the form constitutes the registration of the death.

Issuance of notice on coroner's warrant.

15. (1) When a person dies under any of the circumstances referred to in subsection (5) of section 12, if it is impossible for the coroner to complete a medical certificate, the district registrar, upon the coroner releasing the body for burial, shall issue a burial permit in Form D and the coroner shall, within two days of his determining the cause of death, or of the completion of his investigation, deliver or mail to the district registrar a medical certificate.

Registration before burial or other disposition.

(2) No person shall

- (a) bury or otherwise dispose of the body of any person who dies in the Territory,
- (b) except temporarily for the purpose of preparing the body for burial, remove it from the registration district in which the death occurred or the body was found, or
- (c) conduct or take part in a funeral or religious service in connection with the burial or other disposition of the body,

unless the death is registered as provided in this Ordinance and a burial permit has been obtained and is in the possession of the person conducting the funeral or religious service.

Removal of body.

(3) Where the body of any person is to be removed by a common carrier to the place of burial or other disposition, the removal shall not take place unless the prescribed copies of the burial permit have been affixed to the outside of the casket.

Duties of funeral director.

(4) The funeral director at the place of burial or other disposition shall

- (a) remove any copies of the burial permit affixed to the outside of the casket;
- (b) deliver a copy of the burial permit to the person conducting the funeral or religious service; and
- (c) deliver a copy of the burial permit to the cemetery owner.

(5) Subsections (2), (3) and (4) do not apply in areas where it is not possible to register the death and obtain a burial certificate within a period during which a body should be buried, but in all such cases any person who conducted the burial or other service or otherwise disposed of the body of a deceased person shall report as soon as possible all circumstances of the death and burial or other disposal of the body to a district registrar or subregistrar who shall forthwith enquire into such circumstances and make a full report to the Commissioner and the Commissioner may take such action as he may consider appropriate.

Reports to be made when burial, etc., made before burial certificate obtained.

16. (1) Where a stillbirth occurs,
- (a) the person who would have been responsible for the registration thereof as provided in section 4, if it had been a birth, shall complete and deliver or mail Form A to the district registrar or subregistrar of the registration district in which the birth occurred; and
 - (b) the person responsible for the registration of the death as provided in section 14 shall complete the personal particulars in Form C and deliver such form to the funeral director.

Stillbirth birth registration.

Death registration.

(2) The funeral director upon receipt of the personal particulars and the medical certificate in Form C shall complete the form and deliver it to the district registrar or subregistrar of the district in which the stillbirth occurred.

Funeral director to deliver particulars to district registrar.

(3) Upon receipt of Form C respecting the stillbirth, the district registrar or subregistrar, as the case may be, shall issue a burial permit in Form D.

Burial permit issued.

17. (1) No cemetery owner shall permit the burial or cremation of a dead body in the cemetery, unless the funeral director or the person officiating at the burial has delivered to him a burial permit in Form D.

No burial allowed without burial permit.

(2) Every cemetery owner shall on the first day of January, April, July and October in each year prepare a quarterly report in Form G of the burials and cremations that took place during the previous quarter, and shall, as the mails permit, transmit that report together with all burial permits in Form D received by him in respect thereof to the district registrar for transmission to the Registrar General.

Quarterly returns of burials and cremations.

(3) Where no burials or cremations have taken place during a quarter the cemetery owner shall prepare and transmit to the district registrar for transmission to the Registrar General, as the mails permit, a nil report for that quarter.

Report where no burials or cremations.

REGISTRATION OF BIRTHS AND DEATHS
OCCURRING ON HIGH SEAS.

18. Upon receipt from the Minister of Transport of information transmitted under the *Canada Shipping Act* respecting the birth of a child or the death of a person on board a ship whose

Births and deaths on high seas.

port of registry is within the Territory, the Registrar General, if he is satisfied as to the truth and sufficiency of the particulars received, shall register the birth or death.

CHURCH RECORDS.

Filing of church records of baptisms, marriages or burials.

19. Where registers or records of baptisms, marriages or burials kept by any church or religious body in the Territory are now on file or are hereafter with the approval of the Registrar General placed on file in the office of the Registrar General, the registers or records shall be preserved and shall remain in the custody of the Registrar General as part of the records of his office.

CHANGE OF NAME.

Notation to be made by Registrar General.

20. (1) Where the name of a person is changed under the *Change of Name Ordinance* or under a statute of a province, the Registrar General, on production to him of proof of the change and evidence satisfactory to him as to the identity of the person,

- (a) if the birth of marriage of the person is registered in the Territory, shall cause a notation of the change to be made on the registration thereof; and
- (b) if the change was made under the *Change of Name Ordinance*, and the person was born or married outside the Territory, shall transmit a copy of the proof of the change of name,
 - (i) where the person was born or married in a province, to the officer in charge of registration of births and marriages in that province, or
 - (ii) where the person was born or married outside of Canada, to the Deputy Minister of the Department of Citizenship and Immigration.

Certificate after change of name.

(2) Every birth or marriage certificate issued after the making of a notation under this section shall be issued as if the registration had been made in the name as changed.

FRAUDULENT REGISTRATIONS AND CERTIFICATES.

Cancellation of registration and birth certification.

21. (1) On written application by any person and after notice to and hearing of all persons interested, or where the holding of a hearing is not possible, on receipt of a statutory declaration or such other evidence satisfactory to the Registrar General as may be adduced by any person interested, the Registrar General, if he is satisfied that a registration was fraudulently or improperly made, may order that a notation be made on the registration to that effect and order that every certificate issued in respect of that registration be delivered to him for cancellation.

Certificate.

(2) Where a notation has been made under subsection (1), no certificate shall be issued thereafter in respect of the registration.

(3) On written application by any person and after notice to and hearing of all persons interested, or where the holding of a hearing is not possible, on receipt of a statutory declaration or such other evidence satisfactory to the Registrar General as may be adduced by a person interested, the Registrar General, if he is satisfied that a certificate was obtained or is being used for fraudulent or improper purposes, may make an order requiring the delivery to him of that certificate.

Certificates fraudulently or improperly obtained or used.

(4) A person who has in his possession or under his control a certificate in respect of which an order has been made under subsection (1) or (3) shall forthwith, upon receipt of the order, deliver the certificate to the Registrar General, who shall preserve it in a permanent file together with the order and all documents relating thereto.

Certificate to be delivered to Registrar General.

CORRECTIONS OF ERRORS IN REGISTRATIONS.

22. (1) If, while the registration of a birth, stillbirth, marriage or death is in the possession of a district registrar or subregistrar it is reported to him that an error exists in the registration, he shall inquire into the matter and if he is satisfied that an error has been made he may correct the error according to the facts by making a notation of the correction on the registration without altering the original entry.

Corrections by district registrar or subregistrar.

(2) If the person who furnished the information contained in the registration to be corrected appears in person, the district registrar or subregistrar may permit correction by altering the original entry.

Correction by personal appearance.

(3) If, after a registration has been received or made by the Registrar General, it is reported to him that an error exists in the registration, the Registrar General shall inquire into the matter and, upon the production of evidence satisfactory to him verified by statutory declaration, he may correct the error by making a notation of the correction on the registration without altering the original entry.

Correction by Registrar General.

(4) If after the correction of an error, application is made for a certificate, the certificate shall be prepared as if the registration has been made containing correct particulars at the time of registration.

Certificate from registration after correction.

ADMINISTRATION.

23. The Commissioner may appoint
- (a) a Registrar General of Vital Statistics who shall be responsible for the administration of this Ordinance and for the direction and supervision of staff;
 - (b) a Deputy Registrar General of Vital Statistics to assist the Registrar General and to perform the duties of that officer during the absence of the Registrar General or while the office of Registrar General is vacant; and
 - (c) an inspector or inspectors of Vital Statistics, to perform such duties as may be prescribed by the Registrar General.

Appointments.

Registrar General.

Deputy Registrar General.

Inspectors.

- Registration districts. **24.** (1) The Registrar General may establish registration districts and may from time to time extend, reduce, subdivide or abolish any registration district or merge it in whole or in part with one or more registration districts.
- Appointment of district registrar. (2) The Registrar General may appoint a district registrar for each registration district.
- Appointment of subregistrar. **25.** A district registrar may appoint in writing one or more subregistrars who may exercise the powers and perform the duties of the district registrar within an area in the district.
- Reports of district registrar. **26.** Every district registrar shall
- Register to be kept. (a) during the first week of each month prepare and transmit to the Registrar General as the mails permit, a report in Form J showing all births, marriages and deaths recorded by him during the previous month;
- Documents to be safeguarded. (b) keep a register in the form prescribed of all births, marriages and deaths recorded by him;
- Violations to be reported. (c) retain all duplicate schedules, forms and documents received by him in a place of safety; and
- (d) under the supervision and direction of the Registrar General and in accordance with regulations enforce the Ordinance in his registration district and shall make an immediate report to the Registrar General of any violation of this Ordinance of which he has knowledge.
- Reports of subregistrar. **27.** Every subregistrar shall,
- (a) on the first day of each month, prepare and transmit to his district registrar as the mails permit, a report in Form J showing each registration of birth, marriage or death reported to him, together with all documents received relevant thereto, and
- (b) make an immediate report to the district registrar of any violation of the Ordinance of which he has knowledge.
- Violations to be reported.
- Fees payable. **28.** (1) The fees to be paid under this Ordinance shall be those provided in the Schedule.
- Where no fee payable. (2) Except in the case of a delayed registration, no fee shall be charged for the registration of a birth, marriage or death.
- Offence. (3) Except in the case of a delayed registration and as provided in subsection (4), any person who claims, charges or collects a fee for registration of a birth, marriage or death, is guilty of an offence against this Ordinance.
- Fees payable to subregistrar or district registrar. (4) A fee of twenty-five cents for each registration of birth, marriage or death shall be paid from the Yukon Consolidated Revenue Fund to
- (a) a subregistrar receiving such a registration and returning it complete to the district registrar, or
- (b) a district registrar receiving such a registration, except where the registration is received from a subregistrar, and returning it complete to the Registrar General.

SEARCHES.

29. (1) Any person, upon applying, furnishing information satisfactory to the Registrar General and paying the prescribed fee, may, if the Registrar General is satisfied that the information is not to be used for an unlawful or improper purpose, have a search made Searches of registrations and church records.

- (a) for the registration in his office of any birth, stillbirth, marriage, death, adoption, change of name or dissolution or annulment of marriage, or
- (b) for the record of any baptism, marriage or burial placed on file in the office of the Registrar General under section 19.

(2) The Registrar General shall make a report on the search Report on search. which shall state whether or not the birth, stillbirth, marriage, death, adoption, change of name, or dissolution or annulment of marriage, baptism or burial is registered or recorded and, if registered, shall state the registration number thereof, and shall contain no further information.

ISSUANCE OF CERTIFICATE AND COPIES.

30. (1) Any person, upon applying, furnishing information satisfactory to the Registrar General and paying the prescribed fee, may, if the Registrar General is satisfied that it is not to be used for an unlawful or improper purpose, obtain a certificate in Form E in respect of the registration of the birth of any person, which certificate shall contain the following particulars only of the registration: Birth certificate.

- (a) the name of the person;
- (b) the date of birth;
- (c) the place of birth;
- (d) the sex of the person;
- (e) the date of registration; and
- (f) the serial number of the registration.

(2) A certified copy of the registration of a birth may be issued only Certified copy of registration of birth.

- (a) to a person who requires it for a stated reason that in the opinion of the Registrar General justifies the issuance of the certified copy,
- (b) to an officer of Her Majesty in right of Canada who requires it for use in the discharge of his official duties, or
- (c) to a person upon the order of a judge, and only upon application and upon payment of the prescribed fee.

(3) Any person, upon applying, furnishing information satisfactory to the Registrar General and paying the prescribed fee, may, if the Registrar General is satisfied that it is not to be used for an unlawful or improper purpose, obtain a certificate in Form F in respect of the registration of a marriage, which certificate shall contain the following particulars only of the registration: Marriage certificate.

- (a) the names of the parties to the marriage;

- (b) the date of the marriage;
- (c) the place where the marriage was solemnized;
- (d) the date of registration; and
- (e) the serial number of the registration.

Certified copy of registration of marriage.

(4) A certified copy of the registration of a marriage may be issued only

- (a) to a party to the marriage;
- (b) to a person requiring it for a stated reason where the stated reason in the opinion of the Registrar General justifies the issuance of the certified copy; or
- (c) to a person upon the order of a judge, and only upon application and upon payment of the prescribed fee.

Death certificate.

(5) Any person, upon applying, furnishing information satisfactory to the Registrar General and paying the prescribed fee, may, if the Registrar General is satisfied that it is not to be used for an unlawful or improper purpose and subject to subsection (6) obtain a certificate in Form K in respect of the registration of a death.

Cause of death to be disclosed only in special cases.

(6) No certificate issued in respect of the registration of death shall be issued in such a manner as to disclose the cause of death as certified on the medical certificate, except,

- (a) where required for a stated reason that in the opinion of the Registrar General justifies the issuance of the certified copies, or
- (b) upon the order of a judge.

Certified copy of registration of death.

(7) A certified copy of the registration of a death may be issued only

- (a) to a person who requires it for a stated reason that in the opinion of the Registrar General justifies the issuance of the certified copy, or
- (b) to a person upon the order of a judge, and only upon application and upon payment of the prescribed fee.

Certificates from church records.

(8) Any person, upon applying and paying the prescribed fee, may, with the approval of the Registrar General and subject to the same limitations as those respecting certified copies set out in subsections (2), (4) and (7), obtain a certificate in respect of the record of a baptism, marriage or burial placed on file under section 19.

No certificate of adoption, change of name, divorce or nullity of marriage.

(9) No certificate, certified copy or photographic print shall be issued under this Ordinance in respect of the registration of an adoption, change of name or dissolution or annulment of marriage.

Certificates to be issued only by Registrar General.

31. (1) Every certificate or certified copy issued under section 30 shall be issued by the Registrar General and no person other than a person authorized by this Ordinance to do so shall issue any document.

(2) Where the signature of the Registrar General, Deputy Registrar General, district registrar or subregistrar is required for any purposes of this Ordinance, the signature may be written, engraved or lithographed. Signatures.

(3) Every document issued under this Ordinance under the signature of the Registrar General is and remains valid, notwithstanding that such person has ceased to hold office before the issue of the certificate. Certificate valid after change of Registrar General.

32. (1) Every certificate purporting to be issued under section 30 is admissible in evidence in any court in the Territory as prima facie evidence of the facts certified to be recorded, and every certified copy purporting to be issued under section 30 is so admissible as prima facie evidence of the facts recorded therein and it is not necessary to prove the signature or official position of the person by whom the certificate or certified copy purports to be signed. Certificates as evidence.

(2) Notwithstanding subsection (1) or any other Ordinance, no birth certificate and no certified copy of a registration of birth or stillbirth, purporting to be issued under section 30 is admissible in evidence to affect a presumption of legitimacy. Exception.

33. (1) Where an application for the registration of a birth, stillbirth, marriage or death is refused by the Registrar General, if, within one year of the refusal, an application is made to a judge, the judge, upon being satisfied that the application is made in good faith and as to the truth and sufficiency of the evidence adduced on the application, and having regard to the standards respecting delayed registration set forth in the regulations for the guidance of the Registrar General may make an order requiring the Registrar General to accept the application and register the birth, stillbirth, marriage or death. Appeal from refusal of Registrar General to register.

(2) The Clerk of the Court shall forthwith send a copy of the order to the Registrar General who shall comply with the order and attach the copy to the registration. Registrar General to comply with order.

(3) Where an application for a certificate or a search in respect of the registration of a birth, stillbirth, marriage or death is refused by the Registrar General, if within one year of the refusal, application is made to a judge, the judge upon being satisfied that the application is made in good faith and that the applicant has good reason for requiring the certificate or search, may make an order requiring the Registrar General to issue the certificate or make the search and the Clerk of the Court shall forthwith forward a copy of the order to the Registrar General who shall comply therewith. Appeal from refusal of Registrar General to search or issue certificate.

(4) Where the Registrar General has made an order under section 21, any person interested may, within two years thereafter, appeal therefrom to a judge, and the judge may make an order confirming or setting aside the order of the Registrar General and the order of the judge is final and binding on the Registrar General. Appeal from order of Registrar General.

Notice. (5) At least fourteen days' notice of the application or appeal shall be served on the Registrar General.

GENERAL.

Power to take affidavits. **34.** The Registrar General, Deputy Registrar General and every district registrar and subregistrar may take the affidavit or statutory declaration of any person for the purposes of this Ordinance.

Publication by Registrar General of statistical information. **35.** The Registrar General may compile, publish and distribute such statistical information respecting the births, stillbirths, marriages, deaths, adoptions, changes of name and dissolutions and annulments of marriage registered during any period as he may deem necessary and in the public interest.

Records property of Her Majesty. **36.** (1) All records, books and other documents pertaining to any office under this Ordinance are the property of Her Majesty.

Delivery of records to successor. (2) Where a vacancy occurs in any office under this Ordinance the person having the possession, custody or control of any books, records or other documents pertaining to the office shall give up possession of and deliver them to the successor in office or to any person appointed by the Registrar General to demand and receive them, and any person who fails to comply with this subsection is guilty of an offence.

Secrecy. **37.** (1) No district registrar or subregistrar and no person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not entitled thereto any information obtained under this Ordinance or allow any such person to inspect or have access to any records containing information obtained under this Ordinance.

Exception. (2) Nothing in subsection (1) prohibits the compilation, furnishing or publication of statistical data that does not disclose specific information with respect to any particular person.

Notations. **38.** Every notation made under this Ordinance shall be effected without altering or defacing any entry on the registration, and shall be dated and initialled by the person making the notation.

PENALTIES.

Failure to carry out duties. **39.**(1) Every person who fails to give any notice, or to furnish any statement, certificate or particulars required under this Ordinance, within the time limited by this Ordinance, is guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars.

Compliance by one person sufficient. (2) Where two or more persons are under a duty to give any notice, or to register, or to furnish any statement, certificate or particulars required under this Ordinance and the duty is carried out by any of such persons, the other or others are thereupon discharged from carrying out such duty.

40. Every person who wilfully removes, defaces or destroys a public notice relating to the registration of births, stillbirths, marriages or deaths is guilty of an offence and liable on summary conviction to a fine not exceeding ten dollars. Interference with public notice.

41. (1) Subject to subsection (2) and any other Ordinance, a common carrier transporting or carrying, or accepting through its agents or employees for transportation or carriage, the body of a deceased person without the prescribed burial permit issued under this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars. Failure to obtain permit for transportation of body.

(2) Where the death occurred outside the Territory and the body is accompanied by a burial permit issued in accordance with the law in force where the death occurred, the burial permit is sufficient to authorize the transportation or carriage of the body into or through the Territory. Proviso.

42. Every person who violates section 37 is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars. Secrecy.

43. Every person who fails to comply with or violates any provision of this Ordinance or the regulations, for which failure or violation no penalty is otherwise provided, is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars. General penalty.

44. No prosecution shall be commenced under this Ordinance without the consent of the Registrar General. Consent to prosecutions.

REGULATIONS.

45. The Commissioner may make regulations Regulations.
- (a) prescribing the duties of the Registrar General;
 - (b) prescribing the duties of and records to be kept by the district registrars and subregistrars;
 - (c) prescribing the information and returns to be furnished to the Registrar General, and fixing the times when information and returns are to be transmitted;
 - (d) fixing the time when district registrars shall forward registrations to the Registrar General;
 - (e) designating the persons who may have access to or may be given copies of, or information from, the records in the office of the Registrar General or of a district registrar, and prescribing an oath of secrecy to be taken by such persons;
 - (f) for the registration of births, marriages, deaths, stillbirths, dissolutions and annulments of marriage, adoptions or changes of name in cases not otherwise provided for in this Ordinance;
 - (g) providing for the waiver of payment of any fees in favour of any person or class of persons;

- (h) designating the persons who may sign registrations and notations;
- (i) prescribing the evidence on which the Registrar General may register a birth, stillbirth, marriage or death after one year from the date thereof;
- (j) prescribing the evidence on which the Registrar General may make a registration of birth in the case of a child legitimated by the inter-marriage of his parents, subsequent to his birth;
- (k) prescribing special forms for registration in respect of Indians;
- (l) authorizing every Indian superintendent in the Territory to act *ex officio* as district registrar for the Indians under his jurisdiction; and
- (m) for the purpose of effectively securing the due observance of this Ordinance, and generally for the better carrying out of the provisions thereof and obtaining the information required thereby.

DISINTERMENT.

Authorizing order required.

- 46.** (1) Subject to the *Coroners Ordinance*,
- (a) no person shall disinter or assist in the disinterment of, and
 - (b) no person being a cemetery owner shall in respect of his cemetery permit the disinterment of,
- the body of a deceased person which has been buried unless an order authorizing the disinterment has been secured pursuant to this section.

Reburial certificate required.

- (2) Subject to the *Coroners Ordinance*,
- (a) no person shall rebury or assist in the reburial of, and
 - (b) no person being a cemetery owner shall in respect of his cemetery permit the reburial of,
- the body of a deceased person which has been disinterred unless a reburial certificate has been secured pursuant to this section.

Application.

- (3) Any person desiring to disinter a body buried in a cemetery, building or any other place in the Territory may make application to the Registrar General in the form of an affidavit setting out

- (a) the place where the body is buried;
- (b) the purpose of the proposed disinterment; and
- (c) the place, if any, where it is intended to rebury the body.

Document and fee to accompany application.

- (4) An application shall be accompanied by
- (a) the written consent of the medical officer for the area in which the body is buried to the disinterment of the body;
 - (b) the prescribed fee; and
 - (c) where the application is by a person who is not the owner of the cemetery where the body is buried,

- (i) the consent of the owner of the cemetery where the body is buried, or
- (ii) proof that reasonable notice of the application has been given to the owner of the cemetery where the body is buried.

(5) Where the Registrar General is satisfied that the disinterment should be allowed he may issue an order authorizing the disinterment. Order may be issued.

(6) An order made under subsection (5) is sufficient authority to the cemetery owner in which the body is buried to allow the disinterment thereof. Authority to cemetery owner.

(7) A person who disinters a body or causes a body to be disinterred pursuant to an order obtained under subsection (5) and disposes thereof in any manner other than that authorized by the order is guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding one month, or to both such fine and such imprisonment. Offence and penalty.

(8) The Registrar General may upon application accompanied by a fee of one dollar, issue a reburial certificate for the reburial of a body which has been disinterred. Burial permit.

(9) No fee is payable for the issuance of a reburial permit for the reburial of the body of a deceased person which has been disinterred upon a Coroner's Warrant. No fee for reburial upon Coroner's Warrant.

SCHEDULE.

SCHEDULE OF FEES.

1. Search	50¢
2. Certificate of registration	50¢
3. Certified copy of registration	75¢
4. Delayed registration	50¢
5. Disinterment order	5.00

FORM A.

CERTIFICATE OF REGISTRATION OF BIRTH.

- | | |
|---|---|
| | Registered No. |
| 1. Place of birth | 2. Full name of child |
| 3. Sex of Child | 4. Single, twin, triplet or other? |
| 5. Was the child born alive? | 6. Are parents married? |
| | 7. Date of birth |
| FATHER | |
| 8. Full name | 15. Full maiden name |
| 9. Residence at time of this birth | 16. Residence at time of this birth |
| 10. Nationality | 17. Nationality |
| 11. Racial origin | 18. Racial origin |
| 12. Age at time of this birth
years | 19. Age at time of this birth
years |
| 13. Birthplace | 20. Birthplace |
| 14. Occupation | 21. Children of this mother
(including the present birth) |
| (a) Trade or profession | (a) Number born alive |
| (b) Business in which employed | (b) Number now living |
| | (c) Number stillborn
(born dead after twenty-eight weeks' pregnancy) |
| 22. Was this a premature birth?
If premature, state length of pregnancy in completed weeks | |
| 23. Name of physician in attendance at birth | |
| 24. Person giving information sign here | Address |
| 25. Place of marriage of parents | |
| 26. Date of marriage of parents | |
| 27. Date of registration | |

.....
Registrar of Vital Statistics

FORM B.

YUKON TERRITORY.

CERTIFICATE OF REGISTRATION OF MARRIAGE.

District of _____ Registered No. _____
Sub-district of _____

BRIDEGROOM.

- 1. Full name
- 2. Occupation
- 3. Bachelor, Widower or Divorced
- 4. Age
- 5. Religious denomination
- 6. Residence
- 7. Place of birth
- 8. Name of father
- 9. Place of birth of father
- 10. Maiden name of mother
- 11. Can bridegroom read? Write?

BRIDE

- 12. Full name
- 13. Occupation
- 14. Spinster, Widow or Divorced
- 15. Age
- 16. Religious denomination
- 17. Residence
- 18. Place of birth
- 19. Name of father
- 20. Place of birth of father
- 21. Maiden name of mother
- 22. Can bride read? Write?

23. Date of marriage _____ day of _____ 19____

24. Place of marriage _____

25. By licence or banns _____
Groom

26. Signature of _____
Bride

27. _____ Name
Signatures of _____ Address

_____ Name
Witnesses _____ Address

I certify the above stated particulars are true to the best of my knowledge and belief:

Clergyman
Address
Religious denomination

Registered No. _____ Filed at this office _____ day
of _____ 19____

.....
Registrar of Vital Statistics

FORM C.

YUKON TERRITORY.

CERTIFICATE OF REGISTRATION OF DEATH.

Registered No.

- | | |
|--|-------------------|
| 1. Place of Death | 2. Length of Stay |
| 3. Name of Deceased
Residence | 4. Sex |
| 5. Nationality
(Citizenship) | 6. Racial Origin |
| 7. Single, Married,
Widowed or Divorced | 8. Birthplace |
| 9. Date of Birth | 10. Age |

OCCUPATION

11. Trade, profession or kind of work
12. Kind of industry or business
13. Date deceased last worked at this occupation
14. Total years spent in this occupation
15. If married give name of wife or husband of deceased

FATHER

- | | |
|----------|----------------|
| 16. Name | 17. Birthplace |
|----------|----------------|

MOTHER

- | | |
|--|--------------------------|
| 18. Maiden name | 19. Birthplace |
| 20. Person giving information sign here
Address | Relationship to deceased |
| 21. Place of Burial, Cremation or Removal
Date of burial or removal | |
| 22. Undertaker | |

Medical Certificate of Death

23. Date of Death
24. I hereby Certify that I attended deceased from.....
.....19..... to.....19..... and last saw h.....
alive on.....19.....

CAUSE OF DEATH

- (a) Immediate cause
- (b) Morbid conditions, if any, giving rise to immediate cause
- (c) Other morbid conditions (if important) contributing to death but not causally related to immediate cause.

- 25. If a woman, was the death associated with pregnancy?
- 26. Was there a surgical operation?.....
 Date of operation.....19.....
 State findings..... Was there an autopsy?.....
- 27. If death was due to external causes (violence) fill in also the following:
 Accident, suicide or homicide?.....
 Date of injury.....19.....
 Manner of injury
 Nature of injury
 Specify whether injury occurred in industry, in home or in public place
 Signed by M.D.
 Address Date 19.....
- 28. Registrar's Record Number
- 29. Filed..... 19.....

.....
Registrar of Vital Statistics

FORM D.

Vital Statistics Yukon Territory

BURIAL PERMIT.

I, Registrar at
do hereby certify that particulars of the undermentioned death have been duly registered, and permission is hereby granted for the burial of the body.

Name of Deceased

Place of death Date of death

Age Sex

Name and address of undertaker or person
in charge of funeral arrangements

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

.....
Registrar

FORM E.

Vital Statistics Yukon Territory

CERTIFICATE OF BIRTH.

Name
 Date of Birth
 Place of Birth Sex...
 Date of Registration..... Registration No.
 Issued at
 on the day of
 , 19

.....
Registrar General

FORM F.

Vital Statistics Yukon Territory

Canada

CERTIFICATE OF MARRIAGE.

Name of Bridegroom
 Name of Bride
 Date of Marriage
 Place of Marriage
 Date of Registration Registration No.
 Issued at
 on the day of
 , 19

.....
Registrar General

FORM G.

Vital Statistics Yukon Territory

Return of the.....Cemetery at.....

For quarter ending19.....

- 1. Name of deceased
- 2. Sex
- 3. Place of death
- 4. Date interment
- 5. If Cemetery surveyed
state number of lot,
otherwise describe place of interment, from nearest boundary
of cemetery
- 6. Name and address of registrar who issued burial permit

I hereby certify that the above is a correct
return of the persons interred in.....
.....Cemetery during quarter
year ending19.....

.....
(Caretaker, Superintendent, Owner, Clergyman
or other person in charge)

P.O. Address

(Obverse side)

FORM H.

Vital Statistics for the Yukon Territory

PHYSICIAN'S NOTICE OF BIRTH.

To the District Registrar at

I beg to notify you of the following birth in accordance with the *Vital Statistics Ordinance*, section 3.

Date of Birth Sex

Place of Birth

Name of Father

Maiden Name of Mother

Address of Parents Single, Twins

Was child born alive Triplets

Signature of Physician

Address of Physician Date

(Reverse side)

DOMINION STATISTICS—FREE

(Penalty for improper use \$50.00)

To be forwarded by attending Physician to the local Registrar who will obtain registration from parents.	}	District Registrar of Vital Statistics, Post Office Canada
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CHAPTER 107.

**AN ORDINANCE RESPECTING VOCATIONAL
TRAINING AGREEMENTS BETWEEN THE
YUKON TERRITORY and THE
GOVERNMENT OF CANADA**

Short Title. **1.** This Ordinance may be cited as the *Vocational Training Agreements Ordinance*.

Definition of "vocational training". **2.** In this Ordinance, "vocational training" means any form of instruction the purpose of which is to fit any person for gainful employment or to increase his skill or efficiency therein, and without restricting the generality of the foregoing, includes instruction to fit any person for employment in agriculture, forestry, mining, fishing, construction, manufacturing, commerce or in any other primary or secondary industry in Canada.

Commissioner may execute agreements. **3.** Subject to this Ordinance the Commissioner is authorized to enter into and execute on behalf of the Territory,

(a) an agreement with the Government of Canada covering such period as may be agreed upon, which will provide that the Government of Canada will pay to the Government of the Territory for assistance to schools in which vocational training is carried on,

(i) an annual grant of \$10,000 for each fiscal year ending March 31 during the term of such agreement;

(ii) an annual grant for each fiscal year ending March 31 during the term of such agreement, equal to the amount paid by the Commissioner for such purposes but not exceeding the amount that is that proportion of \$1,910,000 that the number of people in the Territory of the ages fifteen to nineteen inclusive, as shown in the latest decennial census of Canada, bears to the number of people in all provinces of the said ages as shown in the said census; and

(iii) a grant for capital expenditures in the period between April 1, 1955, and March 31, 1956, equal to the amount paid by the Commissioner for such purposes but not exceeding the amount that is that proportion of \$10,000,000 that the number of people in the Territory of the ages fifteen to nineteen inclusive, as shown in the latest decennial census of Canada, bears to the number of people in all provinces of the said ages as shown in the said census;

- (b) an agreement with the Government of Canada covering such period as may be agreed upon which will provide that the Government of Canada will pay to the Government of the Territory, for training projects for apprentices approved by the Government of Canada, an amount not in excess of the amount paid by the Commissioner for such approved training projects during each fiscal year ending March 31, and in any event, not in excess of such amount as the Governor in Council may determine for each fiscal year ending March 31 during the term of such agreement; and
- (c) an agreement with the Government of Canada covering such period as may be agreed upon which will provide that the Government of Canada will pay to the Government of the Territory for vocational training, an annual grant not exceeding such amount as the Governor in Council may authorize for each fiscal year ending March 31 during the term of such agreement.

4. An agreement under this Ordinance may be varied or amended from time to time by agreement of the Government of Canada and the Commissioner. ^{Variation and amendment.}

5. The Commissioner is hereby authorized to do all lawful acts and exercise all lawful powers necessary for the purpose of implementing the obligations assumed by the Government of the Territory under any agreement entered into pursuant to this Ordinance. ^{Powers of Commissioner}

CHAPTER 108.

**AN ORDINANCE RESPECTING
WAREHOUSEMEN'S LIENS.**

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as the *Warehousemen's Lien Ordinance*.

INTERPRETATION.

Definitions. **2.** In this Ordinance,
 "Goods." (a) "goods" includes personal property of every description that is deposited with a warehouseman as bailee; and
 "Warehouseman." (b) "warehouseman" means a person lawfully engaged in the business of storing goods as a bailee for hire.

LIEN.

Lien. **3.** (1) Subject to section 4, every warehouseman has a lien on goods deposited with him for storage, whether deposited by the owner of the goods or by his authority, or by any person entrusted with the possession of the goods by the owner or by his authority.

Charges covered by lien. (2) The lien is for the amount of the following warehouseman's charges:

- (a) all lawful charges for storage and preservation of the goods;
- (b) all lawful claims for money advanced, interest, insurance, transportation, labour, weighing, cooperating and other expenses in relation to the goods; and
- (c) all reasonable charges for any notice required to be given under this Ordinance, and for notice and advertisement of sale, and for sale of the goods where default is made in satisfying the warehouseman's lien.

Notice of lien in certain cases. **4.** (1) Where the goods on which a lien exists were not deposited by the owner or by his authority, but by a person entrusted by the owner or by his authority with the possession of the goods, the warehouseman shall, within two months after the date of the deposit, give written notice of the lien

- (a) to the owner of the goods, including the person in whom the right of property therein is vested where a valid receipt note, hire receipt or other instrument evidencing a bailment or conditional sale of the goods is registered under the *Conditional Sales Ordinance* at the date of deposit of the goods; and

- (b) to the grantee of the goods under any bill of sale or chattel mortgage registered under the *Bills of Sale Ordinance*, at the date of deposit of the goods.
- (2) The notice shall contain
- (a) a brief description of the goods; Contents
of notice.
- (b) a statement showing the location of the warehouse where the goods are stored, the date of their deposit with the warehouseman, and the name of the person by whom they were deposited; and
- (c) a statement that a lien is claimed by the warehouseman in respect of the goods under this Ordinance.
- (3) Where the warehouseman fails to give the notice required by this section, his lien, as against the person to whom he has failed to give notice, is void as from the expiration of the period of two months from the date of the deposit of the goods. Loss of lien
from failure
to give
notice.

ENFORCEMENT OF LIEN.

5. (1) In addition to all other remedies provided by law for the enforcement of liens or for the recovery of warehouseman's charges, a warehouseman may sell by public auction, in the manner provided in this section any goods upon which he has a lien for charges which have become due. Enforcement
of lien by
sale of goods.

(2) The warehouseman shall give written notice of his intention to sell Notice
of sale.

- (a) to the person liable as debtor for the charges for which the lien exists;
- (b) to the owner of the goods, including the person in whom the right of property therein is vested, where a valid receipt note, hire receipt or other instrument evidencing a bailment or conditional sale of the goods is registered under the *Conditional Sales Ordinance* at the date of deposit of the goods;
- (c) to the grantee of the goods under any bill of sale or chattel mortgage registered under the *Bills of Sale Ordinance*, at the date of deposit of the goods; and
- (d) to any other person known by the warehouseman to have or who claims an interest in the goods.

- (3) The notice shall contain Contents
of notice.
- (a) a brief description of the goods;
- (b) a statement showing the location of the warehouse where the goods are stored, the date of their deposit with the warehouseman and the name of the person by whom they were deposited;
- (c) an itemized statement of the warehouseman's charges showing the sum due at the time of the notice;
- (d) a demand that the amount of the charges as stated in the notice and such further charges as may accrue shall be paid on or before a day mentioned, not less than twenty-one days from the delivery of the notice if it is personally

delivered, or from the time when the notice should reach its destination according to the due course of mail if it is sent by mail; and

- (e) a statement that unless the charges are paid within the time mentioned the goods will be advertised for sale and sold by public auction at a time and place specified in the notice.

Advertisement
of sale.

(4) Where the charges are not paid on or before the day mentioned in the notice, and advertisement of the sale, describing the goods to be sold, and stating the name of the person liable as debtor for the charges for which the lien exists, and the time and place of the sale, shall be published at least once a week for two consecutive weeks in a newspaper circulating in the locality where the sale is to be held.

Time of sale.

(5) The sale shall be held not less than thirty days from the date of the first publication of the advertisement.

Substantial
compliance
with
Ordinance.

6. Where a notice of lien under section 4, or a notice of intention to sell under section 5 has been given, but such provisions have not been strictly complied with, if the judge before whom any question respecting the notice is tried or inquired into considers that such provisions have been substantially complied with, or that it would be inequitable to hold that the lien or sale is void by reason of such non-compliance, no objection to the sufficiency of the notice shall in any such case be allowed to prevail so as to release or discharge the goods from the lien or vitiate the sale.

Disposition
of proceeds
of sale.

7. The warehouseman shall satisfy his lien from the proceeds of the sale and shall pay over the surplus, if any, to the person entitled thereto, and the warehouseman shall when paying over the surplus, deliver to the person to whom he pays it a statement of account showing how the amount has been computed.

Payment
into court.

8. (1) Where the surplus is not demanded by the person entitled thereto within ten days after the sale, or where there are different claimants or the rights thereto are uncertain, the warehouseman shall pay the surplus into court upon the order of a judge.

(2) The order may be made *ex parte* upon such terms and conditions as to costs and otherwise as the judge may direct, and may provide to what fund or name the amount shall be credited.

(3) The warehouseman at the time of paying the amount into court shall file in court a copy of the statement of account showing how the amount has been computed.

9. At any time before the goods are sold any person claiming an interest or right of possession in the goods may pay the warehouseman the amount necessary to satisfy his lien, including the expenses incurred in serving notices and advertisement and preparing for the sale up to the time of payment and the warehouseman shall deliver the goods to the person making the payment if he is the person entitled to the possession of the goods on payment of the warehouseman's charges thereon, but if he is not so entitled the warehouseman shall retain possession of the goods according to the terms of the contract of deposit.

Where
charges paid
before sale.

10. Where by this Ordinance any notice in writing is required to be given, the notice shall be given by delivering it to the person to whom it is to be given, or by mailing it in the post office, postage paid and registered, addressed to the person to whom it is to be given at his last known address.

Manner of
giving
notices.

CHAPTER 109.

AN ORDINANCE RESPECTING WILLS.

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as the *Wills Ordinance*.

INTERPRETATION.

Definitions. **2.** In this Ordinance,
 "Will." (a) "will" includes a testament, a codicil, an appointment by will or by writing in the nature of a will in exercise of a power and any other testamentary disposition;
 "Immovable property." (b) "immovable property" includes real property and any leasehold or other interest in land;
 "Movable property." (c) "movable property" includes personal property other than a leasehold or other interest in land; and
 "Writing." (d) "writing" includes words printed, engraved, lithographed, typewritten or represented or reproduced by any mode of representing or reproducing words in a visible form.

APPLICATION.

Wills made after coming into force of Ordinance. **3.** (1) This Ordinance applies only to wills made after the 1st day of April, 1955 and, for the purposes of this subsection, a will that is re-executed or revived by a codicil shall be deemed to be made at the time at which it is so re-executed or revived.

Wills made before coming into force of Ordinance. (2) The laws respecting wills and devolution by will in force in the Territory prior to the 1st day of April, 1955 shall continue in force as if unaffected by this Ordinance with respect to wills made before that date.

Property disposable by will. **4.** Any person may devise, bequeath or dispose of by will all real and personal property, whether acquired before or after the making of his will, to which at the time of his death he is entitled either at law or in equity for an interest not ceasing at his death, including, without restricting the generality of the foregoing

Estates *pur autre vie*. (a) estates *pur autre vie*, whether or not there is any special occupant thereof and whether they are corporeal or incorporeal hereditaments;

Contingent interests. (b) contingent, executory or other future interests in any real or personal property, whether or not the testator is ascertained as the person or one of the persons in whom they may respectively become vested and whether he is entitled thereto under the instrument creating them or under disposition by deed or will; and

Rights of entry. (c) rights of entry whether for breach of conditions or otherwise.

CAPACITY AND EXECUTION.

5. (1) Subject to subsection (2), a will made by a person who is under twenty-one years of age at the time it is made is not valid. Infants cannot make wills.

(2) A valid will may be made by a person who is under twenty-one years of age at the time it is made, if he is, at that time, Exceptions.

- (a) in the Territory in connection with his duties as a member of any of the components of the Canadian Forces or of the Royal Canadian Mounted Police; or
- (b) a mariner or seaman at sea or in the course of a voyage.

6. (1) Unless otherwise provided in this Ordinance, a will is not valid unless Formalities of execution.

- (a) it is in writing;
- (b) it is signed at the end or foot thereof by the testator or on his behalf by some other person in his presence and by his direction;
- (c) the signature described in paragraph (b) is made or acknowledged by the testator in the presence of two or more witnesses present at the same time; and
- (d) at least two of the witnesses attest and subscribe the will in the presence of the testator, with or without a form of attestation.

(2) A holograph will, wholly in the handwriting of the testator and signed by him, may be validly made, without any requirements as to the presence of or attestation by any witness. Holograph wills.

(3) A will in writing and signed by the testator or on his behalf by some other person in his presence or by his direction may be validly made by or on behalf of a testator who is a person described in subsection (2) of section 5, without any requirements as to the presence of or attestation by any witness. Wills of soldiers, sailors, etc.

7. (1) In so far as the position of the signature of the testator or the person signing for him is concerned, a will is valid if that signature is so placed at, after, following, under, beside or opposite to the end of the will that it is apparent on the face of the will that the testator intended to give effect, by the signature, to the writing signed as his will. Place of signature.

(2) Without restricting the generality of subsection (1), a will is not affected by reason of the fact that Blank spaces, etc.

- (a) the signature is not immediately after the foot or end of the will or a blank space intervenes between the concluding words of the will and the signature;
- (b) the signature is placed among the words of a testimonium or attestation clause or follows or is after or under a clause of attestation, either with or without a blank space intervening, or follows, is after, under or opposite the name of a subscribing witness; or

(c) the signature is on a side, page or other portion of the papers containing the will on which no disposing part of the will is written above the signature, whether or not there appears to be sufficient space on or at the bottom of the preceding side, page or other portion of the same papers to contain the signature.

Signature does not make effective subsequent dispositions.

(3) No signature under this Ordinance is operative to give effect to any disposition or direction that is underneath it or that follows it or that has been inserted after the signature was made.

Power of appointment.

8. Every will made in accordance with this Ordinance is, in so far as the execution and attestation thereof are concerned, a valid execution of a power of appointment by will, notwithstanding that it has been expressly required that a will in exercise of the power shall be executed with some additional or other form of execution or solemnity.

No publication required.

9. A will made in accordance with this Ordinance is not invalid by reason only of the fact that there is no further publication thereof.

Incompetency of witness.

10. (1) A will is not invalid by reason only of the fact that a person who attests the execution of the will is at that time or becomes at any time afterwards incompetent as a witness to prove the execution of the will.

Where gift to attesting witness.

(2) Where a person attests the execution of a will and such person or his or her then wife or husband is by that will given any beneficial devise, legacy, estate, interest, gift or appointment, other than charges or directions for the payment of debts, such person is competent as a witness to prove the execution of the will or the validity or invalidity thereof, but, unless it is a will that is sufficiently attested without the attestation of such person or is one in which no attestation is necessary, the devise, legacy, estate, interest, gift or appointment is, so far only as concerns such person or the wife or husband of such person or persons claiming under either of them, null and void.

Creditor as witness.

(3) Where by a will any real or personal property is charged with a debt or debts and a creditor or wife or husband of such creditor whose debt is so charged attests the execution of the will, the charging provision is not by reason only of such attestation invalid and the person so attesting is, notwithstanding such charge, competent as a witness to prove the execution of the will or the validity or invalidity thereof.

Executor as a witness.

(4) No person is, by reason only of his being an executor of a will, incompetent as a witness to prove the execution of the will or the validity or invalidity thereof.

REVOCACTION.

11. (1) Alteration in circumstances since the making of a will does not in itself raise any presumption of an intention to revoke the will. Change of circumstances does not raise presumption.

(2) No will or any part thereof is revoked otherwise than by Revocation in general.

- (a) marriage as provided in subsection (3);
- (b) another will executed in accordance with this Ordinance;
- (c) some writing declaring an intention to revoke the will or a part thereof and executed in accordance with the provisions of this Ordinance respecting the execution of a will; or
- (d) burning, tearing or otherwise destroying the will by the testator or by some person in his presence and by his direction with the intention of revoking it.

(3) A will is revoked by marriage of the testator after it is made, except where Revocation by marriage.

- (a) it is declared in the will that it is made in contemplation of such marriage; or
- (b) the will is made in exercise of a power of appointment and the real or personal property thereby appointed would not, in default of such appointment, pass to the heir, executor or administrator of the testator or to the persons entitled to his estate if he died intestate.

ALTERATIONS.

12. (1) No obliteration, interlineation, cancellation by drawing lines across a will or any part thereof or other alteration made in a will after its execution is valid or has any effect, except in so far as the words or effect of the will before such alteration are not apparent or cannot be ascertained, unless such alteration is executed in accordance with the provisions of this Ordinance respecting the execution of a will. Alterations.

(2) For the purposes of subsection (1), the will with such alteration as part thereof shall be held to be duly executed if the signatures or written initials of the testator and of the witnesses subscribing to the alteration are made in the margin or in some part of the will opposite or near to the alteration or at the foot, end of or opposite to a memorandum referring to such alteration and writing in some other part of the will or in a codicil thereto. Execution of alterations.

REVIVAL.

13. (1) A will or any part thereof that has been in any manner revoked shall not be revived otherwise than by its re-execution or by a codicil showing an intention to revive it and executed in accordance with the provisions of this Ordinance respecting the execution of a will. Revival.

(2) Unless an intention to the contrary is shown, where a will that has been first partly revoked and then afterwards wholly revoked is subsequently revived, the revival does not extend to that part that was revoked prior to the will being wholly revoked. Effect where will first partly and then wholly revoked.

DEVISES AND BEQUESTS.

Effect of subsequent conveyance, etc.

14. Where, after the execution of a will, there is a conveyance of or other alienation or act relating to any real or personal property comprised in a will, it shall not prevent the operation of the will with respect to such estate or interest in such property as the testator has power to dispose of by will at the time of his death.

Will speaks from death.

15. Unless a contrary intention appears by it, every will shall, with reference to the real and personal property comprised in it, be construed to speak and take effect as if it had been executed immediately before the death of the testator.

Lapsed and void gifts.

16. Unless a contrary intention appears by the will, any real or personal property or interest therein that is comprised or intended to be comprised in any devise or bequest in the will and that fails or becomes void by reason of the death, within the lifetime of the testator, of the person to whom it is devised or bequeathed or by reason of the gift being contrary to law or otherwise incapable of taking effect shall be included in the residuary estate, if any, contained in the will.

Inclusion of leaseholds.

17. Unless a contrary intention appears by the will, a devise of the land of the testator described in a general manner or as being in any particular place or in the occupation of any particular person mentioned in his will or any other general devise that would describe a leasehold estate if the testator had no freehold estate shall be construed to include the leasehold estates of the testator or any of them to which the description extends, as the case may be, as well as the freehold estates.

Appointment by general gift.

18. Unless a contrary intention appears by the will, a devise or bequest of the real or personal property of the testator described in a general manner or as being in any particular place or in the occupation of any particular person mentioned in his will shall be construed to include the real or personal property of the testator or any of it to which the description extends, as the case may be, over which he may have power to appoint in any manner he may think proper and shall operate as an execution of the power.

Where no words of limitation.

19. (1) Unless a contrary intention appears by the will, where real property is devised to any person without words of limitation, the devise shall be construed to pass the fee simple or other whole estate which the testator had power to dispose of by will in the real property.

Estate tail cannot be created.

(2) Any devise or limitation that would, heretofore, have created an estate tail, shall be construed to pass the fee simple or greatest estate the testator had in the land.

(3) Unless a contrary intention appears by the will, real property that is devised to the heir or heirs of the testator or of any other person shall pass to the person or persons to whom the beneficial interest in the real property would go in the case of intestacy. Devise to heirs.

20. In any devise or bequest of real or personal property, the words "die without issue" or "have no issue" or any other words which import a want or failure of issue of any person shall be construed to mean a want or failure of issue in the lifetime or at the time of the death of that person and not an indefinite failure of his issue, subject to any contrary intention appearing by the will or to any requirements as to age or otherwise therein contained for obtaining a vested estate. Meaning of "die without issue".

21. Unless a contrary intention appears by the will, where a person Gifts to issue of persons who predecease testator.

(a) is a child, other issue or the brother or sister of a testator to whom, either as an individual or as a member of a class, real or personal property is devised or bequeathed by the testator for an estate or interest not determinable at or before such person's death;

(b) dies in the lifetime of the testator, either before or after the making of the will; and

(c) leaves issue who are living at the time of the death of the testator;

the devise or bequest to such person shall not lapse but shall take effect as if it had been made directly to the persons amongst whom and in the shares in which the deceased person's estate would have been divisible if he had died intestate and without debts immediately after the death of the testator.

22. Unless a contrary intention appears by the will, the illegitimate child of a woman is entitled to take under a testamentary gift by or to her or to her children or issue the same benefit as he would have been entitled to take if he were a legitimate child. Illegitimate children.

23. Where no provision is made in the will of a father for his child born after his death, such child shall have the like interest in his father's estate as if the father had died intestate, and, in providing for the child's share, the devises and bequests in the will shall abate proportionately and the shares of the child shall be affixed and approved by the court so as to affect as little as possible the disposition the father made of his property by his will. Rights of posthumous child.

24. (1) Where any person dies after the 1st day of April, 1955 having by will appointed any person executor thereof, the executor shall be deemed a trustee of any residue not expressly disposed of for the person or persons, if any, who would be Executor as trustee of residue.

entitled to that residue in the event of intestacy, unless it appears by the will that the executor was intended to take the residue beneficially.

Where no person entitled to residue.

(2) Nothing in this section affects or prejudices any rights to which an executor would have been entitled, if this Ordinance had not been passed, in cases where there is no person who would be entitled to the residue.

Unlimited devise to trustee.

(3) Where real property is devised to a trustee without any express limitation of the estate to be taken by the trustee and the beneficial interest in the real property or in the surplus rents or profits thereof is not given to any person for life or, if given to a person for life, the purposes of the trust may continue beyond his life, the devise shall be construed to vest in the trustee the fee simple or whole legal estate that the testator had power to dispose of by will and not an estate determinable when the purposes of the trust are satisfied.

Devise to trustee other than for a term.

(4) Unless a definite term of years absolute or determinable or an estate of freehold is thereby given to him expressly or by implication, a devise of real property to a trustee or executor shall be construed to pass the fee simple or whole estate or interest that the testator had power to dispose of by will.

Meaning of "mortgage".

25. (1) In this section, "mortgage" includes an equitable mortgage and any charge whatsoever whether equitable, statutory or of any other nature and any lien or claim upon freehold or leasehold property for unpaid purchase money.

Primary liability of mortgaged land.

(2) Where a testator has not by will, deed or other document signified a contrary intention and dies possessed of or entitled to or under a general power of appointment by his will disposes of any interest in freehold or leasehold property that at the time of his death is subject to a mortgage, that interest, as between the different persons claiming through the testator, is primarily liable for the payment or satisfaction of the mortgage debt, and every part of the said interest, according to its value, shall bear a proportionate part of the mortgage debt on the whole of such debt.

General charge of debts not a contrary intention.

(3) A contrary intention shall not be deemed to be signified by
 (a) a general direction for the payment of any or all the debts of the testator out of his personal estate or out of his residuary estate either real or personal or both; or
 (b) a charge of debts upon such estate, unless there is further signification by words expressly or impliedly referring to all or some part of the mortgage debt.

Mortgagee's rights not affected.

(4) Nothing in this section affects any right of a person who is entitled to a mortgage debt to obtain payment or satisfaction thereof out of the other assets of the deceased or otherwise.

CONFLICT OF LAWS.

Law governing immovable property.

26. The manner of making, the validity and the effect of a will, so far as it relates to immovable property, is governed by the law of the place where the property is situate.

27. (1) Subject to subsections (2) and (3), the manner of ^{Law governing} making, the validity and the effect of a will, so far as it relates ^{movable} to movable property, is governed by the law of the place where ^{property.} the testator was domiciled at the time of his death.

(2) A will made in the Territory, whatever was the domicile ^{will of} of the testator at the time of the making of the will or at the ^{movable} time of his death, shall, so far as it relates to movable property, ^{property} be held to be well made and be admissible to probate under the ^{made in} laws in force in the Territory if it is made in accordance with ^{Territory.} this Ordinance or in accordance with the law, in force at the time of the making thereof,

(a) of the place where the testator was domiciled when the will was made; or

(b) of the place where the testator had his domicile of origin.

(3) A will made outside the Territory, whatever was the ^{will of} domicile of the testator at the time of making the will or at the ^{movable} time of his death, shall, so far as it relates to movable property, ^{property} be held to be well made and be admissible to probate under the ^{made} laws in force in the Territory if it is made in accordance with ^{outside} this Ordinance or in accordance with the law, in force at the ^{Territory.} time of the making thereof,

(a) of the place where the testator was domiciled when the will was made;

(b) of the place where the will was made; or

(c) of the place where the testator had his domicile of origin.

28. A subsequent change of domicile of a person who has ^{Change of} made a will shall not, in itself, effect revocation of a will or ^{domicile.} invalidate it or alter its construction.

CHAPTER 110.

AN ORDINANCE RESPECTING
THE LIENS OF WOODMEN.

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as the *Woodmen's Lien Ordinance*.

INTERPRETATION.

Definitions. **2.** In this Ordinance,

"Defendant." (a) "defendant" means the person liable or alleged to be liable to a claim for a lien under this Ordinance;

"Labour." (b) "labour" includes cutting, skidding, felling, hauling, scaling, rossing, banking, piling, driving, running, rafting or booming logs or timber and any work done by cooks, blacksmiths, artisans and others usually employed in connection therewith; and

"Logs or timber." (c) "logs or timber" includes logs, timber, piles, telegraph poles, railway ties, pulpwood, shingle bolts, staves, fence posts and cordwood.

CREATION AND EFFECT OF LIEN.

Contracts where rights under this Ordinance are waived are void. **3.** (1) Every agreement entered into on the part of a workman, servant, labourer, mechanic or any other person employed in any kind of manual labour that this Ordinance shall not apply or that the remedies provided by it shall not be available for the benefit of any person entering into such agreement is null and void as against the workman, servant, labourer, mechanic or other person.

Non-application. (2) This section does not apply to a manager, officer, foreman or other person whose wages are more than ten dollars a day exclusive of board and lodgings.

Labourer has lien on logs. **4.** Every person who performs labour in connection with logs or timber has a lien thereon and on all lumber manufactured therefrom for the amount due for the labour, and such lien is a first charge on the logs or timber or lumber and has priority over all other claims or liens thereon except a lien or claim which a timber slide company, or owner of slides and booms may have thereon for or in respect of tolls.

REGISTRATION OF LIEN.

Statement in writing must be filed. **5.** (1) The lien provided for in section 4 expires sixty days after the last day of labour in respect of which the lien exists is performed unless a statement of claim in writing verified by the affidavit of the person claiming the lien or someone duly authorized on his behalf is filed as provided in subsection (2).

(2) A statement of claim shall be filed in the office of the Clerk of the Court. Where claim to be filed.

6. The statement of claim shall be in Form A and shall set out briefly What statement to contain.

- (a) the nature of the debt, demand or claim;
- (b) the amount due to the claimant as near as may be, over and above any legal set-off or counterclaim; and
- (c) a description of the logs or timber or lumber upon or against which the lien is claimed.

7. No mortgage, 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 the statement of claim and previous to the filing thereof, or after the filing thereof and during the time limited for the enforcement thereof, affects the lien, but it remains in force against the logs or timber or lumber in whosoever possession the same may be found. Lien not affected by mortgage, sale, etc.

ENFORCEMENT OF LIEN.

8. (1) Any person who has a lien upon or against logs or timber or lumber under this Ordinance may enforce it by action in the Court. Lien enforceable in Court.

(2) Proceedings under this Ordinance may be commenced by writ of summons to enforce the lien if the amount claimed is due immediately after the statement of claim and affidavit have been filed in accordance with section 5, or, where credit was given, immediately after the expiry of the period of credit. When proceedings may be commenced.

(3) The lien expires unless proceedings to enforce it are commenced within thirty days after the date upon which the statement of claim and affidavit were filed or, where credit was given, within thirty days after the date upon which the period of credit expires. Lien expires unless proceedings commenced within 30 days.

9. Where proceedings have been commenced pursuant to section 8, there shall be attached to or endorsed upon the writ of summons a copy of the statement of claim, and no other statement of claim is necessary unless ordered by the judge before whom proceedings are taken. Statement of claim to be attached to writ of summons.

10. (1) The judge before whom proceedings are taken to enforce a lien under this Ordinance may, upon such terms as to notice and otherwise as he deems fit, order that the proceedings be disposed of summarily by him in chambers without waiting for the regular sittings of the Court. Judge may dispose of matter summarily.

(2) The judge before whom proceedings are taken may also entertain in chambers an application to set aside a writ of summons or attachment to release logs or timber or lumber seized and may summarily dispose of the application. Judge may decide application to set aside.

Under what circumstances attachment to issue.

11. Upon the filing of a copy of the statement of claim and an affidavit verifying such statement, and an affidavit made and sworn to by the claimant of the amount of the claim due and owing, showing that the statement of claim and affidavit verifying it have been filed as provided by this Ordinance and stating

- (a) that he has good reason to believe, and does believe, that the logs or timber are about to be removed out of the Territory, or
- (b) that the person indebted for the amount of the lien has absconded or is about to abscond from the Territory with intent to defraud or defeat his creditors, or
- (c) that the logs or timber are about to be cut into lumber or timber or otherwise dealt with so that the same cannot be identified, and
- (d) that he is in danger of losing his claim if an attachment does not issue,

and an affidavit corroborating the affidavit of the plaintiff in respect of paragraph (a), (b) or (c) is also filed, the Clerk of the Court shall issue a writ of attachment directed to the sheriff commanding him to attach, seize and safely keep the 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 and to return the writ forthwith to the Court.

Subsequent seizure may be made.

12. Where additional claims are made or the amount of claim is increased or a sufficient seizure has not been made, a subsequent seizure may be made.

Defendant to appear to writ of attachment.

13. (1) Where no writ of summons has issued, the writ of attachment shall summon the defendant to appear before the Court and a copy of the writ of attachment shall be served upon the defendant; if the defendant is not the owner of the logs or timber or lumber described in the writ of attachment, a copy of the writ shall also be served upon the owner of the logs or timber or lumber or upon the agent or person in whose possession, custody or control for the owner they may be found.

Owner may be made defendant.

(2) The owner may on his own application or by the direction of a judge be made a defendant.

Statement to be served with writ of attachment.

(3) A copy of the statement of claim shall be attached to the copy of the writ of attachment and served with it.

Where defendant or owner cannot be found, etc.

14. Where 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, a writ of attachment under this Ordinance may be served in such manner as the judge by order directs.

Judge to direct method of service where owner cannot be found.

15. Where service upon the defendant or owner has not been personal the judge, notwithstanding that a defence has not been entered, may at any time before the close of the proceedings admit the defendant and the owner or either of them to make full defence upon such terms as he deems just.

16. (1) Except where logs or timber or lumber are in the possession of any person for the purpose of being driven or sorted or delivered to the owners, or to satisfy any statutory lien, the sheriff shall not seize or detain any logs, timber or lumber under this Ordinance when in transit from the place where the same were cut to the place of destination if the place of destination is within the Territory. No seizure when in transit.

(2) When logs or timber or lumber are in the possession of a person for any purpose mentioned in subsection (1), attachment of such logs or timber or lumber may be made by serving a copy of the writ of attachment upon the person driving or holding them, and from the time of the service such person shall be deemed to hold the logs or timber or lumber both on his own behalf and for the sheriff to the extent of the lien, until the logs or timber or lumber can be driven and sorted out. Service may be made on persons holding logs.

(3) When the logs or timber or lumber possessed by a person for any purpose mentioned in subsection (1) are driven or sorted out, the sheriff may receive the same from such person, and the statutory lien of the person is not released by the holding of the sheriff or his agents. Sheriff may receive logs when sorted out.

17. When a writ of attachment is issued, if the owner of the logs or timber or lumber or any person in his behalf executes and files with the Clerk of the Court a good and sufficient bond to the person claiming the lien executed by two sureties and conditioned for the payment of the claim and for all damages, costs, charges, disbursements and expenses that may be recovered by the claimant in such proceedings together with the amount for which any other lien is claimed in any other suit, the Clerk shall, if he is satisfied as to the sufficiency of the bond, issue an order to the sheriff directing the release of the logs, timber or lumber and upon service of the order upon him the sheriff shall release them. Logs to be released if bond furnished.

18. Any person who is served with a copy of the writ of attachment and who desires to dispute the claim shall within twenty days after service enter in the Court a notice that he disputes the claim upon the lien in whole or in part. Dispute to be filed.

19. (1) The defendant may at any time after service of a writ of summons or attachment and before the sale of the logs or timber or lumber pay into Court the amount for which the lien is claimed together with the amount for which any other lien is claimed and the costs of the proceedings to the date of such payment, as taxed by the Clerk of the Court if so required. Defendant may pay into Court.

(2) Upon the certificate mentioned in subsection (1) being filed in the office of the Clerk of the Court, the lien or liens are vacated and all further proceedings thereon shall cease and the person making payment is entitled to a certificate vacating the lien and to an order directing the delivery up of the logs or timber or lumber seized under the attachment or the cancellation of any bond given under section 17. Effect of payment into Court.

Judge to
summon
all interested
persons.

20. After the expiration of the time within which notice of dispute may be entered the judge shall, in chambers as provided by section 10 or at the next sitting of the Court, after due notice to all parties to the proceedings and to all persons claiming liens on the logs or timber or lumber and whose liens are filed pursuant to this Ordinance or to their solicitors hear all such parties and claimants 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 liens and shall tax costs and determine by whom such costs shall be payable and settle their priorities and generally determine all matters necessary for the adjustment of the rights of all parties.

Judge to make
report and
order
payment
into Court.

21. At the conclusion of the inquiry the judge shall make his report and order which shall state his findings and direct payment into Court of the amounts, if any, found due and the costs within ten days thereafter, and in default of payment that the logs or timber or lumber be sold by the sheriff within twenty days after the default for the satisfaction of the amounts found due to the several parties upon the inquiry and costs.

How logs to
be sold in
default of
payment.

22. (1) When the sheriff is ordered to sell logs or timber or lumber pursuant to section 21, he shall do so in the manner and subject to the same provisions of law as goods and chattels seized or taken in execution unless the judge directs that additional publicity be given to the sale; and the amount realized by the sale shall, after deducting the expenses thereof payable to the sheriff, be paid into Court and shall upon the application of the several parties found to be entitled thereto under the order of the judge be paid out to them by the Clerk of the Court.

Where amount
realized not
sufficient,
apportionment
to be
pro rata.

(2) Where the amount realized upon a sale under subsection (1) is not sufficient to pay the claims in full and costs, the judge shall apportion the amount realized *pro rata* among the different claimants.

If balance
still due
execution
may issue.

23. Where after the sale and distribution of the proceeds thereof any balance remains due to any person under the order made pursuant to section 21, judgment may be entered therefor 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 the Court.

Lien may be
discharged
where
nothing
found due.

24. Where nothing is found due upon a claim filed under this Ordinance or upon any lien in respect of which proceedings have been taken the judge before whom the proceedings are taken may direct that the lien be discharged and the logs or timber or lumber be released or the security given therefor be delivered up and cancelled and he shall also direct payment forthwith of any costs which are found due to the defendant or owner of the logs or timber or lumber.

25. Where more money is paid into Court as the proceeds of the sale of logs or timber or lumber than is required to satisfy the liens which have been proved and the interest and costs, the remaining money shall be paid over to the party entitled to it. Surplus of sale to be paid to party entitled.

26. Any person affected by proceedings under this Ordinance may apply to the judge before whom the proceedings are taken to dismiss the proceedings for want of prosecution and the judge may upon such application make such order as to costs or otherwise as he deems just. Application to judge to dismiss proceedings.

27. The judge before whom proceedings are taken may at any stage of the proceedings on the application of any party, or as he sees fit, order that any person who is deemed a necessary party to the 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 as to such service as he deems just. Other parties may be added.

28. Where proceedings are taken to enforce a lien but no lien is found to exist, judgment may be directed for any amount found due as in an ordinary case. Where no lien exists judgment may be given as in ordinary case.

29. Nothing in this Ordinance disentitles a person to any other remedy provided by any other law for the recovery of any amount due in respect of labour or any part thereof performed upon or in connection with logs or timber. Other remedies not barred.

30. Any number of lienholders may join in taking proceedings under this Ordinance or may assign their claims to any one or more persons, but in such case the statement of claim shall include a particular statement of the claim of every person so joining and shall be verified by the affidavit of such person or separate statements of claim may be filed and verified and one writ of attachment issued on behalf of all such persons. Lienholders may join in action.

31. Where more than one suit is commenced under this Ordinance in respect of the same logs or timber or lumber, any defendant may apply to have the suits consolidated, and any defendant who causes additional costs by failure to apply for or assist in such consolidation is liable for such costs. Defendant may have suits consolidated.

32. Where no proceedings have been commenced to enforce a lien under this Ordinance the Clerk of the Court shall, upon request by any person affected thereby, furnish a certificate in Form B. Where no proceedings, Clerk to issue certificate.

33. The practice and procedure regulating actions in the Territorial Court shall, so far as not inconsistent with this Ordinance, regulate proceedings under this Ordinance. Procedure to be that of Territorial Court.

SCHEDULE.

FORM A.

(Section 6)

STATEMENT OF CLAIM OF LIEN.

A.B., (name of claimant), of (here state residence of claimant), (if claim made as assignee then say as assignee of, stating name and address of assignor) under the *Woodmen's Lien Ordinance* claims a lien upon certain logs, timber or lumber of (here state the name and residence, if known, of the owner of the logs, timber or lumber upon which the lien is claimed) composed of (state the kind of logs, timber or lumber such as spruce, tamarack or other logs, ties, poles, posts, etc., also where situate at the time of filing of statement), in respect of the following labour, that is to say (here give a short description of the labour for which the lien is claimed) which labour was performed for (here state the name and residence of the person upon whose credit the labour was performed) between the _____ day of _____, 19____, and the _____ day of _____, 19____, at _____ per day (or month or quantity).

The amount claimed as due (or to become due) is the sum of _____ . (when credit has been given add: The said labour was performed on credit and the period of credit will expire on the _____ day of _____, 19____).

.....
Signature of Claimant

CHAPTER 111.

**AN ORDINANCE RESPECTING COMPENSATION TO
BE LAID AS A RESULT OF INJURIES OR DEATH
CAUSED TO WORKMEN IN THE COURSE OF
THEIR EMPLOYMENT.**

Short Title.	1. This Ordinance may be cited as the <i>Workmen's Compensation Ordinance</i> .
Definitions.	2. In this Ordinance,
"Accident."	(a) "accident" includes a wilful and intentional act, not being the act of the workman and also includes a chance event occasioned by a physical or natural cause, as well as disablement arising out of and in the course of the employment, and where the disablement is caused by disease the date of the accident shall be deemed to be the date of the disablement;
"Child."	(b) "child" includes an illegitimate child, and any child of any child and the child of a husband or wife by a former marriage, as well as any other child to whom the workman stood <i>in loco parentis</i> ;
"Compensation."	(c) "compensation" includes medical aid;
"Common law wife."	(d) "common law wife" includes any woman who, although not legally married to him, lives and cohabits with a man as his wife and is known as such in the community in which they have lived;
"Construction."	(e) "construction" includes reconstruction, repair, alteration, renovating, painting, decorating and demolition;
"Court."	(f) "Court" means the Territorial Court of the Yukon Territory;
"Dependants."	(g) "dependants" means such of the members of the family of a workman as were wholly or partially dependent upon his earnings at the time of his death or who, but for the incapacity due to the accident, would have been so dependent; but a person shall not be deemed to be a partial dependant of another person unless he was dependent partially on contributions from that other person for the provision of the ordinary necessities of life suitable for persons in his class and position;
"Employer."	(h) "employer" means every person, firm, association, body or corporation having or deemed by this Ordinance to have in his or its service one or more workmen;
"Employment."	(i) "employment" means employment in an industry or any part, branch or department of an industry;

- (j) "industry" means any establishment, undertaking, trade or business included in the Schedules hereto or designated by regulation, whether the same be carried on in conjunction with other occupations or separately; "Industry."
- (k) "insurer" means an insurance company licensed to do business in Canada under the *Canadian and British Insurance Companies Act* or the *Foreign Insurance Companies Act* and includes Lloyds of London as registered in the Province of British Columbia; "Insurer."
- (l) "invalid" means a person who is physically or mentally incapable of earning; "Invalid."
- (m) "learner" means any person who, although not under a contract of service or apprenticeship, becomes subject to the hazards of an industry within the scope of this Ordinance for the purpose of undergoing training or probationary work as a preliminary to employment and in the event of a learner suffering injury in such circumstances as would entitle him to compensation, such compensation shall be based upon the wages paid to beginners in the trade or business in which he is a learner; "Learner."
- (n) "lumber" includes logs, laths, shingles, ties and all other forest products the manufacture and production of which is an industry or is within an industry within the scope of this Ordinance; "Lumber."
- (o) "manufacturing" includes making, preparing, altering, repairing, renovating, servicing, dyeing, cleaning, ornamenting, printing, finishing, packing, assembling the parts of and adapting for use or sale any raw material, goods, article or commodity; "Manufacturing."
- (p) "medical aid" includes medical and other services by all those licensed to practise the healing art in the Territory or at such place outside the Territory where treatment may be authorized and nursing, hospitalization, drugs, dressings, x-ray treatment, special treatment, transportation and other matters and things as the employer or referee may authorize or provide; "Medical aid."
- (q) "member of a family" means wife, husband, parent, grandparent, step-parent, child, grandchild, step-child, brother, sister, half-brother, half-sister and a person who stood *in loco parentis* to the workman or to whom the workman stood *in loco parentis*, whether related to him by consanguinity or not so related; and where the workman is the parent or grandparent of an illegitimate child, includes such child and where the workman is an illegitimate child includes each of his parents or grandparents; "Member of a family."
- (r) "mine" includes any opening, quarry or excavation in, or working of, the ground for the purpose of searching for, winning, opening up, removal of, or proving any mineral-bearing substance, and any ore body, mineral deposit, stratum, soil, rock, quartz, limestone, bed of "Mine."

- earth, clay, sand or gravel, or place where mining is or may be carried on, and all ways, works, machinery, plant, buildings and premises below or above ground belonging to or used in connection with the mine and also any roastyard, smelting furnace, mill work or place used for or in connection with crushing, reducing, smelting, refining or treating any of said substances;
- "Mine rescue and first aid work." (s) "mine rescue and first aid work" includes the equipment necessary for such work, the repairs thereof, the training necessary for such work and the supplies used therein;
- "Outworker." (t) "outworker" means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired or adapted for use or sale in his own home or on other premises not under the control or management of the person who gave out the articles or materials;
- "Payroll." (u) "payroll" means the total remuneration earned by all workmen of an employer in the Territory in a year less the total remuneration in excess of
- (i) two hundred and fifty dollars paid to each workman for each month in that year prior to the 1st day of January, 1956, and
 - (ii) three hundred and thirty-three dollars and thirty-three cents paid to each workman for each month in that year after the 31st day of December, 1955;
- "Permanent total disability." (v) "permanent total disability" without restricting the general meaning of the term shall be conclusively presumed in all cases where the injuries suffered consist of or include
- (i) total and permanent loss of the sight of both eyes;
 - (ii) the loss of both feet at or above the ankle;
 - (iii) the loss of both hands at or above the wrist;
 - (iv) the loss of one hand at or above the wrist and one foot at or above the ankle;
 - (v) any injury to the spine resulting in permanent and complete paralysis of legs or arms or one leg and one arm; or
 - (vi) any injury to the skull resulting in incurable imbecility or insanity;
- "Physician." (w) "physician" means an authorized person skilled in the art of healing;
- "Referee." (x) "referee" means such person or persons as the Commissioner may from time to time designate;
- "Remuneration." (y) "remuneration" includes salary, wages, commissions, tips, earnings for overtime and for piece work and for contract work, bonuses or allowances, the cash equivalent of board and lodging, stores certificates, credits or any substitute for money; and

- (z) "workman" means a person who has entered into or works under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and includes "Workman."
- (i) any person engaged in training for mine rescue work or who with the knowledge and consent of the management or the person in charge of an authorized mine rescue crew, is doing recovery work after an explosion, accident or catastrophe;
 - (ii) the employees of a contractor contracting for the performance of mining operations for another person engaged in the industry of mining and also such contractor whilst actually working;
 - (iii) the driver of a vehicle doing work for another whether the former supplies the vehicle or does not supply it, if the relationship of master and servant exists between the driver and the other person;
 - (iv) the user of a fishing boat or fishing equipment doing work for another whether the former supplies such boat or equipment or does not supply it, if the relationship of master and servant exists between the user and the other person;
 - (v) a learner; and
 - (vi) any person not otherwise coming within the foregoing definition, who under the provisions of this Ordinance or a regulation is deemed to be a workman.

3. (1) Except as otherwise provided by this Ordinance or any regulation, every employer in any industry shall enter into and maintain in force a contract of insurance in such form, containing such conditions, for such amount and with such insurer as the Commissioner may by regulation approve providing for payment of compensation Employers shall insure.

- (a) to workmen of the employer in respect of personal injury by accident arising out of and in the course of their employment including disability by reason of disease due to the employment; and Employees.
- (b) to dependants of workmen in respect of the death of a workman by accident arising out of and in the course of his employment including death by reason of disease due to the employment. Dependants.

- (2) The Commissioner may by order Commissioner may exempt employers.
- (a) exempt from the application of this section, for any period not exceeding twelve months, any employer who has made other arrangements for the protection of his workmen considered by the Commissioner to be at least equivalent to those provided by this Ordinance, subject to such conditions and the payment of such fee as the Commissioner may prescribe;
 - (b) exempt from the application of this Ordinance, any employer who employs persons in the Territory on a temporary basis, in respect of those employees who are

- normally resident outside the Territory and are protected by a workmen's compensation scheme satisfactory to the Commissioner, subject to such conditions and the payment of such fee as the Commissioner may prescribe;
- Areas. (c) exempt any areas of the Territory from the application of this Ordinance; and
- Revoke exemptions. (d) revoke any exemption made under paragraph (a), (b) or (c).
- Application of Ordinance. 4. (1) This Ordinance applies to
- (a) the industries or part thereof named or described in Schedule 1 and to such other industries as the Commissioner may designate by regulation;
 - (b) the industrial diseases described in Schedule 2 and to such other industrial diseases as the Commissioner may designate by regulation; and
 - (c) subject to subsection (2) of section 3, all employers in such industries or part thereof.
- Withdrawal from application. (2) The Commissioner may withdraw any industry or part thereof from the application of this Ordinance.
- Non-applicability to certain persons. 5. This Ordinance does not apply to
- (a) persons whose employment is of a casual nature and who are employed otherwise than for the purposes of the employer's trade or business;
 - (b) outworkers;
 - (c) persons employed in an industry of an itinerant nature; and
 - (d) persons employed in the industry of farming or ranching.
- Conditions as to payment of compensation to members of family of employer. 6. (1) Members of the family of an employer employed by him and dwelling in his house as members of his household shall not be deemed to be workmen within the scope of this Ordinance and compensation shall not be payable to them unless in the application for insurance they are specifically named as workmen of the employer.
- Employer deemed to be workman. (2) An employer who is himself insured against injury or death by the terms of a contract of insurance entered into by him under this Ordinance for the protection of his workmen is deemed to be a workman for the purposes of this Ordinance.
- Amount to be included as employer's remuneration. (3) Every employer who is insured as described in subsection (2) shall include in the payroll referred to in subsection (1) of section 43 while so insured, for each month of
- (a) any year prior to the year 1956, an amount not exceeding two hundred and fifty dollars, and
 - (b) any year after the year 1955, an amount not exceeding three hundred and thirty-three dollars and thirty-three cents,

and the amount so included in respect of any such period shall, for the purposes of this Ordinance and any contract of insurance entered into by him under this Ordinance, be deemed to be his remuneration for that period.

7. (1) Where an accident that would entitle the workman or his dependants to compensation under this Ordinance if the accident had happened in the Territory happens while he is employed elsewhere than in the Territory, the workman or his dependants are entitled to compensation under this Ordinance if

Accident elsewhere than in Territory.

- (a) the workman is a resident of the Territory or his usual place of employment is in the Territory;
- (b) the nature of the employment is such that in the course of the work or service which the workman performs, the work or service is required to be performed both within and without the Territory;
- (c) the employment out of the Territory has immediately followed employment by the same employer within the Territory; and
- (d) the employment out of the Territory has lasted less than six months.

(2) Where by the law of the country or place in which the accident happens the workman or his dependants are entitled to compensation or other remedy in respect of it, he or they, as the case may be, are bound to elect whether they will claim compensation or other remedy under the law of that country or place or compensation under this Ordinance and to give notice of such election; and if such notice of election is not given it shall be presumed that they have elected not to claim compensation under this Ordinance.

Election by workman under law of other country.

(3) Notice of the election shall be given to the Commissioner within thirty days after the happening of the accident or, in case it results in death, within thirty days after the death or within such longer period not exceeding one year as, either before or after the expiration of such thirty days, the Commissioner may allow.

Notice of election.

(4) Where, pursuant to subsection (2), a workman elects to claim compensation under this Ordinance in respect of an accident that happened outside the Territory, and, previously, concurrently or subsequently claims or has claimed compensation or other remedy under the law of any other country or place in respect of the same accident, the workman shall be deemed to have forfeited all rights to compensation under this Ordinance in respect of that accident, and any moneys paid to him or on his behalf by the employer in respect thereof shall be deemed to be a debt due by him to the employer.

Forfeiture of rights in certain cases.

(5) Notwithstanding subsection (4), a workman who, before claiming under this Ordinance, has in error claimed compensation under the laws of the country or place wherein the accident

Exception.

happened and has been found not entitled to such compensation shall be deemed not to have forfeited his rights to compensation under this Ordinance by reason of having made such claim.

Employer shall pay compensation.

8. Every employer to whom this Ordinance applies shall pay

(a) to a workman in respect of personal injury by accident arising out of and in the course of his employment including disability by reason of disease due to the employment, and

(b) to the dependants of that workman in respect of the death of that workman by accident arising out of and in the course of his employment including disability by reason of disease due to the employment,

compensation as provided in this Ordinance.

Commissioner may appoint referee.

9. The Commissioner may designate from time to time a person or persons to act as referee.

Jurisdiction referee.

10. (1) The referee has exclusive jurisdiction either with or without notice to any person or persons interested, to examine, inquire into, hear and determine all matters and questions arising under this Ordinance and referred to the referee by the Commissioner, and the action or decision of the referee thereon is final and conclusive and is not open to question or review in any court, and no proceedings by or before the referee shall be restrained by injunction, prohibition or other process or proceedings in any court or be removable by *certiorari* or otherwise into any court, nor shall any action be maintained or brought against the referee in respect of any act or decision done or made in the honest belief that the same was within the jurisdiction of the referee.

Power to reconsider, rescind, alter or amend decisions.

(2) Nothing in subsection (1) shall prevent the referee, within five years from the date of the accident, either with or without notice to any person or persons interested from reconsidering any matter that has been dealt with by it or from rescinding, altering or amending any decision or order previously made, all of which the referee has authority to do.

Decisions of referee not binding as precedent.

(3) The decisions of the referee shall be upon the real merits and justice of the case and he is not bound to follow strict legal precedent and no decision or ruling of the referee is binding upon him as a precedent for any other decision or ruling, the intent of this provision being that each case shall be decided on its own merits.

Attendance of witnesses and production of documents.

(4) The referee has the like powers as a court for compelling the attendance of witnesses and of examining them under oath and compelling the production and inspection of books, papers, documents and things.

Evidence by deposition.

(5) The referee may cause depositions of witnesses residing within or without the Territory to be taken before any person appointed by the referee in manner similar to that prescribed by the Rules of the Territorial Court.

(6) The referee may act upon the report of any person appointed by the referee to make an inquiry. Power of referee to act on report.

(7) The person appointed to make the inquiry has for the purposes thereof all powers conferred upon the referee. Power of person appointed by referee.

(8) Without thereby limiting the generality of the provisions of subsection (1), it is declared that the exclusive jurisdiction of the referee extends to determining Exclusive jurisdiction of referee.

- (a) whether an injury has arisen out of or in the course of an employment within the scope of this Ordinance;
- (b) the existence and degree of disability by reason of an injury;
- (c) the permanence of disability by reason of an injury;
- (d) the degree of diminution of earning capacity by reason of an injury;
- (e) the amount of average earnings;
- (f) the existence, for the purpose of the Ordinance, of the relationship of any member of the family of an employer or of a workman;
- (g) the existence of dependency;
- (h) whether or not an industry or any part, branch or department of any industry is within the scope of this Ordinance;
- (i) whether or not any person or aggregation of persons is an employer within the meaning of this Ordinance;
- (j) whether or not any person is a workman within the meaning of this Ordinance; and
- (k) whether or not any workman is entitled to compensation under this Ordinance.

11. (1) The referee may in any case where it is deemed necessary and shall on the application of an employer or workman interested in any order, ruling or decision of the referee, issue a certificate embodying the substance of any such order, ruling or decision. Issuance of certificate embodying substance of order.

(2) If an award of the referee is not paid within sixty days the workman may file the referee's certificate with the Clerk of the Court and such certificate has the same force and effect as if it were a judgment of such Court and execution against the employer may be issued thereon. Certificate may be filed in Court and execution issue.

12. (1) The Commissioner may Regulations.

- (a) make regulations for the prevention of accidents and industrial diseases among workmen; and
- (b) make such other regulations and prescribe such forms as are deemed expedient for carrying out the provisions of this Ordinance and not inconsistent therewith.

(2) Any regulation made under the authority of paragraph (a) of subsection (1) shall not come into force or effect unless the Territorial Council has by resolution first given its approval.

Compensation when payable.

13. (1) Where in any employment to which this Ordinance applies, personal injury by accident arising out of and in the course of employment is caused to a workman, compensation shall be paid unless the injury is attributable solely to the serious and wilful misconduct of the workman and death or serious disablement does not result from it.

Where disease partly due to employment.

(2) Where the personal injury consists of disease, in part due to the employment and in part due to causes other than the employment, compensation shall be paid in the same proportion to the whole of the compensation that would have been payable had the personal injury been wholly due to the employment, as the part thereof that is due to the employment is in proportion to the whole of the personal injury.

Presumption of death in the course of employment.

(3) Where a workman is found dead at a place where the workman had a right in the course of his employment to be, it shall be presumed that his death was the result of personal injury by accident arising out of and in the course of his employment, unless there is evidence sufficient to rebut the presumption.

Presumptions that accident occurred in course of employment.

(4) Where the accident arose out of the employment, unless the contrary is shown, it shall be presumed that it occurred in the course of the employment and where the accident occurred in the course of the employment, unless the contrary is shown, it shall be presumed that it arose out of the employment.

When disease deemed due to nature of employment.

(5) Where a workman suffers disablement from or because of any of the diseases enumerated in Schedule 2 and at some time during the twelve months previous to the disablement was employed in a process appearing in the second column of the said Schedule and the disease contracted is the disease in the first column of the said Schedule set opposite to the description of such process, the disease shall be deemed to have been due to the nature of that employment unless the contrary is proved.

Disability longer than three days before compensation payable.

(6) If the injury does not disable the workman longer than the period of three days from earning full wages at the work at which he was employed, no compensation, other than medical aid, is payable under this Ordinance; if the injury disables the workman longer than the period of three days, no compensation, other than medical aid, is payable for the first three days of disability; and where the disability is of more than six days' duration, compensation is payable from the date of disability.

Unauthorized deduction of wages prohibited.

14. (1) Except as authorized by this Ordinance, it is not lawful for any employer, either directly or indirectly, to deduct from the wages of his workmen any part of any insurance premium that he is or may become liable to pay, or to require or to permit any of his workmen to contribute in any manner towards indemnifying him against any liability that he has incurred or may incur under this Ordinance.

Waiver of right to compensation invalid.

(2) It is not competent for a workman to agree with his employer to waive or to forego any of the benefits to which he or his dependants may become entitled under this Ordinance and every agreement to that end is absolutely void.

(3) Except as herein otherwise provided, no sum payable as compensation or by way of commutation of any periodical payment in respect of it, is capable of being assigned, charged or attached unless with the approval of the Commissioner. Compensation may not be assigned.

(4) If and when compensation payments have been made to a workman beyond the period of his disability or to a dependant in an amount in excess of that to which he is entitled, the amount of the overpayment may be recovered by the employer as a debt due to him by such workman or dependant, as the case may be, and without in any way limiting the employer's remedies for recovery, may be set off against any compensation that may be or become payable to such workman or dependant. Recovery of overpaid compensation.

15. (1) All claims for permanent disability, whether total or partial, shall be determined by the referee on being referred to him by the Commissioner. Claims of permanent disability.

(2) All claims for temporary disability shall be determined by the insurer or other person designated by the Commissioner for the purpose in accordance with this Ordinance, except that if an employee who has been awarded compensation for a temporary disability notifies the Commissioner that he is dissatisfied with the disposition of his claim, such claim shall at the request of the Commissioner be reviewed by the referee who shall make such disposition of the claim as he deems appropriate. Temporary disability.

(3) The rights and compensation payable under this Ordinance are in lieu of all rights and rights of action statutory or otherwise to which a workman or his legal personal representative or his dependants are or may be entitled against the employer of the workman or against any workmen of the employer, by reason of personal injury to or the death of the workman arising out of any accident happening to the workman while in the employment of the employer, and no action in respect of such personal injury or death lies against the employer except for compensation to which the workman is entitled under this Ordinance. Rights under Ordinance in lieu of right of action against employer.

(4) Subject to subsection (5), where an accident happens to a workman in the course of his employment in such circumstances as entitled him or his legal personal representative or his dependants to an action against some person other than his employer or another workman of his employer, the workman or his legal personal representative or his dependants may bring such action. Where workman may bring action.

(5) Where an accident happens to a workman in the course of his employment entitling him or his dependants to compensation under this Ordinance, and the circumstances thereof are such as to entitle him or his legal personal representative or his dependants to an action against some person other than his employer or another workman of his employer, the employer and insurer are subrogated to all rights of the workman or his legal personal representative or his dependants as against such Subrogation.

other person for the claim of the workman or his legal personal representative or his dependants against such other person for or in respect of the personal injury to or death of the workman.

Acceptance of payment by employer.

(6) Upon payment to the employer of his claim against any such person the employer may accept the same and give a receipt therefor and release such other person or his legal personal representative, as the case may be, from liability in respect of the personal injuries suffered by the workman in or because of the accident in question.

Payment of excess to workman by employer.

(7) Any amount received by the employer from such other person in excess of the cost of the accident to the employer shall be paid over to the injured workman or his legal personal representatives or his dependants, as the case may be, upon the employer receiving from such injured workman or his legal personal representative, or his dependants, as the case may be, a release from any further claim upon the employer in respect of the accident for or on account of which payment was or is being received, in which case the workman or his legal personal representatives or his dependants, as the case may be, is not thereafter entitled to receive from or be paid by the employer or the insurer any further compensation or medical aid for or in respect of injury or death arising out of such accident.

Notice to employer of accident.

16. (1) In every case of injury to a workman by accident in any industry within the scope of this Ordinance, it is the duty of the workman or in the case of his death, the duty of a dependant, as soon as practicable, after the happening of the accident, to give notice thereof to the employer.

Contents of notice.

(2) The notice shall give the name and address of the workman and is sufficient if it states in ordinary language the cause of the injury and where the accident happened.

Failure to give notice.

(3) Failure to give notice as required by virtue of subsections (1) and (2), unless excused by the Commissioner on the grounds

- (a) that notice for some sufficient reason could not have been given;
- (b) that the employer or his superintendent or agent in charge of the work where the accident happened had knowledge of the injury; or
- (c) that the Commissioner is of the opinion that the claim is a just one and ought to be allowed;

is a bar to any claim for compensation under this Ordinance.

Time limit for making claim.

(4) No compensation is payable in respect of any claim unless notice of the claim is given to the employer or the Commissioner by the claimant within twelve months from the happening of the accident or where death results from such accident, by a dependant, within twelve months from the date of death; but the referee may notwithstanding subsection (2) of section 15, on proof of the accident and injury being filed with the employer or the Commissioner within three years of the date of its happening, award compensation where

- (a) the workman gave notice of the accident to his employer as soon as practicable after its occurrence, and
 - (b) in the opinion of the Commissioner the claim is a just one and ought to be allowed.
- (5) Every employer to whom the Ordinance applies having knowledge or notice of the happening of an accident or of the allegation of the happening of an accident to a workman in his employ, shall forward to the Commissioner and the insurer forthwith after the same comes to his knowledge or notice, notification of the happening of the accident or of the allegation of the happening of an accident and shall at the same time forward to the workman a copy of such notification, and the employer shall also, in the event of the injured workman or the allegedly injured workman returning to his work or being able to return to his work, forward to the Commissioner and the insurer within twenty-four hours after the fact of the return or ability to return comes to his knowledge, notification thereof and make such further and other reports respecting the accident or alleged accident and workman as may be required by the Commissioner.
- (6) Every employer who fails to make any report required by virtue of this section, unless excused by the Commissioner on the ground that the report for some sufficient reason could not have been made, is guilty of an offence and liable upon 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.
- (7) In case an employer fails to make any report required by virtue of this section, the Commissioner may make a special investigation of the accident and of the facts and circumstances surrounding it and may charge the cost of such investigation against such employer.
- (8) A physician who attends an injured workman shall forward to the Commissioner, in duplicate,
- (a) a report within two days after the date of his first attendance upon the workman;
 - (b) upon the first and fifteenth days of each month progress reports, during such time as the injured workman is unable to work as a result of the injuries;
 - (c) a final report within three days after the workman is in his opinion able to resume work; and
 - (d) from time to time such reports in respect of the injury in such form as may be required by the regulations.
- (9) The physician shall also give all reasonable and necessary information, advice and assistance to the injured workman and his dependants in making application for compensation and in furnishing in connection therewith such certificates and proofs as may be required, without charge to the workman.
- (10) Payment of a medical account for medical services rendered to an injured workman does not of itself constitute the making of a claim by such workman or acceptance of a claim.

Notice of accident to Commissioner by employer.

Failure of employer to report accident.

Investigation by Commissioner where employer fails to report.

Physician's report.

Duty of physician to workman.

Payment of account not a claim.

Medical examination of claimant as required.

17. (1) A workman who claims compensation or to whom compensation is payable under this Ordinance shall submit himself for medical examination in such manner and at such time and place as the employer, the insurer or the referee may require.

(2) A workman is not required to submit himself for examination save as required by the employer, the insurer, or the referee.

Failure to submit to examination.

(3) If a workman does not submit himself for examination as and when required by the employer, the insurer or the referee so to do or in any way obstructs an examination, his right to compensation, or if he is in receipt of a periodical payment, his right thereto, shall be suspended until the examination has taken place, and the condition found upon such examination shall, unless the referee otherwise directs, be deemed to have been the condition of the workman in relation to his disability at the date for which the examination was called.

Nomination of medical practitioners.

18. (1) If and when a workman claims
- (a) a greater disability than that allowed him;
 - (b) a continuance of compensation beyond the period allowed;
 - (c) an error in some feature or circumstance of his claim as affected by his physical condition; or
 - (d) that the medical opinion upon which the disputed finding was made is erroneous;

and makes a request in writing to the Commissioner for examination under the provisions of this section, the Commissioner shall refer the claim to the referee who, after consultation with the workman's attending physician, if any, may nominate four or more duly qualified medical practitioners.

Two selected.

(2) From the medical practitioners so nominated two shall be selected in the following manner:

- (a) the referee shall notify the workman and the insurer by registered mail of the names and addresses of the medical practitioners nominated and each may select from the said names one such medical practitioner, such selection to be made and communicated in writing to the referee within thirty days after the mailing of the notice by the referee;
- (b) if one of either the workman or the insurer fails to make a selection within the time provided or if both select the same medical practitioner, the referee shall select one other medical practitioner from those nominated; and
- (c) if both the workman and the insurer fail to make a selection within the time provided, the referee shall select two medical practitioners from those nominated.

Examination of workman.

(3) The two medical practitioners selected shall examine the workman and certify to the referee as to

- (a) the condition of the workman;
- (b) his fitness for employment;
- (c) if unfit, the cause of such unfitness;

- (d) the extent of his temporary or permanent disability by reason of the injury in respect of which he has claimed compensation; and
- (e) such other matters as may in their opinion or in the opinion of the referee be pertinent to the claim.

(4) If after examining the workman the two medical practitioners are unable to agree on the matters in respect of which their certificate is required they shall select a third medical practitioner from the list of those first nominated, and in event of their being unable to agree on a third practitioner the selection shall be made by the referee and the three so selected shall examine the workman and the decision of the majority shall be certified to the referee with respect to the matters set out in subsection (3).

(5) The certificate of the medical practitioners is conclusive as to the matters certified unless the referee at any time directs otherwise.

(6) The referee may of his own motion or at the request of the employer or insurer require a workman to be examined under the provisions of this section and may without any request from a workman nominate a list of medical practitioners and notify the workman and the employer, whereupon the examination shall be proceeded with under the provisions of this section in the same manner as if a request had been made by the workman.

(7) A reference in subsection (2) to an insurer shall, in any case where there is no insurer, be construed as a reference to the employer.

19. (1) Subject to subsection (2), where a workman to whom compensation is payable leaves Canada, he shall not be entitled thereafter to receive compensation until permission to reside outside of Canada is granted by the employer, if the employer is exempted from the application of section 3, the insurer or the referee.

(2) Where in the opinion of the referee the disability resulting from the injury is likely to be of a permanent nature and the referee so directs, the workman is entitled to the amount of periodical payments accruing due while a resident outside of Canada if he proves in such manner as may be prescribed by the referee his identity and the continuance of the disability in respect of which the periodical payments are payable.

(3) Where a workman leaves Canada and subsequently claims compensation for a disability allegedly suffered in the course of his employment in the Yukon Territory, the employer shall not be liable for compensation unless the workman returns at his own expense to Canada for such medical examination as the employer, insurer or referee may require.

Supervision
of payment of
compensation.

20. Where an injured workman
(a) changes physicians without prior authorization from the employer, if the employer is exempted from the application of section 3, the insurer or the referee except when referred by the original physician to another physician,
(b) persists in insanitary or injurious practices that tend to imperil or retard his recovery, or
(c) refuses to submit to such medical or surgical treatment as, in the opinion of the employer or insurer based upon independent expert medical or surgical advice is reasonably essential to promote his recovery,
the employer or insurer may, with the consent in writing of the referee, reduce or suspend the compensation of that workman.

Referee
may order
treatment.

21. (1) Where in any case, in the opinion of the referee, it is in the best interests of an injured workman, in order to cure or relieve him from the effects of the injury, to provide a special surgical operation or other special medical treatment, the employer shall provide such surgical operation or other special medical treatment.

Special
apparatus.

(2) Where in the case of any claim for compensation the referee is of the opinion that the injury would be alleviated to some extent by the supplying of any apparatus usually provided in such cases, the employer shall supply such apparatus to the workman, but any such action shall not affect in any way the payments made to the workman.

Referee may
order
further
measures.

(3) To aid in getting an injured workman back to work and to assist in lessening or removing any handicap resulting from his injuries, the employer shall take such measures and make such expenditures as the referee may deem necessary or expedient.

Repair or
renewal of
special
apparatus.

(4) The employer shall provide for the repair, maintenance or renewal of any apparatus provided by him that becomes in need of repair, maintenance or renewal by reason of accident or ordinary wear and tear and through no misconduct on the part of the workman, so long as the disability in respect of which such apparatus was supplied continues.

When
employer
pays for
eye-glasses,
etc.

(5) The employer shall assume the expense of replacement and repair of dentures, eye-glasses, artificial eyes or limbs or hearing aids, broken as a result of an accident arising out of and in the course of employment of the workman.

Autopsy.

(6) If an autopsy is deemed necessary by the referee, the employer or the insurer to assist in determining the cause of any death, the Commissioner may direct that the autopsy be made within a time to be fixed by him, and if the dependant or dependants refuse to permit the autopsy, the referee may reject any claim for compensation under this Ordinance.

Death while
in hospital.

(7) Where the death of a workman to whom this Ordinance applies occurs while he is confined to a hospital, the hospital authority shall report the same to the employer and the Commissioner immediately after the death has occurred.

22. (1) Where a workman suffers a permanent disability and the referee is of the opinion that occupational retraining is desirable, the referee may Occupational retraining of workman.

(a) direct the type of training to be undertaken by the workman, or

(b) order the payment by the employer or insurer of the cost of the occupational retraining including travelling and living allowances, room and board, tuition, books, tools and equipment up to an amount not exceeding five thousand dollars for any one workman of the employer.

(2) In this section "occupational retraining" means the training of a workman in an occupation other than the occupation in which he was disabled.

(3) This section shall come into force on a day to be fixed by order of the Commissioner.

23. (1) Any payment to a workman may be reviewed at the request of the workman, employer or insurer within five years from the date of the accident, and on the review the referee may put an end to or diminish the payment or may increase it to a sum not beyond the maximum hereinafter prescribed; the referee shall forthwith notify the Commissioner and the Commissioner shall forthwith notify the employer of any such appeal. Review of compensation.

(2) Where compensation is payable the employer, with the consent of the Commissioner, may commute the payments payable to a workman or a dependant to a lump sum. Commutation of payments.

(3) The employer may in any case where in his opinion, the interest or pressing need of the workman or any dependant warrants it, advance or pay to or for the workman or the dependant such lump sum as the circumstances warrant and as the employer may determine, and any sum so advanced or paid shall be on account of and chargeable against the compensation payable to the workman. Accountable advances on compensation.

(4) Where a lump sum payment has been made to a workman or a dependant as a settlement in full of his claim and has been so accepted by the workman or dependant, such workman or dependant is not entitled to receive or be paid any further or other compensation for or in respect of the degree of disability for which he was being compensated, but this subsection does not in any way affect the application of subsection (4) of section 21. Position of employee upon settlement in full.

(5) In case of death or permanent total disability or in case of permanent partial disability where the impairment of the earning capacity of the workman exceeds five per cent of his earning capacity at the time of the accident, no commutation of periodical payments shall be made except upon the application of and at an amount agreed to by the dependant or workman entitled to the payments. Commutation of periodical payments.

Compensation where workman committed to gaol.

(6) Where any person entitled to compensation under this Ordinance is committed to a gaol or prison, compensation is not payable to him for the period of his confinement therein, but the whole or any part of the compensation may be paid to any dependant of any person so committed.

Payment of compensation where workman committed to an institution.

(7) If any person entitled to compensation under this Ordinance is committed to any institution, the compensation payable to or in respect of such person may, with the approval of the Commissioner, be paid to the dependent wife or other dependants of such person.

Compensation withheld pending receipt of particulars of residence, etc.

(8) The employer or the insurer may, from time to time, require from any person entitled to compensation, whether a workman or dependant, such particulars of his place of residence, address and other information relative to the disability and compensation, as he may deem necessary, and pending the receipt of such particulars, may withhold further payments.

Payment of compensation to wife and children under certain conditions.

24. Where a workman is entitled to compensation and it is made to appear to the Commissioner

(a) that a spouse, child or children dependent upon the workman and residing in the Territory, are without adequate means of support and are or are apt to become a public charge or a charge upon private charity; or

(b) that a spouse, child or children dependent upon the workman and residing outside the Territory are not being supported by the workman and an order has been made against him by a court of competent jurisdiction for the support or maintenance of the spouse or children or for alimony;

the Commissioner may order the compensation to be diverted in whole or in part from the workman for the benefit of the spouse or children of the workman.

Compensation for death.

25. (1) Where death results from the injury, the amount of the compensation shall be

Burial expenses.

(a) the necessary expenses of the burial of the workman, not exceeding two hundred dollars;

Contribution to additional expense.

(b) to a dependent widow or dependent invalid widower as a contribution to additional expense occasioned consequent upon the death of the deceased workman,

(i) where the accident occurred on or before the 31st day of December, 1955, the sum of one hundred dollars, or

(ii) where the accident occurred on or after the 1st day of January, 1956, the sum of three hundred dollars;

Transportation of body.

(c) where the death occurred away from the workman's usual place of residence and in the opinion of the referee the transportation of the body seems desirable

(i) the necessary expense of transporting the body from the place of death to the usual place of residence up to but not exceeding one hundred dollars, or

- (ii) the expense necessarily incurred for such of the transportation that takes place within the Territory up to but not exceeding one hundred dollars, where the usual place of residence of the workman is outside the Territory and it is proposed to transport the body to that place;
- (d) to a dependent widow or dependent invalid widower,
 - (i) where the accident occurred on or before the 31st day of December, 1955, a monthly payment of fifty dollars, or Monthly payment to widow.
 - (ii) where the accident occurred on or after the 1st day of January, 1956, a monthly payment of seventy-five dollars;
- (e) to a dependent child under the age of sixteen years other than a dependent invalid child a monthly payment of twenty-five dollars to continue until the child attains the age of sixteen years or dies before attaining that age; Monthly payment to child.
- (f) to a dependent invalid child irrespective of the age of the child, a monthly payment of twenty-five dollars to continue as long as in the opinion of the referee it might reasonably have been expected had the workman lived he would have continued to contribute to the support of the child; Monthly payment to dependent invalid child.
- (g) where a workman leaves no widow or widower or where a surviving widow or widower subsequently dies or is confined to a gaol, prison or institution, the employer shall make from time to time such additional payments not exceeding ten dollars monthly to a dependent child under the age of sixteen years or to a dependent invalid child as in the discretion of the referee appears necessary to adequately maintain and support such child; Additional payments to dependent child of dependent invalid child.
- (h) to a dependent widow in necessitous circumstances because of illness such additional amount as the referee may see fit up to but not exceeding fifteen dollars a month for such period as to the referee may seem appropriate by reason of the illness; and Additional payment to widow in necessitous circumstances.
- (i) to a dependent child or a dependent invalid child such additional amount because of illness as the referee may see fit up to but not exceeding ten dollars per month for such period as may to the referee seem appropriate by reason of the illness. Additional payment to child because of illness.
- (2) In subsection (3), unless the context otherwise requires,
 - (a) "existing household" means any household where all the children entitled to compensation are maintained and taken care of by one foster-mother; and Interpretation "existing household".
 - (b) "foster-mother" includes a natural mother. "Foster-mother."
- (3) Where the workman leaves no widow or the widow subsequently dies and it seems desirable to continue the existing household, and an aunt, sister or other suitable person acts as foster-mother in keeping up the household and maintaining and Compensation payable to foster-mother.

taking care of the children entitled to compensation in a manner which the referee deems satisfactory the foster-mother while so doing is entitled to receive the same compensation for herself and the children as if she were the widow of the deceased.

Duration of payments to foster-mothers.

(4) All payments to foster-mothers under subsection (3) shall cease when all the dependent children who constitute the existing household have ceased to be entitled to compensation.

Compensation payable to common law wife.

26. (1) Where a workman for the three years immediately preceding his death cohabited with a dependent common law wife, by whom he had one or more children and leaves no dependent widow, the compensation to which a dependent widow would have been entitled under this Ordinance may, in the discretion of the referee, be paid to such common law wife until such time as she marries.

(2) A dependent common law wife receiving or entitled to receive compensation under this Ordinance may not be paid compensation for acting or claiming to act as a foster-mother to the children of the deceased workman.

Extension of compensation for dependent child attending academic, technical or vocational school.

27. (1) Where a dependent child of a workman who,

(a) at the time of the death of the workman from the injury, was sixteen years of age or over and under the age of eighteen years, or

(b) immediately before reaching sixteen years of age, was a child to whom a monthly payment was being made under paragraph (e) of subsection (1) of section 25, is attending an academic, technical or vocational school and making progress satisfactory to the referee, the referee may in his discretion order payment of compensation of twenty-five dollars a month to be made or to be continued, as the case may be, to or in respect of that child until such time as the child

(c) fails to make satisfactory progress at the school,

(d) ceases to attend school, or

(e) attains the age of eighteen years.

(2) Where a dependent child who is receiving payments under subsection (1) attains the age of eighteen years during a school year the referee may order the payments of compensation to be extended to the end of the then current school year.

Compensation for other dependants.

28. Where the only dependants are persons other than those mentioned in subsection (1) of section 25, section 26 or section 27, the compensation shall be a sum to be determined by the referee, reasonable and proportionate to the pecuniary loss to such dependants occasioned by the death but not exceeding

(a) fifty dollars per month to a parent or parents and not exceeding in the whole eighty-five dollars per month where the accident occurred on or before the 31st day of December, 1955, or

- (b) seventy-five dollars per month to a parent or parents and not exceeding in the whole one hundred dollars per month where the accident occurred on or after the 1st day of January, 1956.

29. Any payment to or for a child may be made to the parent of the child or the referee may direct that the payment be made to such other person or be applied in such manner as it may deem best for the advantage of the child. Payment to parent or other person for child.

30. Where a dependent widow remarries the monthly payments to her shall cease but she shall be paid a lump sum of Lump sum paid to widow when re-marries.

- (a) six hundred dollars within one month of the date of her marriage where the accident occurred on or before the 31st day of December, 1955; or
- (b) one thousand dollars within one month of the date of her marriage where the accident occurred on or after the 1st day of January, 1956.

31. Where a person is receiving or is entitled to receive a pension because of the death of a workman and subsequently becomes entitled to a pension because of the death of another workman such person shall not receive both pensions but shall be paid the greater of the two. Only one pension payable.

32. (1) Where a dependant is not a resident of Canada, he is not entitled to compensation unless by the law of the place or country in which he resides the dependants of a workman to whom an accident happens in such place or country, if resident in Canada, would be entitled to compensation, and where such dependants would be entitled to compensation under such law, the compensation to which the non-resident dependant is entitled under this Ordinance shall not be greater than the compensation payable in the like case under that law. Dependant not resident of Canada.

(2) Notwithstanding subsection (1), the referee may order payment of such compensation or sum in lieu of compensation to any such non-resident dependant as may be deemed proper.

33. Where permanent total disability results from the injury, the amount of the compensation shall be a weekly payment during the life of the workman equal to seventy-five per cent of the average weekly earnings of workmen employed at similar work in the same occupation as determined by the referee. Compensation for permanent total disability.

34. (1) Where permanent partial disability results from the injury, the referee shall estimate the impairment of earning capacity from the nature and degree of the disability by reason of the injury and award compensation accordingly based upon seventy-five per cent of the average weekly earnings of workmen employed at similar work in the same occupation as determined by the referee. Compensation for permanent partial disability.

Nature of injury to be considered.

(2) When deemed just, the impairment of earning capacity may be estimated from the nature of the injury having in view the workman's fitness to continue the employment in which he was injured or adapt himself to some other suitable occupation.

Payment of lump sum in certain cases.

(3) Where the impairment of the earning capacity of the workman does not exceed five per cent of his earning capacity, instead of such weekly payments the Commissioner may, unless in his opinion it would not be to the advantage of the workman to do so, direct that such lump sum as is determined by him to be the equivalent of such payments shall be paid to the workman.

Permanent disfigurement.

(4) Notwithstanding the provisions of this section, the referee may in case a workman has been seriously and permanently disfigured about the face or head or otherwise permanently injured, recognize an impairment of earning capacity and may allow lump sums or periodical payments or both, as compensation.

Compensation for temporary total disability.

35. Where temporary total disability results from the injury, the amount of the compensation shall be a weekly payment so long as the disability lasts, equal to seventy-five per cent of the workman's average weekly earnings, computed in accordance with section 38.

Compensation for temporary partial disability.

36. Where temporary partial disability results from the injury, the employer or the referee, as the case may be, shall estimate the impairment of earning capacity from the nature and degree of the disability by reason of the injury and award compensation accordingly based on seventy-five per cent of the workman's average weekly earnings computed in accordance with section 38 but such compensation is payable only so long as the disability lasts.

Injury while doing rescue work in a mine.

37. In case of workmen suffering injury by accident arising out of and in the course of the employment while doing rescue work in a mine after an explosion, accident or catastrophe or in any other industry or the premises thereof during or immediately after a fire or other catastrophe for the saving of human life, the compensation payable in such case shall be computed on the basis of one hundred per cent in lieu of the seventy-five per cent as herein otherwise provided.

Manner of computation of average weekly earnings.

38. (1) The average weekly earnings of a workman for the purposes of this Ordinance shall be based upon the earnings of the workman during the previous twelve months in industries to which this Ordinance applies where the same are ascertainable, except that where by reason of the shortness of the time during which the workman has been in the employment of his employer or the casual nature of the employment, it is impracticable at the date of the accident to compute the rate of remuneration, regard may be had to the average earnings which were earned by a person in the same grade of employment for the previous

twelve months, but nothing in this subsection applies to any case in which the basis of compensation is fixed by section 33 or 34.

(2) Where in any case in the opinion of the employer or the referee, as the case may be, the provisions of subsection (1) are inapplicable, the employer or the referee, as the case may be, may award compensation having regard to the earnings of the workman at the time of the accident. Where provisions of subsection (1) are inapplicable.

(3) For the purpose of ascertaining the amount of compensation payable under sections 33 to 37, average weekly earnings shall be computed in such manner as is best calculated to give the rate per week at which the workman was being remunerated, but not so as in any case to exceed Computation of average weekly earnings.

- (a) three thousand dollars per annum where the accident occurred on or before the 31st day of December, 1955, or
- (b) four thousand dollars per annum where the accident occurred on or after the 1st day of January, 1956.

(4) Where a workman is receiving compensation for a permanent or temporary disability, he shall not receive compensation for any further or other disability in any amount that would result in his receiving in the aggregate compensation in excess of that payable for total disability. No compensation for further or other disability in certain cases.

(5) Where a workman has received a lump sum in lieu of the periodic payments that otherwise would have been payable for a permanent disability, he shall for the purposes of this subsection be deemed to be still in receipt of the periodic payments. Where lump sum paid in lieu of weekly payments.

(6) Where the workman has entered into concurrent contracts of service with two or more employers in industries to which this Ordinance applies under whom he worked at one time for one such employer and at another time for another such employer, his average weekly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident. Computation of average weekly earnings in certain cases.

(7) Where the employer has been accustomed to pay to the workman a sum to cover any special expenses entailed on him by the nature of the employment, the sum so paid shall not be reckoned as part of the earnings. Sum for special expenses not part of earnings.

39. (1) The amount of compensation to which an injured person is entitled for temporary total or permanent total disability under this Ordinance shall not be less than twenty-five dollars per week or where his average earnings are less than twenty-five dollars per week, the amount of such earnings. Minimum compensation for total disability.

(2) The employer or the referee, as the case may be, may, wherever it is deemed advisable, provide that the payments of compensation may be monthly or semi-monthly instead of weekly, or where the workman or dependant is not a resident of the Territory, or ceases to reside therein, the employer or Periods of payment.

the referee, as the case may be, may fix the periods of payment or commute the compensation as it may deem proper, but if a workman or dependant entitled to compensation at the rate of twenty dollars a month or more files with the employer or the referee, as the case may be, a request in writing that the compensation payable to him be paid semi-monthly, the compensation payable to such workman or dependant shall thereafter be paid semi-monthly.

Where commutation prohibited.

(3) No commutation of compensation under subsection (2) shall be made by the employer or the referee, as the case may be, to a workman or dependant unless the workman or dependant has, since leaving the Territory, resided in the same province or other jurisdiction for a period of thirteen consecutive months.

Computation on daily basis.

(4) For the purpose of ascertaining the amount of compensation due, such amount may be computed on a daily basis.

Payment to persons under legal disability.

(5) Where a workman or dependant is under the age of twenty-one years or is under any other legal disability, the compensation to which he is entitled may be paid to him or be applied in such manner as the employer or the referee, as the case may be, may deem best for his advantage.

Compensation payable when workman becomes 21.

(6) Where the workman was at the date of the accident under twenty-one years of age the compensation payable to such workman may, upon his attaining the age of twenty-one years, be paid on the basis of the earnings at the time of the accident of workmen of the age of over twenty-one years employed in an occupation similar to that in which the workman was employed at the time of the accident.

Consideration of allowance or benefit from employer to workman.

40. In fixing the amount of a payment, regard shall be had to any payment, allowance or benefit which the workman may receive from his employer in respect of the period of his disability, including any pension, gratuity or other allowance provided wholly at the expense of the employer.

"Silicosis."

41. (1) In this section, "silicosis" means a fibrotic condition of the lungs caused by dust containing silica and evidence of specific x-ray appearances accompanied by a substantially lessened capacity for work.

Compensation not paid for silicosis in certain cases.

(2) Nothing in this Ordinance entitles a workman or his dependants to compensation, medical aid or payment of burial expenses for disability or death from silicosis, unless in the opinion of the referee the workman has been exposed to silica dust in his employment in the Territory for periods amounting in all to at least three years preceding his disablement.

Application of subsection (2).

(3) Subsection (2) does not prevent allowance of any claim due to silicosis that the referee considers is entirely due to employment in the Territory.

Medical aid.

42. (1) The employer shall furnish or provide for the injured workman such medical aid as may be reasonably necessary at the time of the injury and thereafter during the disability to

diagnose, cure and relieve from the effects of the injury, and the Commissioner may make regulations with respect to the furnishing of and the payment for medical aid to injured workmen.

(2) All questions as to the necessity, character and sufficiency of any medical aid furnished or to be furnished shall be determined by the referee.

(3) When the employer provides or is liable to pay for medical or other remedial attention as hereinbefore provided, the amount payable to any person in respect of medical or other remedial attention or any attention shall be as the referee shall direct and no action lies against the employer for or in respect of any amount greater than that fixed by the referee, nor in any event against the injured workman, his employer or any other person in respect of such attention, except, however, that when the employer provides or is liable to pay for hospital services, the amount shall be at such rates as have been mutually agreed upon by the employer and the hospital authority.

(4) Where workman is undergoing treatment under the direction of the referee or the employer in a district, settlement or place other than that in which the workman ordinarily resides and does not receive free board and lodging from his employer, the employer shall pay to such workman a subsistence allowance, while the workman is undergoing such treatment

- (a) at the rate of six dollars per day, while the workman continues to maintain his house or other residence in the district, settlement or place in which he ordinarily resides;
- (b) at the rate of three dollars per day, where the workman does not so maintain that house or residence; or
- (c) in either case, such lesser amount as may be determined by the referee on reference by the Commissioner.

(5) The referee may contract with the doctors, nurses and hospitals or any other institutions for any medical aid required, and in the case of a workman who has been rendered helpless through permanent total disability as a result of any injury, may order the provision of such other treatment services or attendance as in his opinion are required as a result thereof and the employer shall pay any charges or expenses incurred thereunder or in connection therewith in respect of any workman for whom he is responsible.

(6) Any major operations or operations of election require the approval of the employer or the insurer, or of the referee on reference by the Commissioner, before being performed and in the event that such approval is not obtained, except in cases of emergency the cost thereof may be paid or not at the discretion of the referee.

(7) Under no circumstances shall a workman be charged any amount to supplement that paid or to be paid by his employer or an insurer for services to which the workman is entitled under this Ordinance.

Hospitalization of injured workman.

(8) Every employer shall, at his own expense, furnish to any workman injured in his employment who is in need of it, immediate conveyance and transportation to a hospital or to a physician or to the workman's home or to such other place as the condition of the workman requires him to be sent, and any employer who fails to do so is liable by order of the Commissioner to pay for such conveyance and transportation as may be procured by the workman or by anyone for him.

Assessment of insured employers for administrative purposes.

43. (1) Subject to subsections (2) and (3), each employer shall

(a) annually, on the date that the whole or any part of the annual premium on his contract of insurance entered into under this Ordinance is first due, pay to the Commissioner or to a person authorized by him as his agent in that behalf an assessment of

(i) such percentage, not exceeding one-half of one per cent, of his estimated payroll for the twelve-month period commencing on that date, as the Commissioner from time to time prescribes, or

(ii) one dollar, whichever is the greater; and

(b) within thirty days after each anniversary of the date referred to in paragraph (a), submit to the Commissioner in prescribed form a statement of his actual payroll for the twelve-month period preceding such anniversary date.

Idem.

(2) Notwithstanding paragraph (b) of subsection (1), within thirty days after the date on which an employer ceases to be an employer or his contract of insurance expires, whichever first occurs, he shall submit to the Commissioner in prescribed form a statement of his actual payroll for the period from the date mentioned in paragraph (a) of subsection (1) to the applicable date mentioned in this paragraph.

Assessment of exempted employers.

(3) An employer who is exempted under paragraph (a) of subsection (2) of section 3 shall

(a) on the date that the exemption is granted, pay to the Commissioner or to a person authorized by him as his agent in that behalf an assessment of

(i) such percentage, not exceeding one-half of one per cent, of his estimated payroll for the period in respect of which the exemption is granted, as the Commissioner from time to time prescribed, or

(ii) one dollar, whichever is the greater; and

Statement of payroll.

(b) within thirty days after the date on which he ceases to be exempt from the application of section 3 or the date on which he ceases to be an employer, whichever first occurs, submit to the Commissioner in prescribed form a statement of his actual payroll for the period during which he was exempt .

(4) A change in the rate of assessment is effective on the first due date for payment of any assessment following the date on which the new rate is prescribed. Change in assessment rate.

(5) Where an assessment paid by an employer is greater than the amount payable on the basis of his actual payroll, the amount of the overpayment shall, if it exceeds one dollar, be refunded to him following receipt by the Commissioner of the statement of the employer's actual payroll. Where assessment greater.

(6) Where the assessment paid by an employer is less than the amount payable on the basis of his actual payroll, he shall pay the amount of the difference, if it exceeds one dollar, to the Commissioner at the time he submits the statement of his actual payroll. Where assessment less.

(7) The Commissioner may authorize any person as his agent to collect any assessment payable under this section, and such agent shall have full power to take, and may institute and carry out all necessary legal proceedings in his own name to recover any such assessment for the Commissioner. Commissioner may appoint agent to collect.

(8) From and out of the Yukon Consolidated Revenue Fund there may be paid the referee's fees and expenses, the sum to which an employer is entitled to be refunded under this section and such other costs incidental to the administration and enforcement of this Ordinance, and such part of the moneys collected by assessment in excess of all such fees, expenses, refunds and costs as the Commissioner may determine. Payment of referee's fees, expenses, etc.

44. Each employer shall furnish to the Commissioner such information regarding his payroll as the Commissioner may from time to time require. Payroll.

45. Where an award of the referee is not paid promptly as it falls due, the amount of such award may be paid from and out of the moneys issued and advanced out of the Yukon Consolidated Revenue Fund, and such amount so paid is a debt due to the Commissioner who may recover the same in any court of competent jurisdiction. Payment of award and recovery from employer.

46. Every employer shall keep posted in his premises at a place readily accessible to his workmen a poster provided by the Commissioner setting out in concise form the provisions of the Ordinance and the procedure to be followed in reporting accidents and making claims. Particulars of Ordinance to be posted up.

47. In any prosecution of a person for failing to comply with the requirements of subsection (1) of section 3, a certificate purporting to be signed by the Commissioner alleging that such person has failed to enter into and maintain in force a contract of insurance as required by subsection (1) of section 3 shall be received in evidence as prima facie proof of the facts alleged therein. Certificate as prima facie proof of facts alleged therein.

Penalty.

48. Every employer who fails to comply with or violates any provision of this Ordinance or the regulations for which failure or violation no other penalty is herein provided is guilty of an offence and liable upon summary conviction to a fine not exceeding one thousand dollars.

SCHEDULE 1.

ENUMERATION OF INDUSTRIES.

Coal mining; the operation of coke ovens and briquetting plants; mining other than coal mining; lumbering; fishing; manufacturing; building; construction; engineering; transportation; irrigation; the construction and operation of electric power lines, power plants, water works and other public utilities; the manufacture, repair and servicing of motor vehicles; the operation of municipal police forces and municipal fire departments; navigation; the operation of boats, ships, tugs and dredges; the operation of grain elevators, and warehouses; the manufacture of tobacco and tobacco products and optical products; teaming; scavenging and street cleaning; painting, decorating and renovating; dyeing and cleaning; the operation of planing mills; flour milling; the operation of packing plants, printing, lithographing and engraving; the construction and operation of telephone and telegraph systems; laundries run by mechanical power; excavation; well drilling; the operation of gas and oil wells and the laying, construction and operation of gas and oil pipe lines; the operation and maintenance of freight and passenger elevators (including the work of janitors in buildings where such elevators are operated); quarrying, the operation of lumber yards and wood yards; the preparation, putting up, hauling and distributing of natural ice; the operation of hotels, restaurants, retail stores and commercial greenhouses; exhibition associations and the operation of theatres and of the business of moving pictures and all and every occupation of work incidental to or connected with the industries or any of them enumerated in this Schedule.

SCHEDULE 2.

ENUMERATION OF INDUSTRIAL DISEASES.

<i>Description of Disease</i>	<i>Description of Process</i>
Anthrax	Handling of wool, hair bristles, hides and skins.
Glanders	Care of equine animals suffering from glanders; handling of carcasses of such animals.
Lead poisoning or its sequelae	Any process involving the use of lead or its preparations or compounds.
Mercury poisoning or its sequelae	Any process involving the use of mercury or its preparations or compounds.
Phosphorus poisoning or its sequelae	Any process involving the use of phosphorous or its preparations or compounds.
Arsenic poisoning or its sequelae	Any process involving the use of arsenic or its preparations or compounds.
Infection or inflammation of the skin or contact surfaces due to oils, cutting compounds or lubricants, dust, liquids, fumes, gases or vapours	Any industrial process involving the handling or use of oils, cutting compounds or lubricants or involving contact with dust, liquids, fumes, gases or vapours.
Pneumoconiosis	Quarrying, cutting, crushing, grinding or polishing of stone, or grinding or polishing of metal; mining.
Poisoning by benzol or by nitro and amidoderivatives of benzol, anilin and others	Any industrial process involving the use of benzol or a nitro or anilin derivative of benzol or its preparations or compounds.
Subcutaneous cellulitis of the hand (Beat Hand).	Mining or other industries which require continued use of hand tools.

CHAPTER 112.

AN ORDINANCE RESPECTING LANDS OF THE
YUKON TERRITORY.

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as the *Yukon Lands Ordinance*.

INTERPRETATION.

Definition of "Yukon lands". **2.** In this Ordinance, "Yukon lands" or "lands" means
 (a) lands acquired by the Territory before or after the coming into force of this Ordinance with Territorial funds, and
 (b) any other lands that are subject to the control of the Commissioner in Council.

SALE.

Sale. **3.** (1) The Commissioner may, on such terms and conditions as he sees fit, sell Yukon lands after the following steps have been taken:

- (a) the value of any lands sold shall, within one year preceding the sale of the lands or an agreement to sell them, be appraised by an appraiser appointed by the Commissioner;
- (b) subject to paragraph (d), only one appraisal shall be made within one year preceding the sale and no lands shall be sold for less than the appraised value;
- (c) where the appraised value exceeds two thousand dollars, the land shall be sold only after public tender to the person making the largest offer; and
- (d) where lands have been offered for sale by public tender and no offer equal to or greater than the appraised value has been made, the value of the lands shall be re-appraised and may be sold for an amount equal to or greater than the re-appraised value.

Lands required for public purposes. (2) No Yukon lands shall be sold that, in the opinion of the Commissioner, are required for public purposes.

LEASE.

Lease. **4.** (1) Within one year after the value of any Yukon lands has been appraised by any appraiser appointed by the Commissioner, the Commissioner may lease such lands subject to the following terms and conditions:

- (a) a lease shall be for a term not exceeding twenty-one years but may be once renewed for a period not exceeding twenty-one years;

- (b) the rental shall not be less than six per cent per annum of the appraised value and shall be payable yearly in advance;
 - (c) a lease of lands that have been declared by the Commissioner, before or at the time the lease is entered into, to be necessary for public purposes is subject to cancellation by the Commissioner on giving six months' notice to the lessee; and
 - (d) a lessee may assign his lease after paying all outstanding rental and filing a properly executed unconditional assignment thereof in duplicate to the Commissioner together with the fee therefor set out in section 6;
- and subject to such other terms and conditions as the Commissioner sees fit.

GENERAL.

5. Where any contract, lease or other agreement for the sale, ^{Interest.} lease or other disposition of Yukon lands is entered into and interest is payable under the terms thereof, the rate of interest shall be five per cent per annum.

6. The following fees are payable to the Commissioner: ^{Fees.}
- (a) on issuing a transfer, lease, agreement for sale or other disposition \$5.00
 - (b) on an assignment of a lease, agreement for sale or other disposition being filed with him \$5.00
 - (c) on issuing a certified copy of lease \$2.00
 - (d) for copying documents, per folio \$.25.

7. All contracts, transfers, leases, agreements for sale or ^{Execution of} other dispositions of Yukon lands shall be signed by the Commissioner and the Territorial Secretary, and sealed with the seal of the Territory. _{contracts.}

8. The Territorial Secretary shall lay before the Territorial Council a copy of every document disposing of Yukon lands at the session of the Council next following the date of such document.

SCHEDULE B.
ORDINANCES AND PORTIONS OF ORDINANCES
REPEALED.

Col. I. Chapter.	Col. II. Year and session.	Col. III. Title.	Col. IV. Extent of repeal.
18	C.O. 1914	An Ordinance respecting joint stock companies.....	The whole, except ss. 326-329.
51	C.O. 1914	An Ordinance respecting liens in favour of mechanics and others.....	The whole.
2	1916	An Ordinance to amend the Companies Ordinance.....	The whole.
5	1917	An Ordinance to amend the Companies Ordinance.....	The whole.
7	1918	An Ordinance to amend the Companies Ordinance.....	The whole.
8	1920	An Ordinance to amend the Companies Ordinance.....	The whole.
3	1921(2)	An Ordinance to amend the Companies Ordinance.....	The whole.
3	1923	An Ordinance to amend the Companies Ordinance.....	The whole.
5	1926	An Ordinance to amend The Companies Ordinance.....	The whole.
1	1929	An Ordinance amending the Companies Ordinance.....	The whole.
2	1932	An Ordinance amending The Companies Ordinance.....	The whole.
1	1936	An Ordinance amending The Companies Ordinance.....	The whole, except ss. 1 and 2.
2	1940	An Ordinance to amend The Companies Ordinance.....	The whole.
10	1943	An Ordinance to amend The Companies Ordinance.....	The whole.
1	1944	An Ordinance respecting the erection and inspection of buildings and fire prevention.....	The whole.
21	1945	An Ordinance for the incorporation of co-operative associations and to provide for their regulations.....	The whole.
23	1945	An Ordinance to amend The Fire Prevention Ordinance.....	The whole.
17	1948	An Ordinance to amend The Fire Prevention Ordinance.....	The whole.
23	1948	An Ordinance to amend the Co-operative Association Ordinance.....	The whole.
13	1949(1)	An Ordinance to facilitate the incorporation of societies for provident and other useful purposes, and to provide for their regulation.....	The whole.
8	1949(2)	An Ordinance respecting municipalities and taxation.....	The whole, except s.7,s.413(2)-(4).
9	1949(2)	An Ordinance to amend The Companies Ordinance.....	The whole.
20	1949(2)	An Ordinance to amend The Fire Prevention Ordinance.....	The whole.
5	1950(1)	An Ordinance to amend the Municipal Ordinance.....	The whole.
6	1950(1)	An Ordinance respecting the legal profession.....	The whole.
7	1950(2)	An Ordinance to amend the Societies Ordinance.....	The whole.
10	1950(2)	An Ordinance to amend the Municipal Ordinance.....	The whole, except s.2(2).
12	1950(2)	An Ordinance respecting schools.....	The whole.
12	1951(1)	An Ordinance to amend the Municipal Ordinance.....	The whole, except s.4
10	1951(2)	An Ordinance respecting credit unions.....	The whole.
9	1952(1)	An Ordinance to amend The Legal Profession Ordinance.....	The whole.
12	1952(1)	An Ordinance to provide for old age assistance and allowances to blind persons.....	The whole, except s.14.
17	1952(1)	An Ordinance to provide for the imposition and collection of taxes on real property for the raising of revenue for territorial purposes.....	The whole.
20	1952(1)	An Ordinance to amend the Municipal Ordinance.....	The whole.
21	1952(1)	An Ordinance respecting businesses, callings, trades and occupations and the issue of licences therefore.....	The whole, except s.11(3).
10	1952(2)	An Ordinance to amend the Old Age Assistance and Blind Persons Allowance Ordinance.....	The whole, except s.6.
12	1952(2)	An Ordinance respecting compensation to be paid as a result of injuries or death caused to workmen in the course of their employment.....	The whole.

Schedule B.

Col. I. Chapter.	Col. II. Year and session.	Col. III. Title.	Col. IV. Extent of repeal.
13	1952(2)	An Ordinance to amend the Municipal Ordinance	The whole.
6	1953(1)	An Ordinance to amend the Municipal Ordinance	The whole.
9	1953(1)	An Ordinance to amend the Workmen's Compensation Ordinance	The whole.
1	1953(2)	An Ordinance to amend the Municipal Ordinance	The whole.
2	1953(3)	An Ordinance to amend the Workmen's Compensation Ordinance	The whole, except s.2.
3	1953(3)	An Ordinance to amend the Municipal Ordinance	The whole.
1	1954(1)	An Ordinance respecting scientists and explorers	The whole.
2	1954(1)	An Ordinance to make uniform the law respecting assignments of book debts	The whole.
3	1954(1)	An Ordinance respecting the legitimation of children	The whole.
7	1954(1)	An Ordinance to provide for change of name	The whole.
1	1954(3)	An Ordinance respecting the form and interpretation of Ordinances	The whole.
2	1954(3)	An Ordinance respecting the medical profession	The whole.
3	1954(3)	An Ordinance respecting hotels, boarding house and lodging house keepers	The whole.
4	1954(3)	An Ordinance respecting agisters and keepers of livery, boarding and sales stables	The whole.
5	1954(3)	An Ordinance respecting the limitation of actions	The whole.
6	1954(3)	An Ordinance respecting bills of sale and chattel mortgages	The whole, except s.37.
7	1954(3)	An Ordinance respecting the distribution of estates of intestates	The whole.
8	1954(3)	An Ordinance respecting distress for rent and extra-judicial seizure	The whole.
9	1954(3)	An Ordinance respecting hire receipts and conditional sale of goods	The whole.
10	1954(3)	An Ordinance respecting the capacity, property and liabilities of married women	The whole.
11	1954(3)	An Ordinance respecting arbitration	The whole.
12	1954(3)	An ordinance respecting the practice of dentistry	The whole.
13	1954(3)	An Ordinance respecting the adoption of children	The whole, except s.3.
14	1954(3)	An Ordinance respecting the liens of woodmen	The whole.
15	1954(3)	An Ordinance respecting the driving of saw logs and other timber on lakes, rivers, creeks and streams	The whole.
16	1954(3)	An Ordinance governing the storage, transportation and distribution of inflammable petroleum products in the Yukon Territory	The whole.
17	1954(3)	An Ordinance respecting choses in action	The whole.
18	1954(3)	An Ordinance respecting warehousemen's liens	The whole.
19	1954(3)	An Ordinance respecting the devolution of real property	The whole.
20	1954(3)	An Ordinance respecting landlord and tenants	The whole.
21	1954(3)	An Ordinance respecting insane persons	The whole.
22	1954(3)	An Ordinance respecting the sale of goods	The whole.
24	1954(3)	An Ordinance respecting exemptions	The whole.
25	1954(3)	An Ordinance respecting factors and agents	The whole.
26	1954(3)	An Ordinance respecting partnerships	The whole.
27	1954(3)	An Ordinance to prohibit children being on the streets after nightfall	The whole.
28	1954(3)	An Ordinance respecting motion pictures	The whole.
29	1954(3)	An Ordinance for the relief of execution creditors	The whole.
30	1954(3)	An Ordinance respecting coroners	The whole.
31	1954(3)	An Ordinance respecting marriages	The whole.
32	1954(3)	An Ordinance respecting actions for libel or slander	The whole.
33	1954(3)	An Ordinance to prevent unnecessary noise	The whole.
35	1954(3)	An Ordinance respecting wills	The whole.
36	1954(3)	An Ordinance respecting the administration of justice	The whole.
37	1954(3)	An Ordinance respecting jurors and juries	The whole.
38	1954(3)	An Ordinance respecting the registration of births, marriages, deaths and other vital statistics	The whole.
39	1954(3)	An Ordinance to amend the Municipal Ordinance	The whole.
42	1954(3)	An Ordinance to amend the Assignment of Book Debts Ordinance	The whole.
43	1954(3)	An Ordinance to amend the Workmen's Compensation Ordinance	The whole.
1	1955(1)	An Ordinance to provide for the protection of children	The whole.

Schedule B.

Col. I. Chapter.	Col. II. Year and session.	Col. III. Title.	Col. IV. Extent of repeal.
2	1955(1)	An Ordinance respecting aid to hospitals.....	The whole.
3	1955(1)	An Ordinance respecting compensation for fatal accidents...	The whole, except s.4(3).
4	1955(1)	An Ordinance to facilitate the enforcement of maintenance orders.....	The whole.
5	1955(1)	An Ordinance respecting witnesses and evidence.....	The whole.
6	1955(1)	An Ordinance respecting the collection of judgment debts...	The whole.
7	1955(1)	An Ordinance respecting vocational training agreements between the Yukon Territory and the Government of Canada.....	The whole.
8	1955(1)	An Ordinance respecting liability in actions for damages for negligence where more than one party is at fault.....	The whole, except s.10.
9	1955(1)	An Ordinance respecting the exportation of furs.....	The whole.
10	1955(1)	An Ordinance to provide for the imposition and collection of a tax on persons attending places of amusement.....	The whole.
11	1955(1)	An Ordinance respecting employment agencies.....	The whole.
12	1955(1)	An Ordinance respecting trespassing and straying of animals	The whole.
13	1955(1)	An Ordinance respecting the practice and procedure in civil matters in police magistrates courts.....	The whole.
14	1955(1)	An Ordinance respecting dogs.....	The whole.
15	1955(1)	An Ordinance to provide allowances for disabled persons...	The whole.
16	1955(1)	An Ordinance respecting the profession of pharmaceutical chemist.....	The whole, except s.24.
17	1955(1)	An Ordinance respecting the investigation of accidents by fire.....	The whole.
19	1955(1)	An Ordinance to amend the Interpretation Ordinance.....	The whole.
20	1955(1)	An Ordinance to amend the Marriage Ordinance.....	The whole.
21	1955(1)	An Ordinance to amend the Motion Pictures Ordinance.....	The whole.
22	1955(1)	An Ordinance to amend the Judicature Ordinance.....	The whole.
24	1955(1)	An Ordinance to amend the Adoption Ordinance.....	The whole.
26	1955(1)	An Ordinance to amend the Workmen's Compensation Ordinance.....	The whole.
29	1955(1)	An Ordinance to provide for the imposition and collection of a poll tax.....	The whole.
31	1955(1)	An Ordinance respecting the practice of professional engineering.....	The whole.
6	1955(2)	An Ordinance respecting the attachment of debts.....	The whole.
1	1955(3)	An Ordinance respecting cemeteries and burial sites.....	The whole.
2	1955(3)	An Ordinance respecting masters and servants.....	The whole.
3	1955(3)	An Ordinance respecting trustees and executors and the administration of estates.....	The whole.
4	1955(3)	An Ordinance to provide for the maintenance of children of unmarried parents.....	The whole.
5	1955(3)	An Ordinance respecting lands in the Yukon Territory.....	The whole.
6	1955(3)	An Ordinance respecting newspapers.....	The whole.
7	1955(3)	An Ordinance respecting the practice of chiropractic.....	The whole.
8	1955(3)	An Ordinance respecting the practice of optometry.....	The whole.
9	1955(3)	An Ordinance respecting garage keepers.....	The whole.
11	1955(3)	An Ordinance respecting transfers of land to joint owners.....	The whole.
12	1955(3)	An Ordinance respecting steam boilers and pressure vessels.....	The whole.
13	1955(3)	An Ordinance respecting ferries.....	The whole.
14	1955(3)	An Ordinance respecting the imposition and collection of a tax on motor vehicle fuel.....	The whole.
15	1955(3)	An Ordinance to amend the Amusement Tax Ordinance.....	The whole.
16	1955(3)	An Ordinance to amend the Interpretation Ordinance.....	The whole.
17	1955(3)	An Ordinance to amend the Landlord and Tenant Ordinance.....	The whole.
18	1955(3)	An Ordinance to amend the Marriage Ordinance.....	The whole.
19	1955(3)	An Ordinance to amend the Protection of Children Ordinance.....	The whole.
20	1955(3)	An Ordinance to amend the Conditional Sales Ordinance...	The whole.
21	1955(3)	An Ordinance to amend the Evidence Ordinance.....	The whole.
22	1955(3)	An Ordinance to amend the Workmen's Compensation Ordinance.....	The whole.
23	1955(3)	An Ordinance to amend the Old Age Assistance and Blind Persons Allowance Ordinance.....	The whole, except s.2.

Schedule B.

Col. I. Chapter.	Col. II. Year and session.	Col. III. Title.	Col. IV. Extent of repeal.
1	1956(1)	An Ordinance to regulate the sale of insurance in the Territory.....	The whole.
2	1956(1)	An Ordinance respecting the protection of forests.....	The whole.
3	1956(1)	An Ordinance to provide for the financial administration of the government of the Yukon Territory.....	The whole, except s.43.
5	1956(1)	An Ordinance to amend the Municipal Ordinance.....	The whole.
6	1956(1)	An Ordinance to amend the Workmen's Compensation Ordinance.....	The whole.
8	1956(1)	An Ordinance to amend the Insane Persons Ordinance.....	The whole.
10	1956(1)	An Ordinance to amend the Legal Profession Ordinance.....	The whole.
1	1956(2)	An Ordinance respecting the sale of goods in bulk.....	The whole.
2	1956(2)	An Ordinance respecting certain contracts that have become impossible of performance or have otherwise been frustrated.....	The whole.
3	1956(2)	An Ordinance respecting the public service of the Yukon Territory.....	The whole.
4	1956(2)	An Ordinance to facilitate the reciprocal enforcement of judgments.....	The whole.
5	1956(2)	An Ordinance to amend the Vital Statistics Ordinance.....	The whole.
6	1956(2)	An Ordinance to amend the Forest Protection Ordinance.....	The whole.
7	1956(2)	An Ordinance to amend the Disabled Persons Ordinance.....	The whole.
8	1956(2)	An Ordinance to amend the Municipal Ordinance.....	The whole.
9	1956(2)	An Ordinance to amend the Workmen's Compensation Ordinance.....	The whole.
10	1956(2)	An Ordinance to amend the Insurance Ordinance.....	The whole.
1	1957(1)	An Ordinance to regulate the speed and operation of motor vehicles on highways.....	The whole.
2	1957(1)	An Ordinance to amend the Contributory Negligence Ordinance.....	The whole.
3	1957(1)	An Ordinance to amend the Insurance Ordinance.....	The whole.
5	1957(1)	An Ordinance to amend the Public Service Ordinance.....	The whole.
6	1957(1)	An Ordinance to amend the Business Licence Ordinance.....	The whole.
7	1957(1)	An Ordinance to amend the Poll Tax Ordinance.....	The whole.
1	1957(2)	An Ordinance respecting liens in favour of miners.....	The whole.
2	1957(2)	An Ordinance to provide for annual vacations with pay for employees.....	The whole.
3	1957(2)	An Ordinance to regulate certain matters relating to labour.....	The whole.
4	1957(2)	An Ordinance respecting the floral emblem of Yukon Territory.....	The whole.
5	1957(2)	An Ordinance to provide for the orderly development of unorganized areas.....	The whole.
6	1957(2)	An Ordinance respecting controverted elections.....	The whole.
7	1957(2)	An Ordinance respecting the election of members to the Council of the Yukon Territory.....	The whole.
9	1957(2)	An Ordinance respecting a financial agreement between the Yukon Territory and the Government of Canada.....	The whole.
10	1957(2)	An Ordinance to amend the Old Age Assistance and Blind Persons Allowance Ordinance.....	The whole, except s.3.
11	1957(2)	An Ordinance to amend the Disabled Persons Allowance Ordinance.....	The whole, except s.3.
12	1957(2)	An Ordinance to amend the Motor Vehicle Ordinance.....	The whole.
13	1957(2)	An Ordinance to amend the Hospital Aid Ordinance.....	The whole.
14	1957(2)	An Ordinance to amend the Municipal Ordinance.....	The whole, except s.6(2).
1	1958(1)	An Ordinance respecting public printing.....	The whole.
2	1958(1)	An Ordinance respecting pawn brokers and second-hand dealers.....	The whole.
3	1958(1)	An Ordinance respecting public health.....	The whole.
4	1958(1)	An Ordinance respecting the conservation of game in the Yukon Territory.....	The whole, except s.42(5).
5	1958(1)	An Ordinance to provide for government control and sale of alcoholic liquors.....	The whole.
6	1958(1)	An Ordinance to make provision for the purchase of federal government annuities by the Yukon Territorial Government employees.....	The whole.

Schedule B.

Col. I. Chapter.	Col. II. Year and session.	Col. III. Title.	Col. IV. Extent of repeal.
7	1958(1)	An Ordinance respecting the handling and use of explosives in the Yukon.....	The whole.
8	1958(1)	An Ordinance governing the safe operation of mines in the Yukon Territory.....	The whole.
9	1958(1)	An Ordinance respecting the maintenance of parents, deserted wives and children.....	The whole.
12	1958(1)	An Ordinance respecting a citizenship instruction agreement between the Yukon Territory and the Government of Canada.....	The whole.
14	1958(1)	An Ordinance to amend the Old Age Assistance and Blind Persons Allowance Ordinance.....	The whole, except s.3.
15	1958(1)	An Ordinance to amend the Disabled Persons Allowance Ordinance.....	The whole, except s.3.
16	1958(1)	An Ordinance to amend the Business Licence Ordinance....	The whole.
17	1958(1)	An Ordinance to amend the Steam Boilers Ordinance.....	The whole.
18	1958(1)	An Ordinance to amend the Insurance Ordinance.....	The whole.
19	1958(1)	An Ordinance to amend the Workmen's Compensation Ordinance.....	The whole.
20	1958(1)	An Ordinance to amend the Reciprocal Enforcement of Judgments Ordinance.....	The whole.
21	1958(1)	An Ordinance to amend the Saw Logs Driving Ordinance..	The whole.
22	1958(1)	An Ordinance to amend the Elections Ordinance and to repeal an Ordinance respecting the Council of the Yukon Territory.....	The whole.
23	1958(1)	An Ordinance to amend the Evidence Ordinance.....	The whole, except s.2.
24	1958(1)	An Ordinance to amend the Motor Vehicle Ordinance.....	The whole.
25	1958(1)	An Ordinance to amend the Fur Export Ordinance.....	The whole.

APPENDIX

APPENDIX.

LIST OF ORDINANCES AND PARTS OF ORDINANCES NOT REPEALED AND NOT CONSOLIDATED.

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.	The whole.
10	An Ordinance for granting to the Commissioner certain sums of Money to defray the expenses of the Public Service of Yukon Territory.	The whole.
12	An Ordinance to incorporate The Yukon Overland Express and Transportation Company.	The whole.
16	An Ordinance concerning the Water Supply of Dawson.	The whole.
18	An Ordinance respecting the Grand Forks Water Association.	The whole.
20	An Ordinance respecting The Yukon Hygeia Water Supply Company.	The whole.
25	An Ordinance to interpret Ordinance No. 16 of 1899.	The whole.
27	An Ordinance respecting Hunker Creek Ferry.	The whole.
28	An Ordinance respecting the Klondike Ferry.	The whole.
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.	The whole.
46	An Ordinance respecting the Dawson City and Yukon Territory, Public Business Register and Business Directory.	The whole.
47	An Ordinance to provide for the building of a wagon road in the Yukon Territory.	The whole.
49	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory.	The whole.
1900.		
5	An Ordinance respecting the Census.	The whole.
6	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory.	The whole.
8	An Ordinance to incorporate the Dawson Telephone and Electric Company, Limited.	The whole.
14	An Ordinance to incorporate the Dawson City Water and Power Company Limited.	The whole.
26	An Ordinance respecting the Territorial Court.	The whole.
28	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory.	The whole.
29	An Ordinance respecting the Dawson Electric Light and Power Company Limited.	The whole.
30	An Ordinance respecting Taxation, Dawson.	The whole.
35	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory.	The whole.
40	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory.	The whole.
41	An Ordinance amending the Ordinance incorporating the Dawson City Water and Power Company Limited.	The whole.
1901.		
6	An Ordinance to incorporate the Hadley Stage Line Limited.	The whole.
7	An Ordinance to incorporate the Dawson Transfer and Storage Company Limited.	The whole.
8	An Ordinance entitled additional Ordinance respecting the Preservation of Game in the Yukon Territory.	The whole.
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.	The whole.
13	An Ordinance respecting Taxation for 1900 (Dawson).	The whole.
16	An Ordinance to incorporate the Yukon-Klondike General Trusts Company Limited.	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
1901— <i>Concluded.</i>		
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.....	The whole.
39	An Ordinance to increase the capital stock of the Hadley Stage Line Limited.....	The whole.
43	An Ordinance empowering the Northern Commercial Company, to lay pipes, etc., in the Town of Dawson.....	The whole.
1902.		
5	An Ordinance to repeal certain Ordinances of the Yukon Council.....	The whole.
10	An Ordinance to amend the Dawson City Charter.....	The whole.
11	An Ordinance to confirm By-Law No. 12 of the City of Dawson.....	The whole.
15	An Ordinance to incorporate The Dawson Amateur Athletic Association Limited.....	The whole.
17	An Ordinance to amend the Dawson City Charter.....	The whole.
21	An Ordinance to authorize the Consolidation of the Ordinances.....	The whole.
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.....	The whole.
ORDINANCES OF THE YUKON COUNCIL.		
1903.		
1	An Ordinance to amend the Ordinance Incorporating The Dawson Amateur Athletic Association Limited.....	The whole.
7	An Ordinance for granting to the Commissioner certain sums of money for the Development of Mining in the Yukon Territory.....	The whole.
13	An Ordinance to incorporate The North Star Athletic Association Limited.....	The whole.
17	An Ordinance for granting to the Commissioner certain sums of money to defray the expense of the Public Service.....	The whole.
20	An Ordinance to provide for the Management of Free Public Libraries in Dawson.....	The whole.
21	An Ordinance to incorporate The Zero Club Limited.....	The whole.
1904.		
1	An Ordinance for granting to the Commissioner certain sums of money to defray the expense of the Public Service.....	The whole.
9	An Ordinance to validate the Town of Bonanza Assessment for 1904.....	The whole.
19	An Ordinance granting to the Commissioner certain sums of money to defray the expense of the Public Service.....	The whole.
1905.		
6	An Ordinance respecting the By-Laws of the City of Dawson.....	The whole.
7	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	The whole.
9	An Ordinance respecting The Town of Bonanza.....	The whole.
1906.		
9	An Ordinance closing portions of Fifth Avenue and Portions of Lambert and Elliott Streets in Whitehorse from Public use.....	The whole.
12	An Ordinance for granting to the Commissioner certain sums of money to defray the Expenses of the Public Service.....	The whole.
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.....	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
1908.		
4	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	The whole.
1909.		
9	An Ordinance for granting to the Commissioners certain sums of money to defray the Expense of the Public Service.....	The whole.
1910.		
7	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	The whole.
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.....	The whole.
10	An Ordinance to remit certain Taxes on Lots 17, 18, 19 and 20 in Dawson.....	The whole.
1912.		
5	An Ordinance to validate Assessment Rolls of the City of Dawson.....	The whole.
8	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	The whole.
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.....	The whole.
8	An Ordinance respecting Transient Traders as amended by Chapter 13 of the Ordinances of 1914.....	The whole.
10	An Ordinance to provide for a Plebiscite respecting Dawson Public Schools.	The whole.
11	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	The whole.
1914.		
3	An Ordinance to validate the Assessment of the City of Dawson.....	The whole.
5	An Ordinance respecting the Consolidated Ordinances 1914.....	The whole.
13	An Ordinance to amend the Ordinance relating to Transient Traders.....	The whole.
17	The Dawson City Corporation Ordinance.....	The whole.
19	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	The whole.
21	An Ordinance relating to Charges for Electric Light and Water in Dawson..	The whole.
CONSOLIDATED ORDINANCES, 1914.		
18	An Ordinance respecting joint stock companies.....	ss. 326-329
1915.		
2	An Ordinance to incorporate the Sisters of Saint Ann.....	The whole.
8	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Yukon Territory.....	The whole.
1916.		
6	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Yukon Territory.....	The whole.
1917.		
3	An Ordinance to legalize and confirm certain alterations made in public roads.	The whole.
9	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Yukon Territory.....	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
1918.		
8	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Yukon Territory	The whole.
1919.		
14	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson	The whole.
1920.		
11	An Ordinance granting the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson	The whole.
1921.		
11	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson	The whole.
1922.		
6	An Ordinance to declare valid a certain notice of sale given under the Crown Grant Tax Ordinance	The whole.
7	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson	The whole.
1923.		
8	An Ordinance to amend the Companies Ordinance	The whole.
10	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson	The whole.
1924.		
9	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson	The whole.
1925.		
8	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson	The whole.
1926.		
11	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson	The whole.
1927.		
5	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson	The whole.
1928.		
6	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson	The whole.
1929.		
11	An Ordinance granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
1930.		
5	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson.....	The whole.
1931.		
5	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson.....	The whole.
1932.		
6	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service in the Territory, and the City of Dawson.....	The whole.
1933.		
7	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson.....	The whole.
1934.		
4	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson.....	The whole.
1935.		
8	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson.....	The whole.
1936.		
1	An Ordinance amending The Companies Ordinance.....	ss. 1, 2
4	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson.....	The whole.
1937.		
7	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson.....	The whole.
1938.		
10	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson.....	The whole.
1939.		
5	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson.....	The whole.
1940.		
15	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson.....	The whole.
1941.		
1	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson.....	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
1942.		
13	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson.....	The whole.
1943.		
13	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson.....	The whole.
1944.		
15	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson.....	The whole.
1945.		
25	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson.....	The whole.
1946.		
12	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson.....	The whole.
1947.		
22	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson.....	The whole.
1948.		
21	An Ordinance to authorize and implement an agreement between the Dominion and the Territory.....	The whole.
24	An Ordinance respecting the Yukon Corporation Income Tax.....	The whole.
25	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson.....	The whole.
1949. (1st session).		
14	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson.....	The whole.
1949 (2nd session).		
6	An Ordinance to amend The Yukon Corporation Income Tax Ordinance....	The whole.
8	An Ordinance respecting municipalities and taxation.....	ss. 7, 413(2) (3) (4).
24	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service.....	The whole.
1950 (1st session).		
12	An Ordinance to authorize and implement an agreement between the Department of National Defence of the Government of Canada and the Government of the Yukon Territory.....	The whole.
21	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory and the City of Dawson.....	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
1950 (2nd session).		
6	An Ordinance to authorize and implement an agreement between the Department of Resources and Development of the Government of Canada and the Government of the Yukon Territory	The whole. s. 2(2).
10	An Ordinance to amend the Municipal Ordinance	
1951 (1st session).		
2	An Ordinance to relieve the Municipal Council of the City of Dawson and Alderman George O. Shaw from restrictions imposed by section 27 of the Municipal Ordinance	The whole.
12	An Ordinance to amend the Municipal Ordinance	s. 4.
17	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory	The whole.
1951 (2nd session).		
2	An Ordinance empowering the Deputy Minister (Taxation) of the Department of National Revenue of the Government of Canada to exercise the powers and duties imposed on the Commissioner of the Yukon Territory by the Yukon Corporation Income Tax Ordinance	The whole.
1952 (1st session).		
6	An Ordinance empowering the Commissioner of the Yukon Territory to grant a franchise to Mayo Utilities Limited for the operation of a telephone system in the Mayo Area, Yukon Territory	The whole.
12	An Ordinance to provide for Old Age Assistance and allowances to blind persons	s. 14.
21	An Ordinance respecting businesses, callings, trade and occupations and the issue of licences therefor	s. 11(3).
24	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory	The whole.
1952 (2nd session).		
8	An Ordinance to authorize and implement an agreement between the Government of Canada and the Government of the Yukon Territory, No. 2	The whole.
10	An Ordinance to amend the Old Age Assistance and Blind Persons Allowance Ordinance	s. 6.
11	An Ordinance to amend the Yukon Corporation Income Tax Ordinance	The whole.
13	An Ordinance granting permission to Yukon Brewery (Holding) Company Limited to manufacture, compound and make intoxicating liquors	The whole.
15	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory	The whole.
1953 (1st session).		
4	An Ordinance to empower the Commissioner to authorize the Department of National Revenue to delete from its accounts due and owing from certain persons	The whole.
11	An Ordinance to amend an Ordinance empowering the Commissioner of the Yukon Territory to grant a franchise to Mayo Utilities Limited for the operating of a telephone system in the Mayo Area, Yukon Territory	The whole.
12	An Ordinance to amend An Ordinance granting permission to the Yukon Brewery (Holding) Company Limited to manufacture, compound and make intoxicating liquors	The whole.
13	An Ordinance to ratify the tax rental agreement between the Government of Canada and the Government of the Yukon Territory	The whole.
14	An Ordinance to incorporate The Children's Aid Society	The whole.
15	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory	The whole.
1953 (2nd session).		
2	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
1953 (3rd session).		
2	An Ordinance to amend the Workmen's Compensation Ordinance.....	s. 2.
4	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory.....	The whole.
1954 (1st session).		
4	An Ordinance to authorize the City of Whitehorse to construct waterworks and purification systems and sewage disposal plants and to borrow money therefor.....	The whole.
12	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory.....	The whole.
13	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory.....	The whole.
14	An Ordinance granting a beer licence to Gordon Crum and Norman Mytron of Teslin, in Yukon Territory.....	The whole.
1954 (2nd session).		
2	An Ordinance empowering the Commissioner of the Yukon Territory to grant a franchise to Yukon Electrical Company Limited to sell and distribute electrical energy in the Whitehorse Area, Yukon Territory.....	The whole.
3	An Ordinance to authorize the Commissioner to borrow a sum not exceeding one million dollars from the Government of Canada and to loan that sum to the City of Whitehorse, and to authorize the Commissioner to execute an agreement relating thereto.....	The whole.
1954 (3rd session).		
6	An Ordinance respecting bills of sale and chattel mortgages.....	s. 37.
13	An Ordinance respecting the adoption of children.....	s. 3.
46	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory.....	The whole.
1955 (1st session).		
3	An Ordinance respecting compensation for fatal accidents.....	s. 4(3).
8	An Ordinance respecting liability in actions for damages for negligence where more than one party is at fault.....	s.10.
16	An Ordinance respecting the profession of pharmaceutical chemist.....	s. 24.
27	An Ordinance to authorize the Commissioner of the Yukon Territory to extend the boundaries of the City of Whitehorse and to make an agreement with the City of Whitehorse.....	The whole.
28	An Ordinance to authorize the Commissioner to lend money to the City of Whitehorse for the construction of municipal works.....	The whole
30	An Ordinance to authorize the Commissioner of Yukon Territory to enter into an agreement with the City of Whitehorse respecting the construction of a waterworks system and sewage system in the City of Whitehorse and in the new subdivision adjacent to such City, and to authorize the Commissioner to enter into a contract for the construction of such waterworks system and sewage system.....	The whole.
34	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory.....	The whole.
35	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory.....	The whole.
1955 (2nd session).		
1	An Ordinance to authorize the Commissioner to borrow a sum not exceeding seven hundred and eighty thousand dollars from the Government of Canada and to authorize the Commissioner to execute an agreement relating thereto.....	The whole.
2	An Ordinance to authorize the Commissioner to borrow a sum not exceeding \$750,000 from the Government of Canada to enable the Yukon Territory to contribute a sum not exceeding that amount towards the construction of a hospital at Whitehorse.....	The whole.
3	An Ordinance to approve an agreement respecting a territorial school at Whitehorse made between the Government of Canada and the Commissioner of the Yukon Territory.....	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
1955 (2nd session)— <i>cont'd.</i>		
4	An Ordinance to authorize the Commissioner to enter into an agreement with La Communauté Des Soeurs de Charite de la Providence and the Catholic Episcopal Corporation of Whitehorse for the erection of a school at Whitehorse to authorize a grant to assist in the erection of such school.	The whole.
5	An Ordinance to approve an agreement respecting the maintenance of the road between Whitehorse and Mayo in the Yukon Territory between the Government of Canada and the Commissioner of the Yukon Territory.	The whole.
8	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory.	The whole.
9	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory.	The whole.
1955 (3rd session).		
23	An Ordinance to amend the Old Age Assistance and Blind Persons Allowance Ordinance.	s. 2.
1956 (1st session).		
3	An Ordinance to provide for the financial administration of the Government of the Yukon Territory.	s. 43.
9	An Ordinance to authorize the Commissioner to enter into an agreement with the Government of Canada to amend an agreement respecting a loan by Canada to the Yukon Territory in the sum of \$780,000.	The whole.
12	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory.	The whole.
13	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory.	The whole.
1956 (2nd session).		
11	An Ordinance to amend An Ordinance to incorporate the Children's Aid Society.	The whole.
12	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory.	The whole.
1957 (1st session).		
4	An Ordinance to authorize the Commissioner to sell certain property situate in Whitehorse.	The whole.
8	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory.	The whole.
9	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory.	The whole.
1957 (2nd session).		
8	An Ordinance to authorize the Commissioner of the Yukon Territory to enter into an agreement with the Minister of Citizenship and Immigration of Canada respecting the education of Indian children in the City of Whitehorse.	The whole.
10	An Ordinance to amend the Old Age Assistance and Blind Persons Allowance Ordinance.	s. 3.
11	An Ordinance to amend the Disabled Persons Allowance.	s. 3.
14	An Ordinance to amend the Municipal Ordinance.	s. 6 (2).
15	An Ordinance for granting to the Commissioner certain additional sums of money to defray the expenses of the public service of the Territory.	The whole.
1958 (1st session).		
4	An Ordinance respecting the conservation of game in the Yukon Territory.	s. 42(5).
11	An Ordinance to authorize the Commissioner to enter into an agreement with the Minister of Citizenship and Immigration of Canada respecting the education of Indian children in the City of Dawson.	The whole.
13	An Ordinance to authorize the Commissioner to grant a franchise to the Yukon Electrical Company Limited for the distribution of electrical power in the area of Haines Junction, in the Yukon Territory.	The whole.
14	An Ordinance to amend the Old Age Assistance and Blind Persons Allowance Ordinance.	s. 3.
15	An Ordinance to amend the Disabled Persons Allowance.	s. 3.
23	An Ordinance to amend the Evidence Ordinance.	s. 2.
26	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the public service of the Territory.	The whole.
27	An Ordinance for granting to the Commissioner certain additional sums of money to defray the expenses of the public service of the Territory.	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
1958 (2nd session)		
1	An Ordinance to confirm the assessment Roll, Collector's Roll and tax rate of the municipality of Whitehorse for the year 1957	The whole.
2	An Ordinance respecting the Revised Ordinances of the Yukon Territory, 1958.....	The whole.
3	Supplementary Appropriation Ordinance, 1958-59.....	The whole.
4	Supplementary appropriation Ordinance, 1957-58.....	The whole.

Office Consolidation

YUKON ACT

1952-53, c. 53
amended by
1955, c. 23; 1955, c. 48;
1958, c. 9

**AN ACT TO PROVIDE FOR THE GOVERNMENT OF
THE YUKON TERRITORY.**

SHORT TITLE.

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

INTERPRETATION.

2. In this Act, Definitions.
- (a) "Commissioner" means the Commissioner of the Yukon Territory; "Com-
missioner".
- (b) "Commissioner in Council" means the Commissioner acting by and with the advice and consent of the Council; "Com-
missioner in
Council".
- (c) "Council" means the Council of the Yukon Territory; "Council".
- (d) "Court" means the Territorial Court for the Yukon Territory; "Court".
- (e) "intoxicant" includes alcohol, alcoholic, spirituous, vinous, fermented malt or other intoxicating liquor or combination of liquors and mixed liquor a part of which is spirituous, vinous, fermented or otherwise intoxicating and all drinks, drinkable liquids, preparations or mixtures capable of human consumption that are intoxicating; "Intoxicant".
- (f) "Minister" means the Minister of Resources and Development; "Minister".
- (g) "ordinance" includes an ordinance of the Territory passed before or after the commencement of this Act; "Ordinance".
- (h) "public lands" means any lands, in the Territory, belonging to Her Majesty in right of Canada or of which the Government of Canada has power to dispose; and "Public
lands".
- (i) "Territory" means the Yukon Territory, which comprises the area described in the Schedule. "Territory".

Appendix.

PART I.

GOVERNMENT.

Commissioner.

Com-
missioner. **3.** The Governor in Council may appoint for the Territory a chief executive officer to be styled and known as the Commissioner of the Yukon Territory.

Administra-
tion of the
govern-
ment. **4.** 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.

Appoint-
ment of
Adminis-
trator. **5.** The Governor in Council may appoint an Administrator to execute the office and functions of the Commissioner during his absence or illness or other inability or when the office of Commissioner is vacant.

Oaths of
Commissioner
and
Adminis-
trator. **6.** The Commissioner and every Administrator appointed under this Act shall, before assuming the duties of his office, take and subscribe such oaths of office and allegiance in such manner as the Governor in Council may prescribe.

Salaries. **7.** The salary of the Commissioner and of the Administrator shall be fixed by the Governor in Council and shall be paid out of the Consolidated Revenue Fund of Canada.

Seat of Government.

Seat of
govern-
ment. **8.** The seat of government of the Territory shall be that prescribed by the Governor in Council and may, from time to time, be changed by him.

Council.

Elective
Council. **9.** (1) There shall be a Council of the Yukon Territory, which shall be composed of five members elected to represent such electoral districts in the Territory as are named and described by the Commissioner in Council.

Term of
Council. (2) 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 Governor in Council may at any time dissolve the Council and cause a new Council to be elected.

Oaths of
office. **10.** Each member of the Council shall, before assuming the duties of his office, take and subscribe before the Commissioner such oaths of office and allegiance as the Governor in Council may prescribe.

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11. The Commissioner shall convene at least one session in every calendar year 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. Yearly session.

12. The Council shall sit separately from the Commissioner and shall present bills passed by it to the Commissioner for his assent. Sittings separate from Commissioner: sanction of bills.

13. A majority of the Council, including the Speaker, constitutes a quorum. Quorum.

14. (1) Subject to subsection (2), the Commissioner in Council may prescribe the qualifications of those entitled to vote at an election of members of the Council and of those eligible for nomination and election as members of the Council and the reasons for or matters by which an elected member may be or become disqualified from being or sitting as a member of the Council. Governor in Council may prescribe qualifications of electors, candidates, etc.

(2) A person is not entitled to vote at an election or to be nominated or elected as a member of the Council unless he is a Canadian citizen or other British subject, has attained the age of twenty-one years and has been ordinarily resident in the Territory for a period of at least twelve months immediately prior to the date of election. Minimum qualifications.

15. (1) The Commissioner in Council may provide for the payment out of the Yukon Consolidated Revenue Fund of indemnities to members of the Council, allowances for living expenses, and travelling expenses as follows: Sessional indemnity and expenses. Rep. and New. 1955, c. 23, s. 1 (1).

- (a) where in any one calendar year the total number of days on which there was a sitting of the Council is ten or less, each member may be paid in that year an indemnity of one thousand dollars, less one hundred dollars for each such day on which the member was not in attendance,
- (b) where in any one calendar year the total number of days on which there was a sitting of the Council is greater than ten, each member may be paid in that year an indemnity at the rate of one hundred dollars for each such day on which the member was in attendance, or two thousand dollars, whichever is the lesser,
- (c) an allowance for living expenses, not exceeding twenty-five dollars for each day he is in attendance at a session of the Council, and
- (d) the actual travelling expenses incurred by the member in travelling from his place of residence to the place where the Council holds its session and return, but no payment shall be made to a member in respect of more than one return trip for each session of the Council.

(2) An allowance for living expenses that is paid to a member of the Council under paragraph (c) of subsection (1) is not income for that member for the purposes of the *Income Tax Act*. Living expenses not income.

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When member deemed in attendance for purpose of ascertaining indemnity. New. 1955, c. 23, s. 1 (2).

(3) For the purpose of ascertaining the indemnity to which a member is entitled under subsection (1), each day on which a member is in the place where a session of the Council is held but is because of illness unable to be in attendance at the session shall be deemed to be a day on which he is in attendance at the session.

When member deemed in attendance for purpose of ascertaining living allowance. New. 1955, c. 23, s. 1 (2).

(4) For the purpose of ascertaining a member's allowance for living expenses,

(a) each day during a session on which there has been no sitting of the Council in consequence of its having adjourned over that day, and

(b) each day on which a member is in the place where the session is held but is because of illness unable to be in attendance at the session,

shall be deemed to be a day on which he is in attendance at the session.

Legislative Powers of Commissioner in Council.

Legislative powers.

16. The Commissioner in Council may, subject to the provisions of this Act and any other Act of the Parliament of Canada, make ordinances for the government of the Territory in relation to the following classes of subjects, namely,

Direct taxation.

(a) direct taxation within the Territory in order to raise a revenue for territorial, municipal or local purposes;

Territorial offices.

(b) the establishment and tenure of territorial offices and the appointment and payment of territorial officers;

Municipal institutions.

(c) municipal institutions in the Territory, including municipalities, school districts, local improvement districts and irrigation districts;

Elections and controverted elections.

(d) election of members of the Council and controverted elections;

Licences.

(e) the licensing of any business, trade, calling, industry, employment or occupation in order to raise a revenue for territorial, municipal or local purposes;

Incorporation of companies.

(f) the incorporation of companies with territorial objects, including tramways and street railway companies but excluding railway, steamship, air transport, canal, telegraph, telephone or irrigation companies;

Marriage.

(g) the solemnization of marriage in the Territory;

Property and civil rights.

(h) property and civil rights in the Territory;

Administration of justice.

(i) the administration of justice in the Territory, including the constitution, organization and maintenance of territorial courts of civil jurisdiction and the procedure in such courts but excluding the appointment of any judicial officers except coroners or the constitution, organization

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- and maintenance of courts of criminal jurisdiction or procedure in criminal matters except the fees and expenses payable to jurors, witnesses and other persons;
- (j) the fees and expenses of witnesses, jurors, interpreters and coroners in civil and criminal matters; Fees of witnesses, etc.
- (k) the appointment, powers and duties of coroners and coroners' inquests; Coroners.
- (l) the summoning of juries, enforcement of their attendance and all matters relating to juries; Juries.
- (m) the powers, duties and obligations of sheriffs and clerks of the courts and their deputies; Sheriffs and clerks of courts.
- (n) the conferring of jurisdiction in matters of alimony upon the Court; Alimony.
- (o) the issuing of licences or permits to scientists or explorers to enter the Territory or any part thereof and the prescription of the conditions under which such licences or permits may be issued and used; Scientists and explorers.
- (p) the levying of a tax upon furs or any portions of fur-bearing animals to be shipped or taken from the Territory to any place outside the Territory; Fur tax.
- (q) the preservation of game in the Territory; Game.
- (r) education in the Territory, subject to the conditions that any ordinance respecting education shall always provide 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; Education.
- (s) the closing up, varying, opening, establishing, building, management or control of any roads, streets, lanes or trails on public lands; Roads.
- (t) intoxicants; Intoxicants.
- (u) the establishment, maintenance and management of hospitals in and for the Territory; Hospitals.
- (v) agriculture; Agriculture.
- (w) 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; Expenditure of territorial funds.
- (x) generally, all matters of a merely local or private nature in the Territory; Local and private matters.

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- Fines and penalties. (y) the imposition of fines, penalties, imprisonment or other punishments in respect of the violation of the provisions of any ordinance; and
- Matters designated by Governor in Council. (z) such other matters as are from time to time designated by the Governor in Council.
- Restriction on powers. **17.** Nothing in section 16 shall be construed to give the Commissioner in Council greater powers with respect to any class of subjects described therein than are given to legislatures of the provinces of Canada under sections 92 and 95 of the *British North America Act, 1867*, with respect to similar subjects therein described.
- Agreements with Government of Canada. **18.** The Commissioner in Council may make ordinances authorizing the Commissioner to enter into an agreement with the Government of Canada under and for the purposes of any Act of the Parliament of Canada that authorizes the Government of Canada to enter into agreements with the provinces, but no such agreement shall be entered into by the Commissioner without the approval of the Governor in Council.
- Borrowing and lending. Rep. and New. 1958, c. 9, s. 1 (1). **19.** (1) The Commissioner in Council may make ordinances (a) for the borrowing of money by the Commissioner on behalf of the Territory for territorial, municipal or local purposes, (b) for the lending of money by the Commissioner to municipalities and school districts in the Territory, and (c) for the investment by the Commissioner of surplus money standing to the credit of the Yukon Consolidated Revenue Fund.
- Charge on Yukon C.R.F. (2) The payment of all money borrowed under the authority of this section and interest thereon is a charge on and payable out of the Yukon Consolidated Revenue Fund.
- Restriction. Rep. and New. 1958, c. 9, s. 1 (2). (3) No money shall be borrowed or invested under the authority of this section without the approval of the Governor in Council.
- Ordinances to be laid before Parliament. **20.** (1) A copy of every ordinance made by the Commissioner in Council shall be transmitted to the Governor in Council within thirty days after the passing thereof and shall be laid before both Houses of Parliament as soon as conveniently may be thereafter.
- Disallowance. (2) Any ordinance or any provision thereof may be disallowed by the Governor in Council at any time within two years after its passage.
- Enforcement of fines, etc. **21.** 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 the *Criminal Code* relating to summary conviction.

Appendix.

Laws Applicable to Territory.

22. 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 13th day of June, 1898, 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.

Existing laws continued.

Yukon Consolidated Revenue Fund.

23. 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.

Yukon Consolidated Revenue Fund.

24. 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 which such vote, resolution, address, or bill is proposed.

Recommendation of Commissioner.

25. When any sum of money is granted to Her 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 is subject to the specified purpose for which it is granted.

Appropriation of moneys granted by Parliament.

26. (1) 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, are 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 *Financial Administration Act*.

Audit by Auditor General.

(2) The Auditor General shall, whenever he deems it necessary or desirable, send an officer of his office to the Territory for the purpose of examining and auditing such receipt, expenditure and accounts, and reporting thereon to him.

Auditor General may send officer to Territory.

(3) The public accounts of the Territory shall include the period from the 1st day of April in one year to the 31st day of March in the next year, both inclusive, which period constitutes the fiscal year.

Fiscal year.

(4) The Auditor General, and while he is engaged in any inspection, examination and audit under this section, the officer referred to in subsection (2), has, in connection with such inspection, examination and audit all the powers that the Auditor General has under the *Financial Administration Act* in connection with the examination and audit of the receipt and expenditure of public moneys of Canada and the accounts with respect thereto.

Powers of Auditor General.

Appendix.

PART II.

ADMINISTRATION OF JUSTICE.

Territorial Court.

Territorial Court continued.

27. There shall continue to be a superior court of record in and for the Territory called the Territorial Court of the Yukon Territory, consisting of one or more judges appointed by the Governor in Council.

Tenure of office of judges. Rep. and New. 1955, c. 48, s. 10.

28. The judges of the Court hold office during good behaviour, but are removable by the Governor in Council on address of the Senate and House of Commons, and cease to hold office upon attaining the age of seventy-five years.

Deputy judges.

29. (1) The Governor in Council may, from time to time, in the case of sickness, absence or engagement upon other duty of a judge of the Court or at the request of a judge of the Court, specially appoint any person who is or has been a judge of a superior, county or district court of any of the provinces of Canada or a barrister or advocate of at least ten years' standing at the bar of any such province to be a deputy judge of the Court.

Tenure of office.

(2) A deputy judge may be appointed pursuant to this section for any particular case or cases or for any specified period of time and his appointment shall be terminated at the pleasure of the Governor in Council.

Powers.

(3) A deputy judge shall be sworn to the faithful performance of his duties in the same manner as a judge of the Court and shall, during his appointment, temporarily have and may exercise all the powers, authorities, and functions of a judge of the Court and the expression "judge of the Court" shall be deemed to include a deputy judge of the Court.

Oath of office.

30. (1) Every judge of the Court shall, before assuming the duties of his office, take the following oath of office:

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 of the Yukon Territory. So help me God.

Administration of oath.

(2) The oath shall be administered by a judge of the Court or by the Commissioner or by a person authorized by the Commissioner to administer such oath.

General powers.

31. (1) The Court is a superior court of record having civil and criminal jurisdiction throughout the Territory.

Jurisdiction continued.

(2) The Court shall, throughout the Territory, have and may exercise in civil cases, all the powers, duties and functions that were vested in it immediately prior to the commencement of this Act.

Appendix.

(3) A judge of the Court shall, throughout the Territory, have and may exercise all the powers, duties and functions that are vested in the Court. Judge has powers of Court.

32. Each judge of the Court shall reside at such place as the Governor in Council, in the Commission to such judge, or by order in council, directs. Residence.

33. Sittings of the Court shall be held at such times and places as a judge of the Court deems necessary or as may be directed by the Commissioner. Sittings.

34. No grand jury shall be summoned or sit in the Territory. No grand jury.

35. (1) In this section "court of appeal" means the Court of Appeal of the Province of British Columbia. Meaning of Court of Appeal.

(2) Subject to subsection (3), an appeal lies from the final judgment of a judge of the Court to the court of appeal in any civil case where Where appeal lies.

(a) the matter in controversy amounts to the sum or value of five hundred dollars or upwards; Matter involves five hundred dollars or more.

(b) the title to real property or some interest therein is affected; Title to real property.

(c) the validity of a patent is affected; Patent.

(d) the matter 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; Future rights.

(e) the proceedings are for or upon mandamus, prohibition or injunction; Mandamus, etc.

(f) the action is for the recovery of, the establishment of title to or the right of the claimant to or the establishment of the boundaries of or the inclusion of land or property in a claim, mining property, mineral claim, location, or permit, or interest therein, as defined in any Act of Parliament or regulations thereunder; or Mining of claims.

(g) the action is for divorce or judicial separation. Divorce and judicial separation.

(3) No appeal lies from the final judgment of a judge of the court on appeal from the decision of a mining recorder respecting a dispute in regard to mining property previous to the issue of a lease of a claim. Exception.

(4) The court of appeal and the judges thereof 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. Powers of court of appeal.

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- Notice of appeal. (5) Notice of any such appeal shall be given within twenty days from the day upon which the judgment appealed from is pronounced or given or within such further time as the judge of the Court who gave such judgment may allow.
- Stay of execution. (6) Execution of the judgment appealed from shall not be stayed except under order of the judge of the Court who gave such judgment or the court of appeal, or a judge thereof, and upon such terms as may be just.
- Quorum. (7) Three judges of the court of appeal constitute a quorum for the hearing of such appeals.
- Procedure. (8) The procedure upon such appeals shall be regulated by the ordinary practice and procedure upon similar appeals coming before the court of appeal, so far as such practice and procedure are applicable and are not inconsistent with anything in this section and except in so far as it is otherwise provided by the general rules made pursuant to this section.
- General rules. (9) The judges of the court of appeal may make general rules not inconsistent with this Act for regulating the practice and procedure upon such appeals.
- Appeal to Supreme Court of Canada. (10) An appeal lies to the Supreme Court of Canada from the judgement upon any appeal authorized by this section where-ever such an appeal to the Supreme Court of Canada would have been authorized had the judgment appealed from been delivered in a like case in the exercise of the ordinary jurisdiction of the court of appeal upon appeal in respect of cases originating in the courts of British Columbia.

Police Magistrates.

- Appointment. **36.** (1) The Governor in Council may appoint one or more persons who are barristers or advocates of at least three years' standing at the bar of any of the provinces of Canada to be police magistrates in and for the Territory and may fix their salaries and allowances.
- Tenure, residence, etc. (2) A police magistrate holds office during pleasure, shall reside in the Territory during his term of office and shall not, during such term, practice as a barrister or solicitor.
- Deputy police magistrates. New. 1958, c. 9, s. 2. (3) The Governor in Council may appoint one or more persons who are barristers or advocates of at least three years' standing at the bar of any of the provinces of Canada to be deputy police magistrates, and may fix their remuneration and allowances; a deputy police magistrate has all the powers, duties and functions of a police magistrate appointed under this section, except that subsection (2) of this section does not apply to him.
- Has powers of justices of the peace. **37.** A police magistrate has and may exercise the powers, duties and functions of a justice of the peace or any two justices of the peace under this Act or any other law or ordinance in force in the Territory.

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- 38.** (1) Subject to subsection (2), the Governor in Council may, by order, vest in any police magistrate named in such order civil jurisdiction in
- (a) actions arising out of contract, expressed or implied, and actions of debt, where the debt, demand or damages claimed do not exceed one thousand dollars; Civil jurisdiction.
Contract and debt.
 - (b) personal actions of tort, where the damages claimed do not exceed one thousand dollars; Torts.
 - (c) all actions for the recovery of personal property, including actions of replevin and for detinue, where the value of the property claimed does not exceed one thousand dollars; Recovery of personal property.
 - (d) interpleader proceedings Interpleader proceedings.
 - (i) where the person seeking relief is under liability for any debt, money or chattels to an amount or value not exceeding one thousand dollars for and in respect of which adverse claims are made by two or more persons, or
 - (ii) where the applicant is a sheriff or some other officer charged with the execution of process and claim is made to any money or chattels taken or intended to be taken in the execution, or the proceeds of value thereof, by a person other than the person against whom the process issued, where the money, proceeds or value of the chattels claimed does not exceed one thousand dollars;
 - (e) garnishment proceedings for the attachment of debt due, obligations and liabilities owing, payable or accruing due by a third person to a person against whom an action for a debt or liquidated demand not exceeding one thousand dollars is or is about to be commenced or against whom a judgment has been given; and Garnishment proceedings.
 - (f) attachment proceedings for the recovery of a sum not exceeding one thousand dollars for debt or damages arising upon a contract, expressed or implied, or upon a judgment upon the personal property of a person who
 - (i) being a non-resident of the Territory, is so indebted or liable to a resident of the Territory, or
 - (ii) with intent to defeat or defraud his creditors or those who have causes of action against him, absconds or is about to abscond from the Territory leaving personal property or to remove his personal property out of the Territory or did or is about to assign, transfer, dispose of or secrete such property or to conceal himself to avoid service of process. Attachment proceedings.
- (2) A police magistrate shall not be vested with civil jurisdiction in Jurisdiction excluded in certain cases.
- (a) actions in which the title to land or to an interest in land is brought in question; Where title to land involved.

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Devises,
bequests,
etc.

(b) actions in which the validity of any devise, bequest or limitation is disputed;

Malicious
prosecu-
tion, etc.

(c) actions for malicious prosecution, false imprisonment, libel, slander, criminal conversation, seduction or breach of promise of marriage; and

Actions
against
justices of
the peace.

(d) actions against a justice of the peace for anything done by him in the execution of his office.

Appeals from
police magis-
trates in
civil cases.

39. (1) An appeal may be taken from the final judgment of a police magistrate in any civil case to a judge of the Court where the matter in controversy, exclusive of costs, amounts to the sum or value of not less than one hundred dollars.

Further
title.

(2) An appeal from the final judgment of a judge of the Court on an appeal referred to in subsection (1) may be taken in the same manner, for the same causes and subject to the same limitations as are prescribed in section 35 with reference to appeals from trial judgments of judges of the Court.

Justices of the Peace.

Appoint-
ment.

40. (1) The Governor in Council may, from time to time, appoint any person to be a justice of the peace in and for the Territory to hold office during pleasure.

R.C.M.P.
officers are
ex officio
justices of
the peace.

(2) Every commissioned officer of the Royal Canadian Mounted Police is, when he is in the Territory, *ex officio*, a justice of the peace in and for the Territory.

Have powers
of two
justices of
the peace.

(3) Every justice of the peace in and for the Territory shall, throughout the Territory, have and may exercise the powers, duties and functions of two justices of the peace under any law or ordinance in force in the Territory.

Other Officers.

Other
officers.
Rep. and New.
1958, c. 9,
s. 3.

41. The Governor in Council may appoint the clerk of the Court, sheriff and such judicial and other officers for the due administration of justice in the Territory as are deemed necessary, for the appointment of whom there is no other provision in this Act, and may fix their salaries and allowances.

Oaths of Office.

Oaths of
office.

42. Every police magistrate and justice of the peace appointed under this Act and every person appointed under section 41 shall, before assuming the duties of his office, take and subscribe such oaths of office and allegiance in such manner as the Governor in Council may prescribe.

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Confinement of Prisoners.

43. (1) The following places in the Territory are prisons, gaols or lockups for the confinement of persons charged with the commission of any offence under a statute, ordinance or other law in force in the Territory or sentenced thereunder to a term of imprisonment not exceeding two years, namely,

Prisons in
the
Territory.

- (a) every guardhouse, guardroom or other place of confinement that is maintained or managed by the Royal Canadian Mounted Police; and
- (b) every building or part thereof or other enclosure, other than those referred to in paragraph (a), that is designated as a prison, gaol or lockup for the purposes of this section by the Governor in Council.

(2) Where it is impossible or inconvenient, by reason of absence or remoteness, to confine a person referred to in subsection (1) in a prison, gaol or lockup, such person may be sentenced or directed by a judge of the Court, police magistrate or justice of the peace, as the case may be, to be placed and kept in the custody of the Royal Canadian Mounted Police.

Idem.

44. The Governor in Council may make rules and regulations for the management, discipline and policy of prisons, gaols and lockups in the Territory, for the duties and conduct of persons employed therein or otherwise charged with the custody of prisoners and for all matters pertaining to the maintenance, discipline or conduct of prisoners including their employment without as well as within any prison, gaol or lockup.

Regulations
respecting
prisons and
prisoners.

PART III.

GENERAL.

Lands.

45. The following properties, namely,

- (a) lands acquired before or after the coming into force of this Act with territorial funds;
- (b) public lands, the administration of which has before or after the coming into force of this Act been transferred by the Governor in Council to the Territory; and
- (c) all roads, streets, lanes and trails on public lands; are and remain vested in Her Majesty in right of Canada, but the right to the beneficial use or to the proceeds thereof is hereby appropriated to the Territory and is subject to the control of the Commissioner in Council; and any such lands, roads, streets, lanes or trails may be held by and in the name of the Commissioner for the beneficial use of the Territory.

Power to
hold lands.

Appendix.

Reindeer.

Regulations
respecting
reindeer.

46. (1) The Governor in Council may make regulations
- (a) authorizing the Minister to enter into agreements with Eskimos or Indians, or persons with Eskimo or Indian blood living the life of an Eskimo or Indian, for the herding of reindeer that are the property of Her Majesty, such agreements, if deemed advisable by the Minister, to include provisions for the transfer of such portions of the herds as may be therein specified to the herders upon satisfactory completion of the agreements;
 - (b) for the control, management, administration and protection of reindeer in the Territory, whether they are the property of Her Majesty or otherwise;
 - (c) for the sale of reindeer and the slaughter or other disposal of surplus reindeer and the carcasses thereof; and
 - (d) controlling or prohibiting the transfer or shipment by any means of reindeer or their carcasses or parts thereof, whether they are the property of Her Majesty or otherwise, from any place in the Territory to any other place within or without the Territory.

Seizure.

(2) Where a peace officer or any person who is a game officer under any ordinance has reasonable grounds for believing that any reindeer or part thereof has been taken, killed, transferred, shipped or had in possession in violation of the regulations or that any vessel, vehicle, aeroplane, firearm, trap or other article or thing has been used in violation of the regulations, he may, in the Territory, without a warrant, effect seizure thereof.

Forfeiture.

(3) Every seizure made under subsection (2) shall be reported as soon as practicable to a justice of the peace who may, upon satisfying himself that the reindeer or part thereof or the vessel, vehicle, aeroplane, firearm, trap or other article or thing has been taken, dealt with or used in violation of the regulations, declare it to be forfeited to Her Majesty and, upon such declaration, it is forfeited.

Application
of the *Game
Export Act*.

(4) The *Game Export Act* applies to reindeer or the carcasses or part thereof and for that purpose, "game" under that Act shall be deemed to include such reindeer, carcasses or part thereof, "killed" to include the taking or capture of or dealing in live reindeer and "export permit" to include a permit or licence issued under the regulations made pursuant to this section.

Intoxicants.

Manufacture
and importa-
tion of
intoxicants.
Rep. and New
1958, c. 9,
s. 4 (1).

47. (1) No intoxicant shall be manufactured, compounded or made in the Territory or imported or brought into the Territory from any place outside the Territory, whether it is in Canada or elsewhere, except by permission of the Commissioner or a person authorized by him.

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(2) Intoxicants manufactured, compounded or made in the Territory or imported or brought into the Territory are subject to the customs and excise laws of Canada. Subject to
customs and
excise laws.

(3) Where a peace officer has reasonable grounds for believing that any intoxicant has been manufactured, compounded or made in the Territory or imported or brought into the Territory from any place outside the Territory in violation of this Act or that any vessel, vehicle, aeroplane, appliance, article or thing has been used for any of the above purposes in violation of this Act, he may, in the Territory, without a warrant, effect seizure thereof. Seizure.

(4) Every seizure made under subsection (3) shall be reported as soon as practicable to a justice of the peace who may, upon satisfying himself that the intoxicant or the vessel, vehicle, aeroplane, appliance, article or thing has been manufactured, compounded, made, imported, brought in or dealt with or used in violation of this Act, declare it to be forfeited to Her Majesty and, upon such declaration, it is forfeited. Forfeiture.

(5) The *Importation of Intoxicating Liquors Act* does not apply to the importation, sending, taking or transportation of intoxicating liquors into the Territory. *Importation
of Intoxicat-
ing Liquors
Act not
applicable.
New.
1958, c. 9,
s. 4 (2).*

Insane Persons.

48. (1) The Commissioner may, subject to the approval of the Minister, arrange with any province of Canada for the removal of insane persons from the Territory to mental institutions, asylums or other suitable places of confinement in that province, for their confinement, care and maintenance therein until the pleasure of the Commissioner is made known or until they are discharged by law and for the compensation to be paid to that province in respect of the confinement, care and maintenance of such insane persons. Arrange-
ments for
transfer to
provincial
institutions.

(2) The compensation to be paid to a province under subsection (1) shall be paid out of territorial revenues. Payment out
of
territorial
revenues.

49. (1) Where an insane person has escaped from a mental institution, asylum or other place of confinement, within or without the Territory, any person employed therein or connected therewith or other person requested by the person in immediate charge or control thereof may, within forty-eight hours after such escape, without a warrant, retake the escaped person and return him thereto, or may, at any time after such escape up to the time specified in the warrant, do so if a warrant is issued to him for that purpose. Recapture of
escaped
insane
persons.

(2) A warrant may be issued for the purposes of subsection (1) by the person in immediate charge or control of the mental Warrants.

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institution, asylum or other place of confinement from which the escape was made and shall contain the name and description of the escaped insane person, the name and office, if any, of the person to whom it is issued, the place to which and the person to whom the escaped person is to be returned and the time, not exceeding three months, for which the warrant is valid.

Custody of recaptured persons.

(3) An escaped person who is returned to custody under this section shall remain in custody under the authority by virtue of which he was detained prior to his escape.

Neglected Children.

Arrangements for care in provincial institutions.

50. (1) The Commissioner may, subject to the approval of the Minister, arrange with any province of Canada for the removal of neglected children from the Territory to foster homes or suitable institutions in that province, for their care, education and maintenance therein and for the compensation to be paid to that province in respect of the care, education and maintenance of such neglected children.

Payment out of territorial revenues.

(2) The compensation to be paid to a province under subsection (1) shall be paid out of territorial revenues.

Archaeological Sites.

Regulations respecting archaeological sites, etc.

51. (1) The Governor in Council may make regulations for the protection, care and preservation of sites, works, objects and specimens of archaeological, ethnological or historical importance, interest or significance and explorers' cairns and explorers' documents.

Power to seize.

(2) Where any peace officer has reasonable grounds for believing that any object, specimen or document has been removed, taken, shipped, had in possession or otherwise dealt with contrary to the regulations, he may, in the Territory, without a warrant, effect seizure thereof.

Forfeiture.

(3) Every seizure made under subsection (2) shall be reported as soon as practicable to a justice of the peace, who may, upon satisfying himself that the object, specimen or document was removed, taken, shipped, had in possession or otherwise dealt with contrary to the regulations, declare it to be forfeited to Her Majesty and upon such declaration it is forfeited.

Offence and Penalty.

Offence and penalty.

52. Every person who violates a provision of this Act or the regulations is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding one year or to both fine and imprisonment.

Export of gold without payment of royalty.

53. (1) Every person who exports or attempts to export from the Territory any gold that was obtained from placer mining operations and with respect to which any royalty imposed by law has not been paid, is guilty of an offence and liable on sum-

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mary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three years or to both fine and imprisonment.

Offence.

(2) Where a person is convicted under subsection (1) the convicting magistrate or justice may in his discretion order that the gold in respect of which the conviction is had is and thereupon the gold shall be forfeited to Her Majesty.

On conviction gold forfeited to Her Majesty.

(3) Every person about to export such gold from the Territory shall upon demand produce to any peace officer a certificate from the Commissioner of the Territory or person authorized by the Commissioner certifying that the royalty with respect to such gold has been paid and failure to produce the certificate upon such demand is prima facie evidence that the royalty has not been paid.

Production of certificate that royalty paid.

(4) Where any peace officer has reasonable and probable grounds for believing that any person has committed or has reason to believe that any person is about to commit an offence described in subsection (1) or has in his possession or in his belongings any such gold in respect of which the royalty has not been paid, such peace officer may without warrant search such person and his belongings and any articles believed to be his belongings and may seize any such gold found upon such person or in such belongings.

Search without warrant and seize gold.

(5) No female shall be searched pursuant to this section except by a suitable woman who is a peace officer or is authorized by the peace officer to make the search.

Search of female.

(6) Any gold seized pursuant to subsection (4) may be detained for a period of six months, and if before the expiration of such period any proceedings with respect to such gold are taken under this Act may be further detained until such proceedings are finally concluded.

Detention of seized gold.

(7) For the purpose of this section the expression "peace officer" means a peace officer as defined in the *Criminal Code*.

"Peace officer".

Coming into Force.

54. This Act shall be deemed to have come into force on the 1st day of April, 1955.

Coming into force. Rep. and New. 1955, c. 23, s. 2.

Appendix.

SCHEDULE

Rep. and New. 1958, c. 9, s. 5.

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 intersection of the north boundary of British Columbia with a line passing through a boundary pipe post set in concrete, trench and mound, numbered 600, planted by the British Columbia-Yukon-Northwest Territories Boundary Commission approximately 1 chain westerly of the left bank of the Liard River, said line having a bearing of 309° with reference to the meridian through said post; thence northwesterly along said line to a point on the line of watershed separating the streams flowing into the Liard River below the La Biche River or into the Mackenzie River from those flowing into the La Biche River, into the Liard River above the La Biche River, or into the Yukon River; thence northwesterly along said line of watershed 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.

Appendix.

P.C. 1955-658

AT THE GOVERNMENT HOUSE AT OTTAWA

THURSDAY, the 5th day of MAY, 1955.

PRESENT:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL:

His Excellency the Governor General in Council, on the recommendation of the Minister of Northern Affairs and National Resources, and by virtue of the powers conferred by the Yukon Act, Chapter 53, 1-2 Elizabeth II, is pleased to order and doth hereby order as follows:

1. The Oath of Allegiance prescribed by the Oath of Allegiance Act, is the Oath of Allegiance to be taken and subscribed by the Commissioner of the Yukon Territory, the members of the Council of the Yukon Territory, Police Magistrates, Justices of the Peace, Sheriffs, Clerks of Court and other officers appointed under the Yukon Act, for the due administration of justice in the Yukon Territory.
2. The Oath of Office to be taken and subscribed by the Commissioner of the Yukon Territory is as set out in Part I of the Schedule hereto.
3. The Oath of Office to be taken and subscribed by the members of the Council of the Yukon Territory is as set out in Part II of the Schedule hereto.
4. The Oath of Office to be taken and subscribed by Police Magistrates, Justices of the Peace, Clerks of the Court, Sheriffs and other officers appointed for the due administration of justice in the Yukon Territory is in the form set out in Part III of the Schedule hereto.
5. (1) The Oath of Allegiance and Oath of Office of the Commissioner of the Yukon Territory shall be sworn and subscribed before a Judge of the Territorial Court of the Yukon Territory or, in his absence, a Police Magistrate.
(2) The Oaths of Allegiance and Oaths of Office of Police Magistrates, Justice of the Peace, Clerks of the Court, Sheriffs and other officers appointed for the due administration of justice in the Yukon Territory, shall be sworn and subscribed before any person authorized to take oaths.
6. The seat of Government of the Yukon Territory shall be in the City of Whitehorse in the said Territory.

Certified to be a true copy.

R. B. BRYCE,
Clerk of the Privy Council.

Appendix.

SCHEDULE

PART I

OATH OF OFFICE FOR COMMISSIONER OF THE YUKON TERRITORY

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 trust reposed in me as the Commissioner of the Yukon Territory. So help me God.
.

PART II

OATH OF OFFICE FOR MEMBER OF THE COUNCIL OF THE YUKON TERRITORY

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 trust reposed in me as a member of the Council of the Yukon Territory. So help me God.
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PART III

OATH OF OFFICE FOR POLICE MAGISTRATE, JUSTICE OF THE PEACE, CLERK OF THE COURT, SHERIFF OR SUCH OTHER OFFICERS AS MAY BE APPOINTED FOR THE DUE ADMINISTRATION OF JUSTICE IN THE YUKON TERRITORY

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 trust reposed in me as a* So help me God.

* (name of office)

Appendix.

P.C. 1956-1694

AT THE GOVERNMENT HOUSE AT OTTAWA

WEDNESDAY, the 14th day of NOVEMBER, 1956.

PRESENT:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL:

His Excellency the Governor General in Council, on the recommendation of the Minister of Northern Affairs and National Resources, pursuant to the Yukon Act, is pleased hereby to make the annexed Regulations for the Protection and Care of Archæological Sites in the Yukon Territory.

REGULATIONS FOR THE PROTECTION AND CARE OF
ARCHAEOLOGICAL SITES IN THE YUKON TERRITORY

Short Title

1. These Regulations may be cited as the *Yukon Archæological Sites Regulations*.

Interpretation

2. (1) In these Regulations,

- (a) "archæological site" means a site or work of archæological, ethnological or historical importance, interest or significance or where an archæological specimen is found, and includes explorers' cairns;
- (b) "archæological specimen" means an object, thing or specimen of archæological, ethnological or historical importance, interest or significance and includes explorers' documents;
- (c) "Minister" means the Minister of Northern Affairs and National Resources and includes any officer of the Department of Northern Affairs and National Resources authorized in writing to act for and in the name of the Minister; and
- (d) "permit" means a valid and subsisting permit issued under these Regulations.

(2) Where any question arises as to whether a site, work or cairn is an archæological site or whether a thing, object, specimen or document is an archæological specimen, the decision of the Minister shall be final.

Protection of Sites

3. No person shall excavate or investigate any archæological site in the Territory or remove from the Territory or collect any archæological specimen unless he has obtained a permit to do so.

4. A person who excavates an archæological site in the Territory shall, so far as is reasonably possible after completion of the excavation, restore that archæological site to its normal condition.

Issue of Permits

5. Where an application is made to him in writing, the Minister may issue a permit to any person,

- (a) for the excavation or investigation of an archæological site; or
- (b) for the removal or collection of archæological specimens.

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6. No permit shall be issued in respect of an area larger than the area that can, in the opinion of the Minister, be fully and systematically investigated within the time specified in the permit.

7. No permit shall be issued for the removal or excavation of any structure or thing that, in the opinion of the Minister, may be permanently preserved *in situ* as an object of scientific or historic interest.

Duration of Permits

8. (1) Subject to subsection (2), no permit is valid for more than two consecutive years from the date of issue.

(2) Where the permittee applies to the Minister in writing for an extension of his permit and in support of his application submits evidence to the satisfaction of the Minister that the work for which the permit has been issued has been diligently prosecuted and that further time is required to complete it, the Minister may grant an extension of the permit for such further period as he may specify.

9. The Minister may cancel a permit at any time.

10. A permit ceases to be valid where the permittee fails to begin the work for which it was issued within six months from the date of issue or where the permittee fails, in the opinion of the Minister, to prosecute the work diligently.

11. The permittee shall show his permit on demand to any person authorized by the Minister to demand the production of permits.

Reports

12. (1) At the close of each season's field work, every permittee shall furnish, in duplicate, to the Minister a report on the work performed.

(2) A report under subsection (1) shall contain

- (a) full details of the work performed including details of any stratification or other chronological evidence encountered;
- (b) a descriptive catalogue of all specimens collected;
- (c) copies of all photographs taken, land maps and plans made in connection with the work, together with explanatory notes; and
- (d) such other information or material as the Minister may prescribe.

(3) The Minister may grant permission to a permittee to extend the time by which any part of the report is to be submitted, or he may modify the requirements of the report as set forth in subsection (2) if the permittee gives reasonable grounds, in writing, for an extension or modification.

(4) A permittee shall provide the Minister with two copies of any reports published on the work performed.

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Specimens

13. (1) All archæological specimens collected by a permittee shall be submitted by him to the Minister at such place as the Minister may designate.

(2) The Minister may direct that any specimens submitted under subsection (1) shall be turned over to the National Museum of Canada or Public Archives of Canada or to any other institution or the Minister may otherwise dispose of them as he sees fit.

(3) The Minister may allow the permittee to retain the specimens collected under a permit during such period as the Minister may approve for the purposes of preparing a scientific report before they are submitted for examination and disposal under this section.

Appendix.

P.C. 1956-1777

AT THE GOVERNMENT HOUSE AT OTTAWA

THURSDAY, the 29th day of NOVEMBER, 1956.

PRESENT:

HIS EXCELLENCY THE GOVERNER GENERAL IN COUNCIL:

His Excellency the Governor General in Council, on the recommendation of the Minister of Northern Affairs and National Resources, pursuant to the Yukon Act, is pleased hereby, effective the fifteenth day of December 1956, to order as follows:

1. From and after the 15th day of December, 1956 the use of the seal presently in use in Yukon Territory shall be discontinued and in lieu thereof Yukon Territory shall, upon all occasions that may be required, use a common seal to be called the Seal of the Yukon Territory, which said seal shall be composed of the Armorial Bearings of the Yukon Territory encircled by the following legend or inscription:

“The Seal of the Yukon Territory”.

Certified to be a true copy.

Clerk of the Privy Council.