

July, 1948.

PRIVY COUNCIL APPEAL

A REFERENCE AS TO THE VALIDITY OF SECTION
6 OF THE FARM SECURITY ACT, 1944

JOINT APPENDIX OF STATUTES

TO CASE OF THE RESPONDENTS THE ATTORNEY GENERAL OF CANADA
AND THE DOMINION MORTGAGE AND INVESTMENTS ASSOCIATION

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INSTITUTE OF ADVANCED
LEGAL STUDIES,
25. RUSSELL SQUARE,
LONDON,
W.C.1.

P. C. Judgment 87, 1948

IN THE PRIVY COUNCIL

ON APPEAL
FROM THE SUPREME COURT OF CANADA

IN THE MATTER OF a reference as to the Validity of Section 6 of The Farm Security Act, 1944, being Chapter 30 of the Statutes of Saskatchewan 1944 (2nd Session) as amended by 1945 Saskatchewan, Chapter 28, and as to operation thereof.

BETWEEN

THE ATTORNEY GENERAL OF SASKATCHEWAN.....Appellant

AND

THE ATTORNEY GENERAL OF CANADA and THE
DOMINION MORTGAGE AND INVESTMENTS
ASSOCIATION..... Respondents

AND

THE ATTORNEY GENERAL OF ALBERTA and THE
ATTORNEY GENERAL OF QUEBEC. *Pro forma* Respondents.

JOINT APPENDIX OF STATUTES

TO CASE OF THE RESPONDENTS THE ATTORNEY GENERAL OF CANADA
and THE DOMINION MORTGAGE AND INVESTMENTS ASSOCIATION.

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1944

(Second Session)

CHAPTER 30

An Act for the Protection of Certain Mortgagors,
Purchasers and Lessees of Farm Land.

[Assented to November 10, 1944.]

HIS Majesty, by and with the advice and consent of
the Legislative Assembly of Saskatchewan, enacts
as follows:

1. This Act may be cited as *The Farm Security Act*, Short title
1944.

2.—(1) Notwithstanding anything contained in *The Crop Payments Act* or in any agreement for sale or mortgage of land to which that Act applies, or in any other agreement for sale or mortgage of farm land, or in any share of crop lease collateral to a mortgage or agreement for sale of land, but subject to the provisions of section 3, the rights of a vendor or mortgagee, or his successors or assignees, shall not in respect of the crop grown by the purchaser or mortgagor in the years 1944 and 1945 affect more than one-third of the crop produced in any of these years.

Rights of
certain
vendors,
mortgagees
and lessors
affected

(2) If in each or either of the years 1944 and 1945 the yield of grain grown upon the land sold, mortgaged or leased is such that its average value per acre sown is less than the value of ten bushels of No. 2 Northern wheat (all values to be computed as of the date and place of delivery of the last thereof or the first day of November, whichever shall be the earlier date), then the purchaser, mortgagor or lessee may produce to the vendor, mortgagee, or lessor a tax receipt for the current year's taxes on the said land and shall thereupon be entitled to retain from the vendor's, mortgagee's or lessor's share of the crop deliverable by him in that year such amount as may be necessary to reimburse him for the taxes so paid; or in the alternative if in such case the purchaser, mortgagor or lessee fails to pay the current year's taxes on the said land the vendor, mortgagee or lessor shall upon demand of the municipality in which the land lies, or of the Minister of Municipal Affairs where the land lies in a local improvement district, or of

the purchaser, mortgagor or lessee, to the extent of the proceeds of the share of such year's crop received, forthwith pay the current year's taxes on the said land; and the municipality or the minister, as the case may require, may after such demand is made recover the said taxes from the vendor, mortgagee or lessor, to the extent of the proceeds of the share of such crop received by him, in the same manner as other taxes may be recovered by the municipality or the minister.

(3) Subsections (1) and (2) shall not apply to crops grown upon land held under a share of crop agreement of sale made after the thirtieth day of April, 1937.

(4) The benefit of the provisions contained in subsections (1) and (2) shall be applicable to and include successors and assignees of purchasers and mortgagors, respectively.

(5) This section shall not apply to the case of the sale of land with chattels upon an entire consideration. R.S.S. 1940, c. 88, s. 16; 1943, c. 16, s. 3; 1944, c. 21, s. 1; amended.

Same

3. In any case to which the provisions of section 2 apply, where a vendor or mortgagee has purchased or supplied the seed or pays a share of the cost of threshing and binder twine, such vendor or mortgagee shall be entitled to the share of the crop not exceeding one-half thereof agreed to be delivered to him, provided that the purchaser or mortgagor may make application to the Provincial Mediation Board for relief from such agreement, and thereupon the board may determine what share of the crop, not exceeding one-half thereof, shall be delivered to the vendor or mortgagee, and upon delivery of such share, the interest in the crop of the vendor or mortgagee shall cease and determine. R.S.S. 1940, c. 88, s. 17 amended.

Share of crop rights further affected in certain circumstances

4.—(1) Notwithstanding anything contained in *The Crop Payments Act* or in any share of crop agreement for sale or mortgage of land or in any share of crop lease collateral to an agreement for sale or mortgage of land, if in any year the share of the crop belonging to the purchaser, mortgagor or lessee, (hereinafter referred to as the producer's share of the crop), along with any other means which he may have, is insufficient to pay all unpaid legitimate costs of harvesting the crop and to provide a necessary living allowance for the support of himself and his family until the crop of the following year is about to be harvested and to provide necessary seed and costs of his farming operations until that time,

then that Act shall in such year apply only with respect to the reduced share of the crop deliverable pursuant to an agreement under subsection (2) or an order of the Provincial Mediation Board under subsection (4); and, subject to subsection (5), the vendor, mortgagee or lessor shall not take any proceeding to enforce delivery of his share of the crop until such agreement or order has been made and then only with respect to such reduced share, and any such prohibited proceeding taken shall be null, void and of no effect.

(2) If the parties to such agreement of sale, mortgage or lease agree that the producer's share of the crop and his other means, if any, are insufficient to pay the said costs of harvesting and to provide the said living allowance, seed and costs of farming operations and further agree as to the reduced share of the crop to be delivered by the purchaser, mortgagor or lessee in such year, then *The Crop Payments Act* shall in that year apply only with respect to that reduced share.

(3) If the parties do not agree with respect to the matters mentioned in subsection (2), either party may apply to the Provincial Mediation Board for a hearing, and upon such application the board, after such notice to the other party as it deems just, may hear the matters in dispute and make such order with respect thereto as it deems just.

(4) If the board finds that the producer's share of the crop and his other means, if any, are insufficient to pay the said costs of harvesting and to provide the said living allowance, seed and costs of farming operations, the board may by order increase that share, and in such case the order shall specify the reduced share which shall be delivered to the vendor, mortgagee or lessor, and *The Crop Payments Act* shall thereupon apply only with respect to that reduced share.

(5) If the board finds that the producer's share of the crop and his other means, if any, are sufficient to pay the said costs of harvesting and to provide the said living allowance, seed and costs of farming operations, then this section shall not apply with respect to that crop.

(6) Where the share of the crop to be delivered in any year is reduced by an agreement made under subsection (2) or an order made under subsection (4), no default shall be deemed to occur or to have occurred with respect to the part of the crop deliverable under such agreement of sale, mortgage or lease but not deliverable pursuant to such agreement or order, and such agreement of sale, mortgage or lease shall, with respect to such crop, apply only to such reduced share and shall be read

and construed accordingly; and any agreement to the contrary shall be null, void and of no effect.

(7) This section shall not apply to agreements for sale of land with chattels upon an entire consideration.

(8) Where an agreement has been made under subsection (2) or an order has been made under subsection (4), no part of the producer's share of the crop, or of that share as increased by such agreement or order, shall be disposed of by the purchaser, mortgagor or lessee except for the purpose of paying the said costs of harvesting or providing for the support of himself and his family until the crop of the following year is about to be harvested or of providing necessary seed and costs for his farming operations until that time, and the producer's share of the crop, or that share as increased by such agreement or order, shall not be subject to garnishment or attachment or seizure or any legal process.

(9) In this section the words "purchaser" and "mortgagor" include a successor and an assignee of a purchaser or mortgagor respectively. 1941, c. 18, s. 2 amended.

Agreements
waiving
certain pro-
visions null
and void

5. Every agreement or bargain, verbal or written, express or implied, that the foregoing sections or any provision thereof shall not apply or that any benefit or remedy provided by any of the said sections shall not be available, or which in any way limits, modifies or abrogates or in effect limits, modifies or abrogates any such benefit or remedy, is and shall be null, void and of no effect.

Mortgagees'
and vendors'
rights affected
in event
of failure of
crops on land
mortgaged
or sold

6.—(1) In this section the expression :

1. "agreement of sale" or "mortgage" means an agreement for sale or mortgage of farm land heretofore or hereafter made or given, and includes an agreement heretofore or hereafter made renewing or extending such agreement of sale or mortgage;

2. "crop failure" means failure of grain crops grown in any year on mortgaged land or on land sold under agreement of sale, due to causes beyond the control of the mortgagor or purchaser, to the extent that the sum realizable from the said crops is less than a sum equal to six dollars per acre sown to grain in such year on such land;

3. "mortgagee" includes a successor and an assignee of the mortgagee, and "vendor" includes a successor and an assignee of the vendor;

4. "mortgagor" includes a successor and an assignee of the mortgagor, and "purchaser" includes a successor and an assignee of the purchaser;

5. "payment" includes payment by delivery of a share of crops;

6. "period of suspension" means the period commencing on the first day of August in the year in which the crop failure occurs and ending on the thirty-first day of July in the next succeeding year.

(2) Notwithstanding anything to the contrary, every mortgage and every agreement of sale shall be deemed to contain a condition that, in case of crop failure in any year and by reason only of such crop failure:

1. the mortgagor or purchaser shall not be required to make any payment of principal to the mortgagee or vendor during the period of suspension;

2. payment of any principal which falls due during the period of suspension and of any principal which thereafter falls due under the mortgage or agreement of sale shall become automatically postponed for one year;

3. the principal outstanding on the fifteenth day of September in the period of suspension shall on that date become automatically reduced by four per cent. thereof or by the same percentage thereof as that at which interest will accrue immediately after the said date on the principal then outstanding, whichever percentage is the greater; provided that, notwithstanding such reduction, interest shall continue to be chargeable, payable and recoverable as if the principal had not been so reduced.

(3) If the mortgagee and mortgagor or the vendor and purchaser do not agree as to whether or not there has been a crop failure in any year, either party may apply to the Provincial Mediation Board for a hearing and upon such application the board, after such notice to the other party as it deems just, may hear the matter in dispute and make such order with respect thereto as it deems just.

(4) If the board finds that there has been a crop failure in the year in question, the provisions of this section shall apply and, if the board finds that there has not been a crop failure in the year in question, the provisions of this section shall not apply.

(5) Where in any year a mortgagor or purchaser is of opinion that he is or may become entitled to the benefits conferred by this section, he shall give written notice of that fact to the mortgagee or vendor on or before the first day of November in such year and failure to give such notice shall constitute a waiver of such benefits; provided that in the year 1944 this subsection shall be read and construed as if the words "thirtieth day

of December” were substituted for the words “first day of November”.

(6) Such notice shall be given by personal service or by registered mail and if given by registered mail the notice shall be deemed to have been given on the date on which the envelope containing the notice is handed to the postmaster.

(7) This section shall not apply to a mortgagor or purchaser:

- (a) whose property is deemed to be under the authority of the court pursuant to subsection (1) of section 10 of *The Farmers' Creditors Arrangement Act, 1943, (Canada)*;
- (b) whose affairs have been arranged by and are subject to a composition, extension of time or scheme of arrangement approved by the court or confirmed by the Board of Review under *The Farmers' Creditors Arrangement Act, 1934, (Canada)* or approved or confirmed by the court under *The Farmers' Creditors Arrangement Act, 1943, (Canada)*; or
- (c) whose affairs have been so arranged and where the composition, extension of time or scheme of arrangement has been annulled pursuant to either of the said Acts.

(8) The Lieutenant Governor in Council may, upon the recommendation of the Provincial Mediation Board, exclude from the operation of this section any mortgage or agreement of sale or class of mortgages or agreements of sale and in case of such exclusion this section shall not apply to the excluded mortgage or agreement of sale or class of mortgages or agreements of sale.

(9) This section shall be deemed to have been in force on and from the first day of August, 1944.

Restriction
on orders
affecting
homestead

7.—(1) In this section the expression:

1. “homestead” means the farm residence of the mortgagor and the quarter section within the meaning of *The Land Surveys Act* or any portion thereof affected by the mortgage on which the residence is situated and other buildings thereon; provided that if such quarter section or portion is of an area of one hundred and twenty acres or less the homestead shall include an additional legal subdivision or additional legal subdivisions within the meaning of *The Land Surveys Act*, contiguous or adjacent to the said quarter section or portion, to be designated by the court or judge, provided that the homestead, with such inclusion, shall not exceed one hundred and sixty acres;

2. "mortgage" means any mortgage of farm land heretofore or hereafter given except a mortgage so given for the purpose of securing the purchase price or part of the purchase price of the land and except a mortgage in which the Canadian Farm Loan Board is mortgagee;

3. "mortgagor" includes a successor and an assignee of the mortgagor.

(2) In so far as any final order of foreclosure hereafter made of a mortgage affects a homestead, the operation of the order and of any order for possession contained therein in so far as it affects a homestead is hereby stayed so long as the homestead continues to be a homestead.

(3) Every final order of foreclosure of a mortgage shall contain a declaration of the court or judge by whom the order is made that the land described in the order is not a homestead within the meaning of this section or that such land is a homestead within the meaning of this section; and where the order affects a homestead and other land the declaration shall be that certain described land is a homestead within the meaning of this section and that the other land affected by the order is not a homestead within the meaning of this section.

(4) Where a final order of foreclosure contains a declaration that land described therein is a homestead within the meaning of this section, the court or a judge may make a further declaration that the said land has ceased to be a homestead within the meaning of this section and thereupon, subject to any appeal, the final order of foreclosure shall be operative and have full force and effect with respect to such land.

(5) Where a final order of foreclosure presented for registration in a land titles office contains a declaration that a portion of the land described therein is a homestead within the meaning of this section, the order may be registered only with respect to the other land therein described and declared not to be a homestead within the meaning of this section and no certificate of title shall be issued on the registration of the order except for land therein declared not to be a homestead; and if any certificate of title is issued on the registration of the order for land therein declared to be a homestead the certificate shall be null and void.

(6) Upon presentation for registration in a land titles office of a duplicate of a final order of foreclosure or a copy certified by the local registrar, accompanied in either case by a declaration of the court or a judge that

land declared in the final order to be a homestead within the meaning of this section has ceased to be a homestead, the registrar may register the final order and declaration as to the land which has ceased to be a homestead and issue certificate of title according to the tenor of the final order.

(7) Notwithstanding anything to the contrary, no order for possession or authority to enter into possession of a mortgaged homestead shall be made or given to the mortgagee, his successor or assignee, except in an action for foreclosure of the mortgage and then only upon final order of foreclosure.

(8) Notwithstanding anything to the contrary, no order for sale of a mortgaged homestead shall be made in an action for foreclosure of the mortgage or for any other relief that may be granted to the mortgagee, his successor or assignee.

(9) This section shall apply not only with respect to actions hereafter brought for foreclosure of a mortgage or for an order for sale or possession of the mortgaged land but shall also apply with respect to any such action now pending.

(10) The Lieutenant Governor in Council may, upon the recommendation of the Provincial Mediation Board, exclude from the operation of this section any mortgage or class of mortgages and in case of such exclusion this section shall not apply to the excluded mortgage or class of mortgages and the homestead affected by an excluded mortgage shall cease to be a homestead within the meaning of this section.

(11) The protection afforded by this section shall inure to the benefit of the widow and infant children or widow or infant children of a deceased mortgagor to the same extent as if the widow or children were the mortgagor.

(12) This section shall remain in force until the first day of April, 1947.

Application
of Act

8. This Act shall affect the rights of the Crown as mortgagee, vendor or lessor.

Certain pro-
visions re-
pealed

9. The following enactments are repealed:

The Revised Statutes of Saskatchewan, 1940, c. 88,
sections 16 and 17;

5 George VI, 1941, c. 18, section 2;

7 George VI, 1943, c. 16, section 3;

8 George VI, 1944, c. 21.



1945

CHAPTER 28

An Act to amend The Farm Security Act, 1944.

[Assented to March 30, 1945.]

HIS Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

1. *The Farm Security Act, 1944*, is amended in the manner hereinafter set forth. 1944 (2nd. Sess.) c. 80

2.—(1) Subsection (5) of section 6 is amended by striking out the words "first day of November" in the fifth line and substituting the words "thirty-first day of December". Section 6 amended

(2) Subsection (5) of section 6 is further amended by striking out all the words and figures after the word "benefits" in the seventh line and substituting the following:

"provided that with respect to crops grown in the year 1944 the notice required by this subsection may be given on or before the thirty-first day of July, 1945, and failure to give such notice on or before the thirtieth day of December, 1944, shall be deemed not to have constituted a waiver of the benefits conferred by this section".

(3) Subsection (2) shall be deemed to have been in force on and from the thirtieth day of December, 1944.

(4) Subsection (8) of section 6 is amended by striking out the first two lines and substituting the following:

"The Provincial Mediation Board may by order".

3.—(1) Subsection (8) of section 7 is amended by adding thereto the following: Section 7 amended

"and no power of sale contained in a mortgage shall be exercised nor directions for sale be given".

(2) Subsection (9) of section 7 is amended by inserting after the word "land" in the fourth line the

words "whether the cause of action arose before or arises after the coming into force of this Act".

(3) Subsection (2) shall be deemed to have been in force on and from the tenth day of November, 1944.

(4) Section 7 is further amended by inserting after subsection (9) the following subsection:

"(9a) This section shall apply *mutatis mutandis* to proceedings under sections 114 to 124 of *The Land Titles Act, 1938*, commenced prior to the first day of June, 1938, and now pending".

(5) Subsection (10) of section 7 is amended by striking out the first two lines and substituting the following:

"The Provincial Mediation Board may by order".



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1947

CHAPTER 36

An Act to amend The Farm Security Act, 1944.

[Assented to March 5, 1947.]

HIS Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

1. *The Farm Security Act, 1944*, is amended in the manner hereinafter set forth. 1944 (2nd. Sess.) c. 30

2.—(1) Sections 2 and 3 are re-enacted in their present form subject to the following changes: Sections 2 and 3 re-enacted

(a) for "1944 and 1945" in the ninth and tenth lines of subsection (1) of section 2 substitute "1946, 1947 and 1948";

(b) for "1944 and 1945" in the first line of subsection (2) of section 2 substitute "1946, 1947 and 1948".

(2) Subsection (1) shall be deemed to have been in force on and from the first day of January, 1946, and anything done in the year 1946 in conformity with the said sections 2 and 3, as re-enacted by subsection (1), is ratified and confirmed and declared to be binding upon the parties.

3. Subsection (12) of section 7 is amended by striking out "April, 1947" and substituting "July, 1949". Section 7 amended



1943

CHAPTER 15

An Act to facilitate Negotiations between Certain
Persons, and respecting Certain Tax Proceedings.

[Assented to April 12, 1943.]

HIS Majesty, by and with the advice and consent of the
Legislative Assembly of Saskatchewan, enacts as follows:

1. This Act may be cited as *The Provincial Mediation Board Act, 1943.* Short title

2. In this Act, unless the context otherwise requires, the Interpretation
expression:

1. "board" means the Provincial Mediation Board "board"
appointed under the authority of this Act;

2. "debtor" means a person, partnership or body corporate "debtor"
and politic other than a municipal corporation, a school district,
a rural telephone company and a union hospital board. R.S.S.
1940, c. 87, s. 2 amended.

3.—(1) There shall be a board, to be styled the Provincial Board
Mediation Board, consisting of one or more members as may
be determined by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council shall appoint the
member or members of the board and specify the number of
members which shall constitute a quorum.

(3) Each member shall hold office during the pleasure of
the Lieutenant Governor in Council, shall receive such remuneration
as is approved by the Lieutenant Governor in Council and shall perform
such duties, in addition to the duties assigned by this Act, as may be
prescribed by the Lieutenant Governor in Council.

(4) Vacancies caused by death, resignation or otherwise
may be filled by the Lieutenant Governor in Council, but a vacancy
shall not impair the power of the remaining members or member to
act. In any such case the signature of one member shall be sufficient.

(5) In the case of the absence of a member of the board, or his inability to act, or in the case of a vacancy in the office, the remaining members or member shall exercise the powers of the board.

(6) The Lieutenant Governor in Council shall designate one of the members of the board to be chairman. If there is only one member he shall be deemed to be chairman.

(7) In the absence of the chairman, all orders, rules, regulations and other documents may be signed by any one member, and when so signed shall have the like effect as if signed by the chairman.

(8) Whenever it appears that a member other than the chairman has acted for and in the place of the chairman, it shall be conclusively presumed that he has so acted in the absence or disability of the chairman.

(9) If there is only one member of the board the Lieutenant Governor in Council may appoint some person to take the place of that member when absent for any cause; and the person so appointed shall, while acting, possess all the powers, exercise all the functions and perform all the duties of the board, and subsection (7) shall apply to him accordingly.

(10) Whenever a member is interested in a matter before the board, the Lieutenant Governor in Council may appoint some disinterested person to act as a member *pro hac vice*, and the Lieutenant Governor in Council may also appoint a person to act during the absence or disability of a member.

(11) The staff of the board shall consist of a secretary and such other employees as are deemed necessary for the proper conduct of the business of the board, and the salaries of all employees shall be determined by the Lieutenant Governor in Council.

(12) The salaries of the members and staff of the board and the expenses of the board shall be paid out of any moneys appropriated by the Legislature for the purpose. R.S.S. 1940, c. 87, s. 3 amended.

Delegation
of powers

4.—(1) The board may appoint such person or persons to act in each judicial district of the province as it deems advisable for the purpose of facilitating the administration of this Act and may, subject to the approval of the Lieutenant Governor in Council, confer upon persons so appointed, and upon any member or members of the board, such powers as it deems expedient, including power to make orders which the board is authorized to make.

(2) All orders made in pursuance of such powers by any appointee or appointees of the board or by any member or

members of the board whether acting alone or along with any other person or persons, shall have the same force and effect as if made by the board. R.S.S. 1940, c. 87, s. 4 amended.

5.—(1) Upon receipt of an application in writing by or on behalf of a debtor or any of his creditors, the board shall confer with and advise the debtor or his creditor and shall endeavour to bring about an amicable arrangement for payment of the debtor's indebtedness without recourse being had to legal proceedings, and for that purpose the board shall inquire into the validity of claims made against the debtor and his ability to pay his just debts, either presently or in the future, and shall endeavour to effect an agreement between the debtor and his creditors to provide for the settlement of the said debts, either in full or by a composition.

Agreements
between
debtors and
creditors

(2) Any such agreement so effected between a debtor and his creditors, made by or through the agency of the board, may be contained wholly or in part in letters written by or to the board; and such agreement shall be valid and enforceable at law, although without consideration, and may alter, modify or rescind in whole or in part the terms of any mortgage, contract or agreement theretofore subsisting between the parties, or by the terms of which the rights of any of the parties may be affected. New.

6.—(1) Unless with the consent of the board, no proceeding shall be taken or continued:

Restrictions
regarding
certain tax
proceedings

- (a) to acquire title to land by virtue of any tax sale except a preliminary application by a tax purchaser to a registrar of land titles pursuant to and by virtue of section 58 of *The Arrears of Taxes Act*;
- (b) to obtain title under subsections (2) and (3) of section 22 of *The Tax Enforcement Act*;
- (c) to obtain title under *The Tax Arrears Consolidation Act*, after service of the six months' notice under that Act;
- (d) to obtain title under *The Tax Consolidation and Adjustment Act*, after service of the six months' notice under that Act;

until after the expiry of thirty days from the date upon which notice of intention to do so has been given to the board. Such notice may be given by registered mail and shall be deemed to have been given on the date of the receipt of the postmaster for the envelope containing the notice.

(2) If notice of intention to make final application for title is given before the expiry of the period allowed by *The Arrears of Taxes Act* for making such application, and the thirty days mentioned in subsection (1) extends beyond the last date upon which final application may be made under the

said Act, then, notwithstanding anything contained in the said Act, the period within which final application for title may be made shall be extended by thirty days. R.S.S. 1940, c. 87, s. 7(1), in part, and (4), amended.

Power to
postpone final
application
for title

7.—(1) The board may from time to time, of its own motion or upon application by:

- (a) a person by whom land may be redeemed under section 61 of *The Arrears of Taxes Act*;
- (b) a person by whom land may be redeemed under section 18 or 19 of *The Tax Enforcement Act* or the municipality in which such land is situated;
- (c) a person by whom a default may be remedied under section 26 of *The Tax Arrears Consolidation Act* or section 24 of *The Tax Consolidation and Adjustment Act*;

by order prohibit final application for title to the land until after a date to be stated in the order, and, in the case of an application by a person entitled to redeem or to remedy a default, may as a condition precedent to making the order require payment by such person to the treasurer of the municipality in which the land is situated or to the registrar of land titles for the land registration district in which the land is situated, as the case may require, of such portion of the amount required to redeem the land or to remedy the default as the board deems proper. If such order is made, final application shall not be made until after the date stated in the order unless the order is sooner rescinded by the board, and subsection (1) of section 6 of this Act shall continue to apply with respect to such application.

(2) A copy of an order prohibiting final application for title and of any order rescinding such order shall be immediately forwarded by the board to the registrar of land titles for the land registration district in which the land is situated, and upon receipt thereof the registrar shall make a memorandum of the order upon the certificate of title to the land affected. A copy of a rescinding order shall also be forwarded by the board to the municipality in which the land is situated.

(3) When an order prohibiting final application for title is made under subsection (1) or an order rescinding such order is made, final application for title may be made within the same length of time after the date stated in the first mentioned order or after the date of the rescinding order, as the case may be, as the period within which it might have been made if the first mentioned order had not been issued.

(4) Where the registrar has received a copy of an order prohibiting final application for title he shall, when final application for title is made, direct notice thereof to be sent by

registered mail to the persons mentioned in section 169 or 171 of *The Land Titles Act*, as the case may require, and shall not issue certificate of title until thirty days after such notice has been given. New.

(5) Where the board deems it equitable to authorize a municipality to proceed with a final application for title under *The Arrears of Taxes Act* or *The Tax Enforcement Act*, or to obtain title under *The Tax Arrears Consolidation Act* or *The Tax Consolidation and Adjustment Act* after service of the six months' notice thereby required, upon condition that, when the municipality acquires title, it will enter into an agreement for sale, lease option agreement or other agreement with the former owner of the land, or with a person who, immediately prior to issue of title to the municipality, has a registered interest in the land, the board may, for the purpose of enabling the municipality to carry out such condition, by order relieve the municipality from the restrictive provisions of section 26 of *The Arrears of Taxes Act* or section 26 of *The Tax Enforcement Act*, as the case may require. R.S.S. 1940, c. 87, s. 7(8) amended.

8. Forthwith after the commencement of any action for foreclosure of a mortgage on land or sale or possession of the mortgaged premises, or for specific performance or cancellation of an agreement for sale of land or for sale or possession of land sold under any such agreement, or of any action for the recovery of money where the amount or balance claimed exceeds \$100 other than an action founded on tort, an action for alimony and an action for the recovery of moneys payable under a separation agreement, the local registrar or clerk of the court shall give notice thereof to the board, stating the names of the parties to the action and their solicitors and the nature of the action. New.

9.—(1) The board may make such inquiries as it deems necessary with respect to any matter within its jurisdiction under this Act or any other Act and for the purpose of conducting any inquiry the board shall have all the powers conferred or which may be conferred upon commissioners under *The Public Inquiries Act*.

(2) Where notice is given as required by subsection (1) of section 6 and the board has consented to the taking or continuance of proceedings the board may nevertheless impose such conditions and restrictions affecting the proceedings to be taken or continued, as the board deems proper. R.S.S. 1940, c. 87, s. 8 amended.

10. Proof that any letter or package containing any document mailed by post prepaid by the board or a person appointed under section 4 was properly addressed and put into the post office and of the time when it was so put in and of the

time requisite for its delivery in the ordinary course of post, shall be evidence of the fact and time of the receipt of the letter or package by the person to whom it was addressed. R.S.S. 1940, c. 87, s. 10 amended.

Documents
as evidence

11. All documents purporting to be issued by the board or a person appointed under section 4, in pursuance of this Act, shall be received in evidence and shall be deemed to have been so issued unless the contrary is shown. R.S.S. 1940, c. 87, s. 11(1) amended.

Non-liability
for bona fide
acts

12. Neither the board nor any member of the board nor any person appointed under section 4 nor any person acting under its or his instructions, or under the authority of this Act or any regulations thereunder, shall be personally liable for any loss or damage suffered by any person by reason of anything in good faith done, or omitted to be done, pursuant to or in the exercise or supposed exercise of the powers conferred by this Act or such regulations. R.S.S. 1940, c. 87, s. 12 amended.

References in
Acts, etc., to
*The Debt
Adjustment Act*
and Debt
Adjustment
Board

13. A reference in any Act, regulation, order in council or other document to *The Debt Adjustment Act* or the Debt Adjustment Board shall be deemed a reference to this Act and to the Provincial Mediation Board, respectively; and where by any Act, regulation, order in council or other document a power is conferred or a duty is imposed on the Debt Adjustment Board, such power may be exercised and such duty shall be performed by the Provincial Mediation Board.

Penalty

14. If any person makes wilful default in complying with any order, direction or condition made, given or imposed by the board under the authority of this Act or any other Act or by a person appointed under section 4 or violates any of the provisions of this Act or the regulations, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$250 and in default of payment to imprisonment for a term not exceeding three months or to both. R.S.S. 1940, c. 87, s. 13 amended.

Rev. Stat. c. 87
repealed

15.—(1) *The Debt Adjustment Act* is repealed.

(2) Notwithstanding subsection (1), all orders made by the board constituted under the said Act or by a Debt Adjustment Board constituted under any former Debt Adjustment Act, whether pursuant to a power conferred by a Debt Adjustment Act or any other Act, and subsisting when this Act comes into force, are confirmed in so far as they relate to any matter within the jurisdiction of the board under this Act or any other Act and shall to that extent continue in full force and effect according to the tenor thereof, but shall be subject to amendment or cancellation by the board.



SUPPLIED BY
KING'S PRINTER, REGINA, SASK.
PRICE 10 CENTS EACH

19

1944

CHAPTER 20

An Act to amend The Provincial Mediation
Board Act, 1943.

[Assented to April 1, 1944.]

HIS Majesty, by and with the advice and consent of the
Legislative Assembly of Saskatchewan, enacts as follows:

1. Subsection (5) of section 7 of *The Provincial Medi-* 1943, c. 15,
ation Board Act, 1943, is repealed and the following substituted ^{s. 7 amended}
therefor:

"(5) Where the board deems it equitable to authorize a municipality to proceed with a final application for title under *The Arrears of Taxes Act* or *The Tax Enforcement Act*, or to obtain title under *The Tax Arrears Consolidation Act* or *The Tax Consolidation and Adjustment Act* after service of the six months' notice thereby required, it may, by order issued either before or after the municipality acquires title, relieve the municipality from the restrictive provisions of section 26 of *The Arrears of Taxes Act* or section 26 of *The Tax Enforcement Act*, upon the condition that the municipality will enter into an agreement for sale, lease option agreement or other agreement with any person named in the order, who has or had, immediately prior to the issue of title to the municipality, a legal or equitable interest in the land".



SUPPLIED BY
KING'S PRINTER, REGINA, SASK.
PRICE 20 CENTS EACH.

CHAPTER 87.

An Act to facilitate the Adjustment of Debts.

HIS Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

1. This Act may be cited as *The Debt Adjustment Act*. Short title 1934-35, c. 88, s. 1.

2. In this Act, unless the context otherwise requires, Interpretation the expression :

1. "Board" means the Debt Adjustment Board appointed "Board" under the authority of this Act and includes a tribunal ;

2. "Person" includes a body corporate and politic or party, "Person" other than a municipal corporation and a school district ;

3. "Tribunal" means any person or persons upon whom "Tribunal" power to act is conferred under the authority of section 4. 1934-35, c. 88, s. 2.

3.—(1) There shall be a board, to be styled the Debt ^{Debt} Adjustment Board and composed of such number of members ^{Adjustment} Board as may be determined from time to time by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council shall appoint the members of the board, one of whom shall be chairman, and specify the number of members which shall constitute a quorum.

(3) In the case of the absence of a member of the board, or his inability to act, or in the case of a vacancy in the office, the remaining members or member shall exercise the powers of the board.

(4) In the absence of the chairman, all orders, rules, regulations and other documents may be signed by any one member, and when so signed shall have the like effect as if signed by the chairman.

(5) Whenever it appears that a member other than the chairman has acted for and in the place of the chairman, it shall be conclusively presumed that he has so acted in the absence or disability of the chairman.

(6) Vacancies caused by death, resignation or otherwise may be filled by the Lieutenant Governor in Council, but a vacancy shall not impair the power of the remaining members or

member to act. In any such case the signature of one member shall be sufficient.

(7) The members shall hold office during the pleasure of the Lieutenant Governor in Council, shall receive such remuneration as is approved by the Lieutenant Governor in Council and shall perform such duties, in addition to the duties assigned to them by this Act, as may be prescribed by the Lieutenant Governor in Council.

(8) The chairman shall perform such of the duties and exercise such of the powers of the board as are imposed upon or delegated to him from time to time by the board.

(9) Whenever a member is interested in a matter before the board, the Lieutenant Governor in Council may, upon the application of such member or otherwise, appoint some disinterested person to act as a member *pro hac vice*, and the Lieutenant Governor in Council may also appoint a person to act during the sickness, absence or disability of a member.

(10) The staff of the board shall consist of a secretary and such other employees as are deemed necessary for the proper conduct of the business of the board, and the salaries of all employees shall be determined by the Lieutenant Governor in Council.

(11) The salaries of the members and staff of the board and the expenses of the board shall be paid out of any moneys appropriated by the Legislature for the purpose. 1934-35, c. 88, s. 3.

**Delegation
of powers**

4.—(1) The Debt Adjustment Board may appoint such person or persons to act in each judicial district of the province as it deems advisable for the purpose of facilitating the administration of this Act and may, subject to the approval of the Lieutenant Governor in Council, confer upon persons so appointed, and upon any member or members of the board, such powers as it deems expedient, including power to issue certificates or interim certificates and to make orders which the board is authorized to make.

(2) All orders made in pursuance of such powers by any appointee or appointees of the board or by any member or members of the board whether acting alone or along with any other person or persons, shall have the same force and effect as if made by the board. 1934-35, c. 88, s. 4.

**Issue of
certificate
and effect
thereof**

5.—(1) Upon the application of any person who is a debtor or any one or more of his creditors, the board may, if it is satisfied that it is in the interests of such person and his creditors so to do, issue its certificate, and in such case and where a certificate is cancelled shall file a copy of the certificate or cancellation in the office of the registration clerks for bills

of sale in all registration districts, in the offices of the local registrars of the Court of King's Bench and clerks of the district court of all judicial districts and in all land titles offices.

(2) After a certificate has been filed as required by subsection (1) and while it remains uncanceled, no proceeding in the nature of an execution, or proceeding leading to the sale or foreclosure of real property and no proceeding of any sort, either in court or extrajudicial, which may lead to the seizure or sale of property of the person named in the certificate or property held by him under a conditional sale agreement, shall be taken or continued without the authority in writing of the board:

Provided that this subsection shall not apply to any proceeding mentioned in subsection (2) of section 7.

(3) After a certificate has been filed as required by subsection (1) and while it remains uncanceled, no sale, conveyance or mortgage by the person named in the certificate of any of his real or personal property within the province, and no purchase made by such person under a conditional sale agreement, shall have any validity, force or effect unless made or done with the authority in writing of the board, which authority may be either general or relate only to a specific transaction.

(4) No registration clerk or registrar of land titles, in whose office a certificate has been filed, shall register any transfer, mortgage, conveyance or other instrument made by the person named in the certificate unless it is accompanied by the authority in writing of the board or a certified copy thereof.

(5) The board may, in any case, where it has filed a certificate, direct the person therein named to deal with all or any part of his property in such manner as the board may in its discretion deem expedient. Every such direction shall be in writing and it shall be the duty of the person affected to comply therewith. 1934-35, c. 88, s. 5.

6. Where a certificate has been filed under this or any former Debt Adjustment Act, or where under any of the said Acts an agreement in writing has been entered into by any person covering the proceeds of his farming operations, or where notice has been given as required by subsection (1) of section 7 and:

Power to authorize seizure after certificate filed, etc.

1. if it is made to appear by any creditor to the board by verbal or written statement under oath that the debtor is disposing or about to dispose of any of his property for the purpose of defeating the claims of his creditors or any of them, the board may, by written order signed by any member of the board directed to the sheriff of the judicial district in which

the property is situate, require such sheriff to seize such designated property and to hold and deal with the same for it in such manner as the board may in writing direct; and thereupon the sheriff shall proceed forthwith to seize such property and deal with the same in such manner as the board may from time to time direct, and the proper fees and expenses incurred by the sheriff in respect of such property shall be charged upon the property; or

2. if it is made to appear by any creditor to the sheriff by verbal or written statement under oath that the debtor is disposing of or about to dispose of any of his property for the purpose of defeating the claims of his creditors or any of them, the sheriff may seize and hold the same pending instructions from the board. The sheriff shall immediately inform the board of any seizure so made and shall deal with the property in such manner as the board may from time to time direct, and the proper fees and expenses incurred by the sheriff in respect of such property shall be charged upon the property. 1934-35, c. 88, s. 6.

Restrictions
regarding
certain
proceedings

7.—(1) Unless with the consent of the board no legal or other proceeding of any of the classes hereinafter described shall be taken or continued, that is to say:

- (a) action or suit for any legal, equitable or statutory claim, demand, debt or account, or for any money demanded, where the amount or balance claimed exceeds \$100, except an action for nullity of marriage, restitution of conjugal rights, jactitation of marriage, judicial separation, or dissolution of marriage;
- (b) action, suit or proceeding upon a covenant under an agreement for sale or mortgage of land or assignment of such agreement for sale or mortgage;
- (c) action or proceeding for sale under or foreclosure of a mortgage on land, or for cancellation, rescission or specific performance of an agreement for sale of land or for recovery of possession of land, whether in court or otherwise;
- (d) proceeding to acquire title to land by virtue of any tax sale except a preliminary application by a tax purchaser to a registrar of land titles pursuant to and by virtue of section 58 of *The Arrears of Taxes Act*;
- (e) proceeding to obtain title under subsections (2) and (3) of section 22 of *The Tax Enforcement Act*;
- (f) proceeding to obtain title under *The Tax Arrears Consolidation Act*, after service of the six months' notice under that Act;
- (g) proceeding to obtain title under *The Tax Consolidation and Adjustment Act*, after service of the six

- months' notice under that Act;
- (h) action or proceeding to sell land under or in satisfaction of any judgment or mechanic's lien;
 - (i) seizure in the nature of an execution or distress, or under any lease, agreement for sale, mortgage, lien, chattel mortgage, hire purchase agreement or conditional sale agreement, whether by virtue of rights at common law or under statute;
 - (j) such other class or classes of legal or other proceedings as may be brought within the provisions of this section by order of the Lieutenant Governor in Council;

until after the expiry of ten days, in the case of an action or suit mentioned in clause (a), or until after the expiry of thirty days in all other cases, from the date upon which notice of intention to do so has been given to the board and to the clerk of the district court of the judicial district in which such proceeding is to be taken or continued. Such notice may be given by registered mail and shall be deemed to have been given on the date of the receipt of the postmaster for the envelope containing the notice. The board may in its discretion for good cause dispense with the notice required in the case of an action or suit mentioned in clause (a).

(2) Subsection (1) shall not apply to:

- (a) Any proceeding in respect of which a permit has been issued under the authority of *The Debt Adjustment Act, 1933*, or to any proceeding taken, prior to the seventh day of January, 1935, against a person who was not then an actual resident of the province;
- (b) Any proceeding on a contract made or entered into by a debtor, the whole of the original consideration for which arose after the first day of April, 1933, nor to any action or suit which is founded on tort, save with respect to a contract which is merely a renewal or revision of a contract originally entered into prior to that date;
- (c) any remedy available to a municipality, school district or other taxing authority in the province for the collection of taxes or other sums which are recoverable in the same manner as taxes:

Provided that the board may, by order, on application of a debtor restrict the rights of the municipality, school district or other taxing authority to recover taxes and other sums payable by him, to such extent as the board deems expedient;

- (d) seizure in the nature of a distress for rent of urban property, provided that the goods distrained shall not

be sold or otherwise dealt with except with the written permission of the board;

- (e) any remedy available to the province or to any municipality for recovery of the purchase price of seed grain or other commodities supplied by The Saskatchewan Relief Commission or the municipality, to the extent only of the seed grain or other commodities supplied in the year in which the proceedings for collection are taken;
- (f) proceedings by way of set-off or counter-claim;
- (g) proceedings under section 107 of *The Workmen's Compensation (Accident Fund) Act*;
- (h) proceedings under *The Dependants' Relief Act*, *The Deserted Wives' and Children's Maintenance Act*, *The Parents' Maintenance Act* or Part VI of *The Child Welfare Act*;
- (i) such further class or classes of legal or other proceedings as may be withdrawn from the operation of subsection (1) by order of the Lieutenant Governor in Council.

(3) Notwithstanding anything contained in subsection (1), if upon the application of a creditor of any person, the board is satisfied that it is advisable to do so, the board may authorize the sheriff or the applicant to make any seizure referred to in clause (i) of that subsection, whether or not notice has been given as required by the said subsection; and in case a seizure is made the person making the seizure shall hold the property seized for a period of thirty days, or such further period as the board may order, and shall dispose of it in accordance with the directions of the board.

(4) If notice of intention to make final application for title is given before the expiry of the period allowed by *The Arrears of Taxes Act* for making such application, and the thirty days mentioned in subsection (1) extends beyond the last date upon which final application may be made under the said Act, then, notwithstanding anything contained in the said Act, the period within which final application for title may be made shall be extended by thirty days.

(5) Proceeding by way of attachment of personal property or garnishment may be initiated by a creditor, and seizure may be made under a writ of attachment and service effected on the defendant, or service may be effected on a garnishee and on the defendant or judgment debtor, as the case may require, but no further step in such proceedings shall be taken until thirty days' notice has been given as mentioned in subsection (1):

Provided that no garnishee summons in respect of wages or salary shall be issued unless the plaintiff or judgment

creditor has given to the defendant or judgment debtor ten days' written notice of intention to do so.

(6) If any notice required by subsection (5) is not given, or if notice is given and an order is issued under the authority of this Act, then, unless the board otherwise orders, the proceedings shall be null and void and property seized shall be released from seizure and moneys paid into court if any, pursuant to such proceedings, shall be paid out to the debtor on his application.

(7) The issue of a notice under subsection (1) of section 25 of *The Mechanics' Lien Act* shall be and be deemed to be a proceeding within the provisions of subsection (1) of this section; and before issuing such notice the registrar of land titles shall require the applicant therefor to file with his application proof that the notice required by subsection (1) of this section has been given to the board and to the clerk of the proper district court and that thirty days have expired since the notice was given.

(8) Where the board deems it equitable to authorize a municipality to proceed with a final application for tax title upon condition that, when the municipality acquires title, it will enter into an agreement for sale, lease option agreement or other agreement with the former owner of the land, or with a person who, immediately prior to issue of title to the municipality, has a registered interest in the land, the board may, for the purpose of enabling the municipality to carry out such condition, by order relieve the municipality from the restrictive provisions of section 26 of *The Arrears of Taxes Act*.

(9) The board shall, forthwith after receipt by it of a notice given under subsection (1), notify the debtor of the intention of the creditor as stated in the notice. 1934-35, c. 88, s. 7 as amended by orders in council and 1937, c. 95, s. 15; 1938, c. 90, s. 1; 1938, c. 91, s. 4.

8.—(1) The board may make such inquiries as it deems **Inquiries** necessary for the purposes of this Act and for the purpose of conducting any inquiry the board shall have all the powers conferred or which may be conferred upon commissioners under *The Public Inquiries Act*.

(2) Where notice is given as required by subsection (1) of section 7 and no order is made by the Lieutenant Governor in Council under section 9 or by the board under any power delegated to it under the authority of section 9, or where the board has consented to the commencement or continuance of proceedings the board may nevertheless impose such conditions and restrictions upon the creditor affecting the proceedings to be taken or continued by him, as the board deems proper. 1934-35, c. 88, s. 8.

Order of
Lieutenant
Governor
in Council

9.—(1) The Lieutenant Governor in Council may, at any time and from time to time, by proclamation published in *The Saskatchewan Gazette*:

- (a) authorize, in so far as the same may be within the legislative authority of the Province of Saskatchewan, the postponement of the payment of all or any debts, liabilities or obligations, existing or future, however arising, or of the enforcement of all or any liens or incumbrances, or other securities, whether created before or after the coming into force of this Act;
- (b) prohibit in any judicial district the issue of any process out of any one or more of the courts of the province in all or any classes of civil actions, or the execution of process already issued in such actions, or stay proceedings in civil actions and matters of any description pending in such courts, or extend or otherwise vary the exemption privileges which execution debtors now enjoy.

(2) The powers conferred upon the Lieutenant Governor in Council by subsection (1) may be exercised in individual cases, or in favour or for the protection of individuals, by order in council without proclamation, and the Lieutenant Governor in Council may also by order in council without proclamation prohibit the commencement or continuance of any specified proceeding against any person; and any order in council made under this section shall take effect from the date specified therein.

(3) The Lieutenant Governor in Council may delegate to the board any or all of the powers conferred by subsections (1) and (2).

(4) The Lieutenant Governor in Council may at any time and from time to time prohibit in any judicial district or in the province the issue by any one or more creditors of any process out of any one or more of the courts of the province in all or any classes of civil actions, or the execution of any process already issued in such actions, or the continuance of proceedings by such creditor or creditors in civil actions and matters of any description pending in such courts, or the exercise or enjoyment by such creditor or creditors of all or any remedies either judicial or extrajudicial for the enforcement of civil rights by such creditor or creditors within the province. 1934-35, c. 88, s. 9; 1937, c. 95, s. 14.

Proof of
service
by post

10. Proof that any letter or package containing any document mailed by post prepaid by the board or a tribunal was properly addressed and put into the post office and of the time when it was so put in and of the time requisite for its delivery in the ordinary course of post, shall be

evidence of the fact and time of the receipt of the letter or package by the person to whom it was addressed. 1934-35, c. 88, s. 10.

11.—(1) All documents purporting to be issued by the board or a tribunal or any member or members of the board or a tribunal, or by the Lieutenant Governor in Council, in pursuance of this Act, shall be received in evidence and shall be deemed to have been so issued unless the contrary is shown. Documents as evidence

(2) A certificate purporting to be signed by the Clerk of the Executive Council and stating that no order has been made by the Lieutenant Governor in Council under section 9 with respect to the proceedings specified in the certificate against the person named therein, or that such an order was made but was cancelled on a specified date, shall be *prima facie* evidence of the facts stated therein without proof of the signature thereto. 1934-35, c. 88, s. 11.

12. Neither the board nor any tribunal nor any member of the board or a tribunal nor anyone acting under its his instructions, or under the authority of this Act or *The Debt Adjustment Act of 1931 or 1932 or 1933* or the regulations under any of the said Acts, shall be personally liable for any loss or damage suffered by any person by reason of anything in good faith done, or omitted to be done, pursuant to or in the exercise or in the supposed exercise of the powers conferred by any of the said Acts or regulations; and the said Acts of 1931 and 1932 shall be deemed always to have contained a provision to the foregoing effect. 1934-35, c. 88, s. 12. Non-liability for bona fide acts

13. If any person makes wilful default in complying with any order, direction or condition made, given or imposed by the board or a tribunal or violates any of the provisions of this Act or the regulations, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$250 and in default of payment to imprisonment for a term not exceeding three months or to both. 1934-35, c. 88, s. 13. Penalty

14. Notwithstanding anything contained in *The Limitation of Actions Act*, in calculating the time within which any action or other proceeding must be commenced under that Act the period during which this Act is in force shall not be included in such calculation, whether or not such action or proceeding is prohibited by this Act, and, if so prohibited, whether or not notice has been given under subsection (1) of section 7. 1934-35, c. 88, s. 14. Limitation of Actions Act

15. Subject to the provisions of any Act respecting the postponement of issue of certificate of title to land sold for taxes, final application for title may be made within the same length Extension of time for application for title

of time after this Act ceases to have effect as the period within which final application might have been made if this Act had not been passed, and the land may be redeemed at any time before issue of certificate of title. 1934-35, c. 88, s. 15.

Repeal

16.—(1) *The Debt Adjustment Act, 1933*, is hereby repealed, except section 25 as amended by chapter 59 of the statutes of 1934 and section 35 as enacted by the said chapter 59; save that all subsisting certificates, orders and directions issued, made or given thereunder or under *The Debt Adjustment Act, 1932*, or *The Debt Adjustment Act, 1931*, shall continue as if those Acts had not been repealed in so far as is necessary to give full effect thereto; and the board may amend, vary or cancel any such certificate, order or direction.

(2) Notwithstanding the repeal of this Act, all orders made thereunder and then subsisting, except orders made under section 9 or in the exercise of any power delegated under the authority of that section, and all subsisting orders made by a Debt Adjustment Board under any former Debt Adjustment Act, shall continue in full force and effect and shall be binding and conclusive so far as they affect the parties concerned according to the tenor thereof. 1934-35, c. 88, s. 16.



CHAPTER 119.

An Act to facilitate the Adjustment of Debts.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

Short Title.

1. This Act may be cited as "*The Debt Adjustment Act.*" Short title [1937, c. 9, s. 1.]

Interpretation.

2. In this Act, unless the context otherwise requires,—
 - (a) "Board" means the Debt Adjustment Board constituted pursuant to this Act; Interpretation Board
 - (b) "Clerk" means the clerk in a judicial district and the deputy clerk in a sub-judicial district; Clerk
 - (c) "Family corporation" means a corporation, seventy-five per cent of the stock of which is owned or controlled directly or indirectly by the members of one family, one or more of which members reside in Alberta and take an active part in the business operations of the corporation; or a corporation eighty per cent of the stock of which is owned by persons actively employed in the business of the corporation or by such persons and their families; Family corporation
 - (d) "Judicial district" includes a sub-judicial district; Judicial district
 - (e) "Resident debtor" means a person who is a debtor and who is an actual resident of and personally living in the Province, and includes the personal representative or representatives, son, daughter, widow or widower, of a deceased resident debtor, and includes a family corporation which is a debtor and has its head office or principal place of business in the Province; Resident debtor
 - (f) "Resident farmer" means a person who is an actual resident of and personally living in the Province of Alberta who,—
 - (i) is personally *bona fide* engaged in farming operations in the Province; or
 - (ii) being the owner of a farm property, was personally *bona fide* engaged in farming operations thereon but has retired therefrom, and has either leased the property or sold it under an agreement for sale, or transferred it and taken a mortgage thereon for purchase money on which payments are owing to him; Resident farmer

and includes the personal representative or representatives, son, daughter, widow or widower of a deceased resident farmer; and includes a company incorporated under any Act of the Province whose sole or main business is farming within the Province;

Sheriff

- (g) "Sheriff" includes the deputy sheriff in a sub-judicial district. [1937, c. 9, s. 2; 1938, c. 27, s. 2.]

Debt Adjustment Board.

Constitution
of Board

3. There is hereby constituted a board to be known as "The Debt Adjustment Board" consisting of either one, two or three members as the Lieutenant Governor in Council may from time to time determine, and the Lieutenant Governor in Council may from time to time,—

Appoint-
ments,
salaries,
duties, etc.,
of officers

- (a) appoint such person or persons as members of the Board as may be deemed advisable, and prescribe the remuneration and duties of persons appointed as members of the Board;
- (b) appoint subject to the provisions of *The Public Service Efficiency Act* such officers, clerks and employees as may be deemed necessary who shall be under the direct control of the Board;
- (c) appoint for any designated areas one or more committees consisting of not more than three persons for the purpose of co-operating with the Board in the administration of this Act within the designated area and prescribe the powers and duties thereof;
- (d) prescribe rules and regulations for the due administration of this Act and as to the procedure upon any proceeding under this Act, and prescribe forms, and prescribe and fix a tariff of the fees to be taken or received by any person on account of service performed by him in the course of any such proceeding or in respect of any act or thing done by such person pursuant to this Act;
- (e) protect any property seized under this Act against seizure in any other proceedings or for any other reason. [1937, c. 9, s. 3; 1937, 3rd Ses., c. 2, s. 2.]

Agents of
Board and
their powers

4. The Debt Adjustment Board may appoint such person or persons to act on its behalf as it deems advisable for the purpose of facilitating the administration of this Act and may, subject to the approval of the Lieutenant Governor in Council, confer upon any person or persons so appointed such powers as it may deem expedient, including power to grant or refuse permits, to make compromises between creditors and debtors, and to make orders or issue directions which the Board is authorized to make or issue under the provisions of this Act. [1937, c. 9, s. 4.]

5. All the powers and authority by this Act conferred upon the Board shall be deemed to be conferred upon and shall be exercisable by every member thereof.

Powers of Board exercisable by every member

[1937, c. 9, s. 5.]

6. The Board and any person authorized by the Board in writing may make all such inquiries as may be from time to time deemed advisable with regard to the property of any resident debtor or resident farmer, and for that purpose the Board or any person authorized by the Board in writing may examine under oath any such resident debtor or resident farmer and his servants and agents, and any person who appears to the Board, or any person authorized by the Board in writing, to have any knowledge of the affairs of the resident debtor or resident farmer, and shall have all the powers in that behalf which may be conferred upon a commissioner appointed pursuant to *The Public Inquiries Act*.

Inquiries

[1937, c. 9, s. 6; 1941, c. 42, s. 2.]

7.—(1) The Board constituted pursuant to this Act shall be a body politic and corporate.

Board a body corporate

(2) For the purpose of performing any duty or function or exercising any power which is conferred or imposed upon the Board by this Act, any member of the Board is hereby empowered to act for and on behalf of the Board, and any act or thing so done shall be deemed to have been done by the Board.

Powers exercisable by members thereof

[1937, c. 9, s. 7.]

PART I.

Permits.

8.—(1) Unless the Board or any person designated by the Board under the provisions of this Act issues a permit in writing giving consent thereto,—

Proceedings for which a permit is required

- (a) no action or suit for the recovery of any money which is recoverable as a liquidated demand or debt in respect to any claim enforceable by virtue of any rule of law or equity or by virtue of any statute, except money payable in respect of rates and taxes payable pursuant to any statute, and debts owing to a hospital for hospital services; and
- (b) no proceedings by way of execution, attachment or garnishment; and
- (c) no action or proceeding for the sale under or foreclosure of a mortgage on land, or for cancellation, rescission or specific performance of an agreement for sale of land or for recovery of possession of land, whether in court or otherwise; and
- (d) no action or proceeding to sell land under or in satisfaction of any judgment or mechanic's lien; and

- (e) no seizure or distress under an execution or under any lease or any tenancy howsoever created, lien, chattel mortgage, conditional sale agreement, crop payment agreement or in attornment as tenant under any agreement for sale or mortgage, and no sale or other proceeding thereunder either by virtue of rights of property at common law or under a statute passed prior to this Act; and
- (f) no proceedings by a lessor, mortgagee, vendor or other person claiming possession of a share of crop in any case where the provisions of *The Crop Payments Act* apply; and
- (g) no action respecting such other class of legal or other proceedings as may be brought within the provisions of this section by order of the Lieutenant Governor in Council,—

shall be taken, made or continued by any person whomsoever against a resident debtor in any case.

Relation
back of
consent of
Board

(2) The consent of the Board under this section whenever given shall relate back to anything done in the action or other proceedings in respect of which the permit is given.

Applicabil-
ity of
sections

(3) This section shall not apply to any contract made or entered into by a debtor where the whole of the original consideration for the contract arose on or after the 1st day of July, 1936; but shall apply to,—

- (a) any agreement, contract, stipulation, covenant or arrangement made since that date which purports to substitute a new indebtedness in the place of any indebtedness created or arising before the 1st day of July, 1936, or has the effect of extinguishing the last mentioned indebtedness and substituting therefor a new indebtedness or constitutes a novation of the agreement under which the indebtedness was payable; and to
- (b) any guarantee whensoever made for the payment of any debt payable in respect of any contract the whole of the original consideration for which arose before the 1st day of July, 1936, or any contract mentioned in paragraph (a) of this subsection;
- (c) any judgment which was obtained before the first day of July, 1936.

Irrigation
rates and
water
rentals

(4) Nothing in this section shall affect any right or remedy for the enforcement of the payment of any irrigation rates or water rentals payable pursuant to any statute or of any water rentals payable pursuant to any agreement for the supply of water for irrigating any land of a resident farmer.

Cancellation
by Board
of permits

(5) The Board may at any time in its discretion cancel or suspend any permit which has been previously issued under this section by the Board.

(6) Nothing in this section shall apply to any proceedings for the renewal of any subsisting writ of execution or for the renewal of the registration thereof under *The Land Titles Act* or to the registration of any renewal statement in respect of any bill of sale or chattel mortgage, or to the registration of any renewal statement in respect of any conditional sale agreement.

Not applicable to certain renewals of registration

(7) With respect to any judgment to which this section applies, no writ of execution shall be issued by the Clerk of the Court nor shall any seizure or distress be effected by the sheriff unless the judgment creditor or execution creditor, as the case may be, has produced and filed with the clerk or sheriff, a permit issued by the Debt Adjustment Board giving consent to the issue of proceedings by way of execution or seizure or distress under this section.

No execution, seizure or distress without permit

[1937, c. 9, s. 8; 1938, c. 27, s. 3; 1941, c. 42, s. 3.]

9. No permit shall be granted in respect of any proceedings founded on any mortgage or agreement for sale of lands which are being farmed, if those proceedings lead to foreclosure merely by reason of the fact that because of the depreciation in values caused by abnormal economic conditions the security cannot for the time being be sold to realize a price which is commensurate with its fair ordinary value under normal conditions.

Circumstances under which permit not grantable

[1937, c. 9, s. 9.]

10. Upon the receipt of any application by or on behalf of a creditor in writing, in such form and containing such particulars as may be prescribed by the Regulations for a permit to commence or continue any action or proceedings against a resident debtor, the Board shall proceed to make such inquiries as it may deem proper into the circumstances, and thereupon may either issue a permit or may refuse or adjourn the application for such length of time as the Board may deem advisable under the circumstances.

Proceedings of Board on creditors' applications and its powers

[1937, c. 9, s. 10; 1941, c. 42, s. 4.]

11.—(1) The period during which proceedings by a creditor are prohibited under this Act shall not be included in the time within which an action or other proceeding is to be commenced under *The Limitation of Actions Act*, or under any other statute or law for the time being in force in the Province limiting or prescribing the time within which actions or proceedings are to be commenced; and any party to an action or other proceeding which has been prohibited by this Act shall have the same time for continuing such action or proceeding after the expiry of the said period as he would have had if the action or proceeding had not been prohibited, and shall not be prejudiced by reason of the delay.

Computation of time under Statutes of Limitation

(2) For the purpose of this section the proceedings mentioned and described in subsection (1) of section 8 shall, in so far as a resident and a creditor of a resident are con-

cerned, and whether or not such creditor has applied or hereafter applies to the Board for the issue of a permit pursuant to the said subsection (1) be deemed to have been prohibited so long as this Act remains in force, subject to the provision contained in subsection (3).

(3) Upon the issue of the permit or written authority of the Board, the period subsequent to the issue thereof shall be included in the time within which the action or other proceeding affected thereby is to be commenced under *The Limitation of Actions Act*, or under any other statute or law for the time being in force in the Province limiting or prescribing the time within which actions or proceedings are to be commenced. [1937, c. 9, s. 11; 1941, c. 42, s. 9.]

PART II.

Agreements.

Negotiation
of agree-
ments for
adjustment
of debts

12. Upon receipt of an application in writing by or on behalf of a resident debtor or any creditor of a resident debtor, the Board shall confer with and advise the resident debtor or his creditor and shall endeavour to bring about an amicable arrangement for the payment of the resident debtor's indebtedness, and for that purpose the Board shall inquire into the validity of all claims made against the resident debtor and his ability to pay his just debts, either presently or in the future, and shall endeavour to effect an agreement between the resident debtor and his creditors to provide for the settlement of the resident debtor's debts, either in full or by a composition, and for the purpose of any such inquiry the Board shall have all the powers in that behalf conferred by this Act. [1937, c. 9, s. 12.]

Agreements
made
through
agency of
Board

13. An agreement arrived at between the resident debtor and any creditor and made by or through the agency of the Board may be informal or by parole, or partly written and partly by parole, and may be contained wholly or in part in letters written by or to the Board and the agreement may alter, modify, or rescind in whole or in part the terms of any mortgage, contract or agreement theretofore subsisting between the parties, or by the terms of which the rights of any of the parties are affected. [1937, c. 9, s. 13.]

Duty of
Board in
negotiating
agreements

14. The Board shall endeavour to bring about an agreement between the resident debtor and his creditors whereby the secured or unsecured debts of the resident debtor are reduced to an amount which, in the opinion of the Board, is in accordance with the ability of the resident debtor to pay either presently or in the future, having regard to the productive capacity of the farm and equipment which the resident debtor is operating and the average net price of agri-

cultural produce between the date when the debt was incurred and the date of adjustment, and in the event of the debtor not being a farmer his average income during the same period shall be considered. [1937, c. 9, s. 14.]

15. Any agreement made by a resident debtor and his creditor or creditors under the provisions of this Part shall be valid and binding upon the parties thereto and shall be enforceable in law although made without consideration. [1937, c. 9, s. 16.]

Enforce-ability of agreements

PART III.

Provision as to Farmers.

16. In any case where a proposal has been formulated for a resident farmer pursuant to the provisions of *The Farmers' Creditors Arrangement Act*, and has been confirmed by the Board of Review under the provisions of that Act, and the resident farmer has failed to carry out the terms of the proposal, no creditor of the resident farmer shall commence or continue any of the proceedings set out in section 8, unless the Board or any person designated by the Board issues a permit in writing giving consent thereto. [1937, c. 9, s. 18; 1937, 3rd Sess., c. 2, s. 3.]

Necessity for permit for proceedings where default made in carrying out proposal under *The Farmers' Creditors Arrangement Act*

17. No chattel mortgage given by a resident farmer from and after the first day of May, 1934, to secure any past indebtedness, shall have any force or effect whatsoever unless it has been approved in writing by the Debt Adjustment Board within sixty days next after the date of the execution thereof. [1937, c. 9, s. 19.]

Chattel mortgages given before 1st May, 1934

18. Upon the application of any person who is,—

- (a) a resident farmer;
- (b) the owner of any goods or chattels subject to a chattel mortgage given by him; and
- (c) unable to provide himself with the necessities of life and/or feed for his live stock and/or seed grain otherwise than by the sale of goods and chattels or some part thereof,—

Powers of the Board as to disposal of certain incumbered chattels

the Board may make an order authorizing the applicant to sell so much of his goods and chattels as the Board deems sufficient to provide him with such necessities, feed and seed as aforesaid, which goods and chattels shall be described in the order, and upon the making of any such order the right, title and interest of the mortgagee under the chattel mortgage in the goods and chattels thereby authorized to be sold shall utterly cease and determine. [1937, c. 9, s. 20.]

Application
by farmer
lessee to re-
tain portion
of crop for
feed or seed

19. Upon the application of any person who is,—

- (a) a resident farmer; and
- (b) the lessee of any land under a crop share lease,—
 - (i) which was entered into for the purpose of securing the payment of any money payable in respect of the land thereby leased under any mortgage, charge or agreement for sale respecting such land; and
 - (ii) under the terms of which the share of crop to which he is entitled as lessee together with all other crops owned by him is such that he is unable to provide himself with the necessities of life and/or feed for his live stock and/or seed grain, otherwise than by the sale of farm machinery and live stock reasonably necessary for the working of his land, or by the sale of goods and chattels which are exempt from seizure under execution pursuant to *The Exemptions Act*,—

the Board may make an order authorizing the applicant to retain for his own use so much of the share of crop which is deliverable to the lessor as the Board in its discretion considers sufficient to provide the applicant with such necessities and/or feed and/or seed grain; and upon any such order being made the share of crop deliverable to the lessor for the year to which the order relates shall be reduced by the amount which the lessee is by the order authorized to retain. [1937, 3rd Sess. c. 2, s. 4.]

PART IV.

General.

Share of crop
deliverable
under certain
share crop
leases

20.—(1) Notwithstanding anything contained in *The Crop Payments Act*, or in any agreement for sale or mortgage to which that Act applies or, in any share crop lease collateral to such an agreement or mortgage, the right of a vendor or a mortgagee or his assignee shall not in respect of a crop grown in any year subsequent to the year 1935, operate so as to make deliverable to the mortgagee or vendor more than one-third of the crop grown in any such year, less the cost of threshing attributable to one-third of the crop.

Reduction of
share of crop
deliverable
on payment
of certain
taxes

(2) Any purchaser or mortgagor may in any year subsequent to the year 1935 out of the share of crop deliverable to a vendor or mortgagee, pay one year's taxes upon the land on which the crop is grown, and in such case upon production of the receipt by the proper officer for the payment, the vendor or mortgagee shall be entitled only to one-third share of the crop less the amount shown upon the receipt, and less the cost of threshing as aforesaid. [1937, c. 9, s. 21.]



21.—(1) Every covenant, condition, stipulation or agreement howsoever made, and whether made before or after the coming into force of this Act which purports to deprive any person of any right or benefit conferred upon him by virtue of any of the provisions of this Act shall be, and shall be deemed always to have been of no force or effect unless and until it has been approved by the Board; and approval shall not be given in any case where the covenant, condition, stipulation or agreement is contained in or relates to any mortgage or agreement for sale in respect of which the granting of a permit is prohibited by section 9.

Contracts taking away benefit of Act

(2) This section shall apply to all actions and proceedings whatsoever whether commenced on or before the twenty-second day of November, 1938, or at any time thereafter.

Applicability of section

[1938, 2nd Sess., c. 5, s. 2.]

22. Every Supreme Court clerk and District Court clerk and every sheriff and every registrar of land registration districts shall, without fee, perform all services required to be rendered by the Board and keep a record of every instrument filed by it in its office pursuant to this Act, and may issue certified copies thereof, and every certified copy shall be evidence of the issue and filing of the instrument without proof of the signature or official character of the officer signing the same.

Duties of clerks of court, sheriffs and registrars under Act

[1937, c. 9, s. 22.]

23. If any person wilfully takes or continues any action or procedure or makes or continues any seizure or sells or disposes of a chattel in violation of the provisions of this Act or the Regulations, he shall be guilty of an offence and liable upon summary conviction to a fine not exceeding two hundred and fifty dollars and in default of payment to a term of imprisonment with hard labour not exceeding three months or to both fine and imprisonment.

Liability for continuing action

[1941, c. 42, s. 6.]

24. All documents purporting to be issued pursuant to this Act by the Board or by any officer or agent of the Board and to be signed by the chairman or any member of the Board or any such officer or agent, shall be receivable in evidence, and shall, unless the contrary is shown, be deemed to have been so issued and signed, and it shall not be necessary to prove the handwriting or official position of the person signing the same.

Evidential value of documents issued by Board members, officers and agents

[1937, c. 9, s. 24.]

25. Proof that any letter or package containing any documents permitted by this Act or the Regulations to be served by post was properly addressed and put into the post office, and of the time when it was so put in and of the time requisite for its delivery in the ordinary course of the post shall be evidence of the fact and time of the receipt of the letter or package by the person to whom it was addressed.

Proof of service of documents by mail

[1937, c. 9, s. 25.]

Indemnification of Board, its members, officers and agents

26. Neither the Board nor any member thereof nor any officer or agent of the Board, nor anyone acting on the instructions of the Board, or under the authority of this Act or the Regulations under this Act shall be personally liable for any loss or damage suffered by any person by reason of anything in good faith done or omitted to be done, pursuant to or in the exercise or supposed exercise of the powers conferred by this Act or *The Debt Adjustment Act, 1933*, or any Act passed in substitution therefor or any regulations made pursuant to any of the said Acts. [1937, c. 9, s. 26.]

Filing of notice of appeal

27.—(1) Any person who deems himself aggrieved by the action of the Board in granting or refusing a permit consenting to the taking of any action or other proceedings under this Act or in cancelling or refusing to cancel a permit previously given or in respect of any direction given by the Board, may file with the Clerk of the Supreme Court and serve upon the Board within twenty days from the date of the action of the Board then in question, a notice of appeal appealing from such action to a judge of the Supreme Court sitting with a jury of six persons.

Deposit for jurors' fees

(2) At the time of filing the notice of appeal, the appellant shall deposit with the Clerk of the Supreme Court such sum as the Clerk considers sufficient for the payment of the jurors' fees and the expenses of summoning them.

Transmission of return

(3) Upon any such notice of appeal being given to the Board in the manner and within the time prescribed by this Act, the Board shall with all reasonable dispatch and in any event within seven days thereafter, transmit to the Clerk of the Supreme Court, a return showing the evidence, documents and other material upon which the Board acted in granting, refusing, cancelling or refusing to cancel the permit in question, or in respect of any direction given by the Board.

Application for date for hearing of appeal

(4) Within fifteen days after the filing of the return by the Board, the person appealing from its decision shall apply to a Supreme Court judge to fix a date for the hearing of the appeal and for directions as to the persons to be served with notice of the hearing, the manner of service and such other directions as may be necessary for the determination of the appeal, and the appellant shall comply with the directions so given by the Court.

Fixation of date for all appeals

(5) If more than one notice of appeal has been filed from a decision of the Board, a judge shall, in so far as possible, fix the same date for the hearing of all such appeals and a jury selected for the hearing of the first appeal may hear any additional or subsequent appeals under this Act.

Apportioning of costs

(6) The costs incidental to the summoning of the panel, jurors' fees and all other lawful expenses in connection therewith, shall, at the end of the hearing of all appeals

be apportioned between the appellants by the Clerk of the Court.

(7) Upon the hearing of the appeal, after the jury has been chosen and sworn, the appellant and any other person who has been served with notice of the appeal pursuant to the directions of the judge may call witnesses and introduce evidence as at the trial of an action, and the rules relating to procedure and admissibility of evidence in civil actions shall be applicable to the hearing.

Calling of witnesses

(8) The question as to the action of the Board in withholding, granting, cancelling or refusing to cancel a permit, or in giving a direction under this Act, shall be a question of fact for the determination of the jury under proper instructions from the judge and there shall be no appeal from such determination or from any judgment or order made thereon, and no proceedings in relation to any appeal or any judgment or order made thereon shall be restrained by injunction, prohibition or any other process or proceedings in any court nor be removable by *certiorari* or similar proceedings in any court.

Action of Board a question of fact for jury

(9) A copy of every judgment made on the hearing of an appeal shall be kept on file at the office of the Board.

Copy of judgment

(10) Subject to the provisions of this Act, the procedure with respect to appeals, the hearing of the appeal and the selection of the jury shall be governed by *The Jury Act* and the Consolidated Rules of Court in so far as they are applicable thereto. [1941, c. 42, s. 7.]

Procedure on appeal

28.—(1) In case the Parliament of Canada enacts legislation as to the adjustment of debts, the Lieutenant Governor in Council may for the purpose of preventing conflict between that legislation and this Act, from time to time by Proclamation published in *The Alberta Gazette*,—

Powers of the Lieutenant Governor in Council in the event of the enactment by Canada of certain legislation

- (a) suspend the operation of this Act or any specified part or provision or provisions thereof for a specified period or until further Proclamation; and
- (b) declare that this Act or any specified part, provision or provisions thereof shall be no longer applicable to any specified class or classes of persons for a specified period or until further Proclamation; and
- (c) cancel or vary any previous suspension or declaration.

(2) Every Proclamation shall take effect upon the publication thereof in *The Alberta Gazette* or upon such later date as may be named in the Proclamation for that purpose. [1937, c. 9, s. 29.]

29. The provisions of this Act shall not be so construed as to authorize the doing of any act or thing which is not within the legislative competence of the Legislative Assembly. [1937, c. 9, s. 30.]

Construction of Act

Prevalence
of Act

30. In case there is any conflict between the provisions of this Act and the provisions of *The Crop Payments Act* or any other Act, or the terms of any mortgage, agreement for sale, lease or contract, the provisions of this Act shall prevail. [1938, c. 27, s. 7.]

Non-appli-
cability of
Act to The
Canadian
Farm Loan
Board and
to The
Soldiers'
Settlement
Board

31. Nothing in this Act applies to any debt owing to The Canadian Farm Loan Board, The Soldier Settlement Board or to any action, suit or other proceeding, including extra judicial proceedings for enforcing the payment of any such debt, or to the right of either Board to commence, take, carry on and maintain any such action, suit or proceeding. [1938, c. 27, s. 7.]

OFFICE CONSOLIDATION
1947

»«

The National Housing Act, 1944

8 GEORGE VI, CHAPTER 46

»«

As Amended by
9-10 GEORGE VI, CHAPTER 26
10 GEORGE VI, CHAPTER 61
and
11 GEORGE VI, CHAPTER 40



OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
KING'S PRINTER AND CONTROLLER OF STATIONERY
1947

An Act to Promote Construction of new Houses, the Repair and Modernization of existing Houses, the Improvement of Housing and Living Conditions, and the Expansion of Employment in the Postwar Period.

(Assented to 15th August, 1944.)

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

1. This Act may be cited as The National Housing Act, 1944. Short title.

GENERAL

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

Definitions.

(1) "approved instalment credit agency" means a corporation other than a bank, authorized to lend money to a purchaser of goods or to purchase obligations representing loans or advances to such a purchaser, approved by the Governor in Council for the purpose of making loans under this Act; "approved instalment credit agency."

(2) "approved lending institution" means a lending institution approved by the Governor in Council for the purpose of making loans under this Act; "approved lending institution."

(3) "bank" means a bank incorporated by or under the provisions of *The Bank Act*; "bank."

(4) "builder" means a person who builds houses for sale or for rent on land which he owns; "builder."

(5) "contractor" means a person who contracts to build a house for another person on land owned by such other person; "contractor."

(5A) "co-operative housing project" means a housing project built by a corporation or trustee in which not less than seventy-five per centum of the family housing units in a housing project are leased to shareholders in the corporation or cestui que trust under the trust deed for a term at least as long as the term of the joint loan; "co-operative housing project."

(5B) "Corporation" means the Central Mortgage and Housing Corporation established by *The Central Mortgage and Housing Corporation Act*; "Corporation."

(6) "cost of construction" means the aggregate of the cost or appraised value of the land, whichever is the lesser, actual expenditure for building, and the architectural, legal and other expenses and carrying charges necessary to complete the house or housing project, including in the case where work is done by the owner, such amount as the Corporation may fix as the value of the said work, and in the case where a loan is made to a builder, land development costs and carrying charges: Provided that in the case of land acquired by gift or devise, the appraised value of the said land shall be taken; "cost of construction." Proviso.

(7) "cost of construction of a family housing unit" means that portion of the total cost of construction of a rental housing project which is attributable to the particular unit the total cost being apportioned among the various family housing units on the basis of the relative housing accommodation provided by each unit; "cost of construction of a family housing unit."

- "cost of conversion." (8) "cost of conversion" means the aggregate of the cost of acquiring the land and building or the appraised value thereof, whichever is the lesser, the actual expenditure for converting the building into a housing project and the architectural, legal and other expenses necessary to complete the project;
- "economic rental of a family housing unit." (9) "economic rental of a family housing unit" means an annual rental at the rate of twelve per centum of the cost of construction of the family housing unit;
- "family housing unit." (10) "family housing unit" means a unit providing therein living, sleeping, eating, food preparation and sanitary facilities for one family, with or without other essential facilities shared with other family housing units;
- "family of low income." (11) "family of low income" means a family which receives a total family income less than five times the economic rental of a family housing unit required to provide sufficient accommodation for the said family;
- "farm." (12) "farm" means land used for the purpose of farming;
- "farming." (13) "farming" includes live-stock raising, dairying, fruit growing, and all tillage of the soil;
- "farm home." (14) "farm home" means a home on a farm occupied by a farmer;
- "farmer." (15) "farmer" means a person who is in possession of a farm and
 (i) whose principal occupation consists of farming the said farm or
 (ii) who ordinarily combines farming the said farm with fishing or logging;
- "guaranteed home extension loan." (16) "guaranteed home extension loan" or "guaranteed home improvement loan" means a home extension loan or a home improvement loan made in accordance with the provisions of section seventeen of this Act;
- "guaranteed home improvement loan." (17) "home extension loan" means a loan or a purchase of obligations representing loans or advances of money made by a bank or approved instalment credit agency for the purpose of financing the alteration of, or the making of additions to an existing home to add one or more family housing units thereto, but does not include a farm improvement loan as defined in *The Farm Improvement Loans Act, 1944*;
- "home extension loan." (18) "home improvement loan" means a loan or a purchase of obligations representing loans or advances of money made by a bank or approved instalment credit agency for the purpose of financing repairs, alterations and additions to a home, but does not include a farm improvement loan as defined in *The Farm Improvement Loans Act, 1944*, or a home extension loan;
- "home improvement loan." (19) "house" means a building, together with the land upon which it is situated, intended for human habitation comprising one or more family housing units including facilities ordinarily required in connection with a dwelling place;
- "house." (20) "housing project" means a project consisting of one or more one-family dwellings, or one or more multiple-family dwellings or a combination of one-family and multiple-family dwellings, together with any public space, recreational facilities and commercial space and buildings appropriate to the project;
- "housing project."

(21) "joint loan" in Parts I, II and III of this Act means a loan made jointly on behalf of His Majesty and an approved lending institution pursuant to a contract entered into between His Majesty and the said institution under the provisions of the said Parts I, II and III, respectively; "joint loan."

(22) "lending institution" means a loan, insurance, trust or other company or corporation, trustee of trust funds, building society, credit union or other co-operative credit society authorized to lend money on the security of real or immovable property; "lending institution."

(23) "lending value" means the estimated cost of construction or cost of conversion, or the appraised value, whichever is less, of a house or housing project; "lending value"

(24) "limited-dividend housing company" means a company incorporated to construct, hold and manage a low-rental housing project and the dividends payable by which are limited by the terms of its charter or instrument of incorporation to five per centum per annum or less, and includes; "limited-dividend housing company."

(i) an institutional housing corporation incorporated to construct, hold and manage a low-rental housing project and the dividends payable by which are limited by the terms of its charter or instrument of incorporation to five per centum per annum or less, and

(ii) an institutional holding company incorporated for the purpose of holding only the shares of one or more such institutional housing corporations;

(25) "low-rental housing project" means a housing project undertaken to provide decent, safe and sanitary housing accommodation complying with standards not exceeding those approved by the Corporation, to be leased to families of low income at the economic rental therefor or at a lower rental or to such other persons as the Corporation, under agreement with the owner, may designate, having regard to the existence of a condition of shortage, overcrowding or congestion of housing; "low-rental housing project."

(26) "metropolitan area" means a city together with one or more adjacent municipalities in close economic relationship with the city; "metropolitan area."

(27) "Minister" means the Minister of Reconstruction and Supply; "Minister."

(28) "multiple-family dwelling" means a house containing two or more family housing units under the same roof, or a row of semi-detached dwellings; "multiple-family dwelling."

(29) "municipality" means a city, town, incorporated village, county, township, district or rural municipality; "municipality."

(30) "official community plan" means a master plan of community development and land utilization prepared by a local planning authority and legally adopted by or on behalf of a municipality; "official community plan."

(31) "one-family dwelling" means a house consisting of one family housing unit not attached to or forming part of any other house; "one-family dwelling."

(32) "rent reduction fund" means a fund into which contributions, donations, gifts and bequests may be made by the government "rent reduction fund."

of any province or by any municipality, social agency, foundation, trust, estate or person for the purpose of reducing the rental of a family housing unit to permit such unit to be occupied by a family of low income;

"rental housing project."

(33) "rental housing project" means a housing project built for rental purposes;

"semi-detached dwelling"

(34) "semi-detached dwelling" means a family housing unit joined by a common or party wall to one or more family housing units;

"institutional holding company."

(35) "institutional holding company" means a corporation with share capital

- (i) incorporated for the purpose of holding only the shares of one or more institutional housing corporations;
- (ii) which has power to issue debentures bearing interest at a rate not in excess of five per centum per annum; and
- (iii) the shares of which are, with the exception of directors' qualifying shares, wholly owned by one or more life insurance companies or by one or more approved lending institutions designated by the Governor in Council under subsection five of section eleven of this Act;

"institutional housing corporation."

(36) "institutional housing corporation" means a corporation with share capital

- (i) empowered to borrow money and to purchase land and construct thereon a low cost or moderate cost rental housing project, including such buildings or such accommodation for retail stores, shops, offices, and other community services, but not including hotels, as the company may deem proper and suitable for the convenience of the tenants of such rental housing project, and thereafter to hold, maintain, repair, alter, demolish, reconstruct, manage, collect or receive income from, sell or convey, in whole or in part, land so acquired and the improvements thereon; and
- (ii) the shares of which are, with the exception of directors' qualifying shares, wholly owned by one or more life insurance companies or by one or more approved lending institutions designated by the Governor in Council under subsection five of section eleven of this Act or by an institutional holding company;

Powers of approved lending institution to loan on first mortgage.

3. Notwithstanding any restrictions on its power to lend money contained in any other statute or law, any approved lending institution subject to the jurisdiction of Parliament, may lend on the security of a first mortgage or hypothec in favour of His Majesty and the lending institution jointly, pursuant to the provisions of Parts I, II and III of this Act, an amount not exceeding the maximum proportion of the lending value of a house specified in paragraph (c) of subsection two and subsection five of section four of this Act, or of the lending value of a rental housing project specified in paragraph (b) of subsection two and subsection four of section eight of this Act, or an amount not exceeding the maximum specified in paragraphs (c) and (d) of subsection two of section fourteen of this Act, and to protect the mortgage security the said lending institution and the Corporation may join in making supplementary joint loans

to the borrower and in taking such other measures and steps as may be required in accordance with normal mortgage practice to safeguard the interests of His Majesty and the said lending institution.

3A. The Corporation may, on behalf of His Majesty, agree with an approved lending institution to pay to such approved lending institution, to meet expenses incurred in the making of joint loans under Parts I, II and III of this Act for the construction of houses on farms or in small or remote communities designated by the Corporation, such amount not exceeding twenty dollars, together with such allowance for necessary travelling expenses incurred by employees or agents of the lending institution in respect of each loan so made by the lending institution as the Corporation may determine, the said allowance to be determined having regard to the distance of the borrower and the land upon which the house is being constructed from the nearest place from which the said loan can be negotiated and supervised by the lending institution.

Contract with approved lending institution in respect of loans and resulting losses for rural housing.

3B. (1) Where title to real or other immovable property is acquired by the Corporation in the name of His Majesty or the Corporation, either solely, or jointly with any other person, or where the Corporation is authorized to sell or dispose of real or other immovable property of His Majesty, the Corporation may sell or otherwise dispose of such property and may grant, discharge, or release easements, servitudes and other rights in respect thereof, and for such purpose the Corporation may execute and deliver, either in its own name or in the name of His Majesty, deeds, grants, conveyances, transfers, easements, releases, discharges or other documents.

Corporation may execute documents.

(2) A sale of real or other immovable property by the Corporation may be either for cash or on a deferred payment plan, and the Corporation may take such security by way of agreement for sale, mortgage or otherwise, as it deems advisable in order to safeguard the interests of His Majesty.

Sale for cash or on deferred payment plan.

(3) The Corporation may dispose of any security taken by it to secure the payment of an obligation to His Majesty or to the Corporation or an interest therein and in the case of a sale of a mortgage or an interest therein to an approved lending institution with whom the Corporation has entered into a contract pursuant to this Act respecting joint loans may give to the said approved lending institution guarantee in respect of the said mortgage as if the said mortgage had been made pursuant to the said contract.

Corporation may dispose of securities.

PART I

HOUSING FOR HOME-OWNERS

4. (1) The Corporation may, on behalf of His Majesty and with the approval of the Governor in Council, enter into a contract with an approved lending institution on the terms set out in this section to join with the said institution in the making of loans to assist in the construction of houses.

Corporation may enter into contracts.

(2) The terms of a contract entered into under this section shall provide that:—

Terms of contract.

(a) a joint loan shall be made only to the person who owns the land or is a lessee thereof under a long-term lease, and intends to occupy the house or one of the family housing

units thereof, or to a builder who intends to sell the house to a person who will own and occupy the house or one of the family housing units thereof;

- (b) a joint loan shall be made only for the purpose of assisting in the construction of a house according to sound standards approved by the Corporation and under such supervision as the Corporation may prescribe;
- (c) a joint loan shall not exceed the aggregate of—
- (i) ninety-five per centum of the first two thousand dollars of the lending value of the house or any part thereof;
 - (ii) eighty-five per centum of the amount by which the lending value of the house exceeds two thousand dollars and does not exceed four thousand dollars;
 - (iii) seventy per centum of the amount by which the lending value of the house exceeds four thousand dollars;
- or such lesser proportion of the lending value as the Governor in Council may by regulation prescribe: Provided that the contract shall provide that the amount of a joint loan shall not exceed an amount equal to the lending value of the house less the value of the work to be done by the owner or lessee as fixed by the Corporation;
- (d) the portion of the joint loan advanced by His Majesty shall not exceed twenty-five per centum of the said loan;
- (e) the rate of interest payable by the borrower in respect of a joint loan shall not exceed a rate of four and one-half per centum per annum calculated semi-annually and no other charge in respect of the said loan shall be payable by the borrower except as may be authorized by regulation;
- (f) the interest payable to His Majesty on the portion of the joint loan advanced by His Majesty shall be at such rate as is agreed upon between the Corporation and the lending institution and set out in the contract;
- (g) the lending value of any house shall be subject to approval by the Corporation;
- (h) repayment of a joint loan shall be secured by a first mortgage or hypothec on the house and land upon which it is situate in favour of His Majesty and the lending institution jointly except where a joint loan is made to a lessee of land in which case repayment of the joint loan shall be secured by a first mortgage, hypothec or an assignment of the leasehold interest of the lessee and such additional security, assignments, assurances and agreements as may be required by the Corporation in order to safeguard the interests of His Majesty and the lending institution;
- (i) a joint loan shall be for a term not in excess of twenty-five years from the date of completion of the house, except that in the case of a house to be constructed in an area that, in the opinion of the Corporation, is adequately protected by community planning and appropriate zoning restrictions the loan may be for a term exceeding twenty-five years, but not in excess of thirty years;
- (j) a joint loan shall be made on such terms as to payment of principal, interest and taxes, by monthly instalments as may be determined from time to time by the Corporation;

Proviso.

Interest rate
on joint
loan.

(k) the amount of a joint loan shall be advanced to the borrower in such instalments during the course of construction of the house as may be determined by the Corporation, except that in the case of a loan made to a builder, such portion of the loan may be withheld or such additional security required until the house has been sold to an owner-occupier as may be specified by the terms on which the loan is made;

(l) losses sustained as a result of joint loans shall be shared by His Majesty and the lending institution in the proportions of the shares of His Majesty and the lending institution in the said joint loans and that in addition His Majesty shall be liable to pay to the lending institution such amount of the losses of the lending institution sustained as a result of joint loans within any class of joint loans established by agreement, as may be agreed upon, not exceeding, however, fifteen per centum of the aggregate amount of the share of the lending institution in all joint loans within the said class, each said class to be based on the ratio of the joint loans to the lending values or on the location of the projects or on both; and

Joint loan losses.

(m) such other measures will be taken as may be agreed upon between the Corporation and the said lending institution in order to safeguard the interests of His Majesty.

(3) Notwithstanding anything contained in the two last preceding subsections, a joint loan may be made by His Majesty and an approved lending institution with which His Majesty has entered into a contract under this section to a trustee or corporation constituted or incorporated for the purpose of constructing and managing a co-operative housing project if:—

Contract with trustee or corporation for a co-operative project.

(a) each cestui que trust or each member or shareholder of the corporation has or is to have possession of a family housing unit in the project under a lease for a term at least as long as the term of the joint loan;

(b) each cestui que trust or said member or shareholder has an interest in the trust or owns shares or stock of the corporation in the proportion which the cost of construction of the said family housing unit bears to the cost of construction of the said project;

(c) each cestui que trust or said member or shareholder is obligated to pay his proportionate share of all operating costs of the project and of the monthly or other instalments of principal and interest in respect of the joint loan and taxes, together with a proportionate share of the said operating costs, instalments or taxes which any other cestui que trust or member or shareholder fails to pay; and

(d) the terms of the trust instrument or the charter or other instrument of incorporation and by-laws of the borrower have been approved by the Corporation and the terms of the said contract shall, subject to subsection four of this section, apply mutatis mutandis in respect of any joint loan made pursuant to this subsection.

Contract with trustee or borrower for a co-operative project.

(4) The maximum and minimum limits of the amount of the joint loan which may be made to a trustee or corporation described in the last preceding subsection shall be the aggregate of the maximum

Maximum and minimum limits of loan.

or minimum amounts, as the case may be, of joint loans which would be authorized under paragraph (c) of subsection two of this section for the number of family housing units in the project each having a lending value equal to the average lending value of each of the said family housing units.

Joint loan repayable for a period up to thirty years.

(5) Notwithstanding paragraphs (c) and (i) of subsection two of this section, a contract entered into under this section may provide for a joint loan for a term not in excess of thirty years from the date of completion of the house for an amount not to exceed the aggregate of

- (i) ninety-five per centum of the first three thousand dollars of the lending value of the house or any part thereof;
- (ii) eighty-five per centum of the amount by which the lending value of the house exceeds three thousand dollars, and does not exceed six thousand dollars;
- (iii) seventy per centum of the amount by which the lending value of the house exceeds six thousand dollars.

Governor in Council may prescribe additional terms and conditions.

(6) The Governor in Council may by regulation prescribe additional terms and conditions under which a joint loan may be made pursuant to subsection five of this section, and in addition, may fix and determine a date on and after which or a period during which loans shall not be made under subsection five of this section.

"house" defined.

(7) For the purposes of this section, "house" means a building, together with the land upon which it is situated, intended for human habitation, containing not more than two family housing units, including facilities ordinarily required in connection with a dwelling place.

Corporation to safeguard interests of His Majesty.

4A. Notwithstanding sections four and eight of this Act, before a joint loan is made to a lessee the Corporation may enter into such agreement or arrangement with the owner of the land upon which the house or housing project is to be built or with other persons as it deems necessary in order to safeguard the interests of His Majesty.

Contracts for houses to be sold to prospective home owners.

4B. (1) The Corporation may, on behalf of His Majesty, enter into contracts with builders to encourage the construction of houses to be sold to prospective home owners.

Conditions.

(2) A contract may be entered into under subsection one of this section only with respect to houses the construction of which is assisted by loans made pursuant to this Act and such contract shall provide that,

- (a) the builder shall finance the construction of the said houses under the provisions of this Act;
- (b) the builder shall offer each of the said houses for sale at a price not in excess of the price fixed in the said contract;
- (c) the Corporation shall agree to purchase from the builder within one year from the date of completion thereof at a price fixed in the said contract any house built pursuant to the said contract that remains unsold.

Further conditions.

(3) A contract with a builder entered into under this section may also provide,

- (a) that during such period as the Corporation requires the builder shall offer the said houses for sale only to veterans;

(b) that such other things shall be done as the Corporation deems necessary in order to carry out the intent of this section and to safeguard the interests of His Majesty.

(4) For the purpose of this section the expression "veteran" means a person who has been paid or is entitled to be paid a war service gratuity under The War Service Grants Act, 1944. "veteran" defined.
1944-45, c. 51.

(5) When title to real or immovable property becomes vested in the name of the Corporation or of His Majesty pursuant to the terms of a contract entered into under this section, the Corporation may pay to a municipality or other taxing authority an amount equivalent to the taxes which might be levied in respect of the said property or of the interest of the Corporation or of His Majesty therein by the said authority if the said property or interest were not so vested, and may enter into such agreements as may be necessary to give effect to the provisions of this subsection. Corporation may pay taxes.

(6) For the purposes of The Central Mortgage and Housing Corporation Act and section seven of this Act, purchases under paragraph (c) of subsection two of this section and payments under subsection five of this section shall be deemed to be losses in respect of loans made under this Part. Purchases and payments deemed losses in respect of loans.
1945 c. 15
(2nd Sess.)

5. (1) The Governor in Council may make regulations to define for the purposes of this Act the expression "long-term lease" and to make provision for any matters concerning which he deems regulations are necessary or desirable to carry out the purposes or provisions of this Part and Part III of this Act. Regulations by Governor in Council.

(2) The Corporation may for the purposes of this Part and Part III of this Act:— Powers of Corporation.

- (a) prescribe the manner in which the cost of construction of a house or of a housing project shall be estimated and by whom and in what manner the appraisal of the value of a house or housing project shall be made;
- (b) prescribe sound standards of construction and the arrangements that shall be made to assure adequate supervision of the construction of a house or of a housing project in respect of which a joint loan is made;
- (c) prescribe the information to be given by an applicant for a joint loan;
- (d) prescribe the manner in which losses sustained in connection with joint loans shall be established; and
- (e) prescribe the circumstances in which it may be appropriate to take a chattel mortgage or other security as security or additional security for a joint loan.

6. (1) The Corporation may at any time by agreement with an approved lending institution fix and determine the amount of loss in respect of any joint loan whether or not foreclosure or sale proceedings have been taken or concluded. Determination of loss in respect of joint loan.

(2) In any case where the Minister deems it in the public interest, the Corporation may, on behalf of His Majesty, purchase all the right, title and interest of an approved lending institution in any joint loan or in any security taken for the repayment thereof. Purchase by the Crown of security taken for loan.

(3) Where the Corporation has purchased a house pursuant to the terms of a contract entered into under section four B of this Act, Power to take over joint loan.

it may on behalf of His Majesty purchase all the right, title and interest of an approved lending institution in the joint loan made in respect of the said house or in any security taken for the repayment of the said loan.

Purchases deemed losses in respect of loans. 1945 (2nd Sess.) c. 15.

(4) For the purposes of The Central Mortgage and Housing Corporation Act and section seven of this Act, purchases under subsections two and three of this section shall be deemed to be losses in respect of loans made under this Part.

Loans under Part I and losses under The Dominion Housing Act, 1935, and the National Housing Act, 1938. Rep. 1938, c. 49 1938, c. 49. \$100,000,000.

7. The Minister may make loans under this Part and pay losses in respect of loans made under this Part or under The Dominion Housing Act, 1935, or The National Housing Act, 1938, sustained after the coming into force of this Part or any purchase price payable under the last preceding section not exceeding, in the aggregate, one hundred million dollars out of unappropriated moneys in the Consolidated Revenue Fund.

PART II

HOUSING FOR RENTAL PURPOSES

Loans for low-rental housing projects.

8. (1) The Corporation may, on behalf of His Majesty and with the approval of the Governor in Council, enter into a contract with an approved lending institution on the terms set out in this section, to join with the said institution in the making of loans to assist in the construction of rental housing projects designed to provide housing accommodation to be rented to prospective tenants.

Terms of contract.

(2) The terms of a contract entered into under this section shall provide that,

- (a) a joint loan shall be made only for the purpose of assisting in the construction of the project according to sound standards, approved by the Corporation and under such supervision as may be determined by the Corporation;
- (b) the joint loan shall not exceed eighty per centum of the lending value of the project;
- (c) the portion of a joint loan advanced by His Majesty shall not exceed twenty-five per centum of the joint loan;
- (d) the rate of interest payable by the borrower in respect of a joint loan shall not exceed a rate of four and one-half per centum per annum calculated semi-annually and no other charge in respect of the loan shall be payable by the borrower except as may be determined by the Corporation;
- (e) the interest payable to His Majesty on the portion of the joint loan advanced by His Majesty shall be at such rate as is agreed upon between the Corporation and the lending institution and set out in the contract;
- (f) the lending value of any project shall be subject to approval by the Corporation;
- (g) the joint loan shall be secured by a first mortgage or hypothec on the project or the land and the buildings comprising the project in favour of His Majesty and the said lending institution, and in such classes of cases as may be prescribed by the Corporation, the Corporation may

require such additional security by way of chattel mortgage or assignment of rentals or otherwise as the Corporation may deem necessary or desirable in order to protect the interest of His Majesty;

- (h) a joint loan shall be for a term not in excess of twenty years from the date of completion of the project, except that in the case of a project to be constructed in an area that in the opinion of the Corporation is adequately protected by community planning and appropriate zoning restrictions the loan may be for a term in excess of twenty years but not exceeding twenty-five years;
- (i) a joint loan shall be made on such terms as to payment of principal, interest and taxes by monthly instalments as the Corporation may from time to time determine;
- (j) the amount of the loan shall be advanced to the borrower in such instalments during the course of construction of the project as the Corporation may from time to time determine;
- (k) losses sustained as a result of joint loans shall be shared by His Majesty and the lending institution in the proportions of the shares of His Majesty and the lending institution in the said joint loans and that in addition His Majesty shall be liable to pay to the lending institution such amount of the losses of the lending institution sustained as a result of joint loans within any class of joint loans established by agreement, as may be agreed upon, not exceeding, however, fifteen per centum of the aggregate amount of the share of the lending institution in all joint loans within the said class, each said class to be based on the ratio of the joint loans to the lending values or on the location of the projects or on both; and
- (l) such other measures will be taken as may be agreed upon between the Corporation and the lending institution to safeguard the interests of His Majesty.

(3) The Corporation may join with two or more approved lending institutions, with each of which it has entered into a contract under this section, in the making of a joint loan and in such case the said contract shall *mutatis mutandis* apply as if the said lending institutions were one institution.

Joint loans with two or more lending institutions.

(4) Notwithstanding paragraph (h) of subsection two of this section a contract entered into under this section may provide for a joint loan for a term not in excess of thirty years from the date of completion of the project.

Joint loan for rental housing project repayable in not more than thirty years.

(5) The Governor in Council may by regulation prescribe additional terms and conditions under which a joint loan may be made pursuant to subsection four of this section, and in addition, may fix and determine a date on and after which or a period during which loans shall not be made under subsection four of this section.

Additional terms and conditions.

9. (1) The Corporation may, on behalf of His Majesty and with the approval of the Governor in Council, make a loan to a limited-dividend housing company for the purpose of assisting in the construction of a low-rental housing project or in the purchase of existing buildings and the land upon which they are situate and their conversion into a low-rental housing project.

Loans to limited dividend housing corporations.

Interest
amount and
term of loan.

(2) A loan made under the authority of this section shall bear interest at three per centum per annum, shall not exceed ninety per centum of the lending value of the project, shall be for a term not exceeding the useful life of the project to be fixed by the Corporation and in any case not exceeding fifty years from the date of completion of the project and shall be secured by a first mortgage or hypothec upon the project in favour of His Majesty.

Security.

Conditions
under which
loans may
be made.

(3) A loan may be made under this section only to a limited-dividend housing company that has entered into a contract with His Majesty on the terms set out in subsection four of this section, to construct a low-rental housing project or to convert existing buildings into a low-rental housing project if:—

- (a) evidence satisfactory to the Corporation has been furnished of the need for the said project by reason of shortage, over-crowding, congestion or the sub-standard character of existing housing accommodation in the municipality or the metropolitan area in which the said project is to be situated;
- (b) the area in which the project is to be situated has in the opinion of the Corporation been adequately planned;
- (c) zoning regulations are in the opinion of the Corporation sufficient to assure the suitability of the area for the said project throughout the term of the loan and to provide reasonable safeguards for the security of the loan;
- (d) adequate municipal services are available or are to be supplied forthwith to residents of the said area;
- (e) the project for which a loan is requested will provide a sufficient number of family housing units to assure in the opinion of the Corporation, reasonable economies in the construction or conversion thereof;
- (f) the organization and management of the company are in the opinion of the Corporation such as to assure competent and independent administration in the planning, construction or conversion and operation of the project;
- (g) adequate care has in the opinion of the Corporation, been exercised to assure economical and suitable design and sound construction of a type of project that will assure the minimum practicable expenditures for repairs and maintenance during the term of the loan, and in the case of the conversion of existing buildings, if the cost of conversion is, in the opinion of the Corporation, reasonable;
- (h) the terms of acquisition by the company of the land upon which the project is to be constructed or of the buildings which are to be converted are satisfactory to the Corporation;
- (i) the terms of the contract made by the company with a contractor for the construction of the project or the conversion of the buildings are satisfactory to the Corporation;
- (j) the company, in the opinion of the Corporation, has or is able to provide funds sufficient, when added to the proceeds of the loan made by His Majesty, to pay the entire cost of the construction or conversion and ensure the completion of the project; and
- (k) the powers given to the company and activities or transactions that are permitted by its charter or other instrument of incorporation are satisfactory to the Corporation.



(4) A contract with a limited-dividend housing company entered into under this section shall provide that:— Terms of contract.

- (a) the maximum ratio between the rentals to be charged and the probable family income of the lessees of each family housing unit shall be such ratio as the Corporation may deem fair and reasonable or shall make such other provision for maintaining the low-rental character of the project as the Corporation may agree to;
- (b) the company may receive contributions to a rent reduction fund from any province, municipality, social agency, trust, or person and shall use such fund solely for the purpose of reducing the rentals that otherwise would be charged;
- (c) the company shall maintain books, records and accounts in a form satisfactory to the Corporation, shall permit the inspection of such books, records and accounts by a representative of the Corporation at any time and shall make such annual or other reports to the Corporation in such form and containing such particulars as the Corporation may require;
- (d) the company shall furnish efficient management of the low-rental housing project, maintain the project in a satisfactory state of repair, and permit representatives of the Corporation to inspect the project at any time;
- (e) the company shall make to the Corporation promptly on the due dates the annual or semi-annual payments required to be made in order to pay the interest on and amortize the loan during the term thereof;
- (f) the amount of surplus earnings to be used or set aside for reserves, maintenance, repairs, possible decline in rentals or other contingencies shall be limited in such manner as may be agreed upon;
- (g) the project or any part thereof shall not be sold or otherwise disposed of without the approval of the Corporation and, if sold or disposed of with the said approval, shall be sold or disposed of in such manner that the shareholders shall not receive more than the return of their investment and the limited dividends, and the surplus of the proceeds of the sale or disposal shall be paid to such person or expended in such manner as is provided in the contract or as the Corporation may direct; and
- (h) the Corporation shall have the right, in the event of the company failing to maintain the low-rental character of the project or otherwise committing a breach of the contract, to declare the unpaid principal of the loan due and payable forthwith or to increase the interest payable thereafter on the unpaid balance of the said loan to such rate as the Governor in Council may determine.

(5) A contract with a limited-dividend housing company entered into under this section may also provide:

- (a) that the Corporation shall have the right to designate persons other than families of low incomes to whom housing accommodation provided by the project may be leased; and

Contract with limited-dividend housing company terms.

- (b) for such other measures to be taken by the Corporation and the company as the Corporation may deem necessary or desirable to give effect to the purposes or provisions of this Act.

Loans to borrowers engaged in mining, lumbering, logging, or fishing.

9A. (1) The Corporation may on behalf of His Majesty and with the approval of the Governor in Council, make a loan to a borrower engaged in the mining, lumbering, logging or fishing industry, to assist in the construction of low or moderate-cost housing projects in areas or localities that are adjacent to or connected with the operations of the borrower.

“borrower” defined.

(2) For the purpose of this section the expression “borrower” means an incorporated company engaged in the mining, lumbering, logging or fishing industry, and includes a company (in this section referred to as a “subsidiary company”) incorporated for the purpose of owning, constructing and managing a housing project, all the share capital of which, except directors’ qualifying shares, is owned by an incorporated company (in this section referred to as the “parent company”) engaged in the mining, lumbering, logging or fishing industry.

Interest.

(3) A loan made under this section shall bear interest at the rate of four per centum per annum calculated semi-annually, shall not exceed eighty per centum of the lending value of the project, shall be for a term not exceeding the useful life of the project to be fixed by the Corporation and in any case not exceeding fifteen years from the date of completion of the project.

Security.

(4) The loan shall be secured by a first mortgage or hypothec on the land upon which the project is built in favour of His Majesty or, where the land is not owned by the borrower or the housing units are of a portable nature, by a first charge on the project and the interest of the borrower in the land upon which it is built in a form satisfactory to the Corporation or such other security as the Corporation may deem necessary to safeguard the interests of His Majesty.

Prior conditions.

(5) The Corporation shall prior to the approval of a loan under this section by the Governor in Council satisfy itself:—

- (a) that the area in which the project is to be built has a productive period sufficient to justify the proposed term of the loan, and
- (b) that the proposed project is necessary to house persons in the area and those who may move into the area to provide necessary labour in connection with the operations of the borrower.

Terms of contract.

(6) A loan may be made under this section only to a borrower who has entered into a contract with His Majesty on the terms set out in subsection seven of this section to provide low or moderate-cost housing accommodation adjacent to or connected with the operations of the borrower, if,

- (a) evidence satisfactory to the Corporation has been furnished of the need for such housing accommodation in connection with the said operations;
- (b) the area in which the project is to be situated is, in the opinion of the Corporation, suitable for such project;

- (c) the project for which the loan is requested will provide a sufficient number of family housing units of a class and kind to ensure, in the opinion of the Corporation, reasonable economies in the construction and operation thereof;
 - (d) evidence satisfactory to the Corporation has been provided that the project will be competently planned, constructed, administered and operated;
 - (e) adequate care has, in the opinion of the Corporation, been exercised, to assure economical and suitable design and sound construction appropriate to and in accordance with the area in which the project is built;
 - (f) the terms of acquisition by the borrower of the land upon which the project is to be constructed or the lease by which the land is made available for the project, are satisfactory to the Corporation;
 - (g) the terms of the contract made by the borrower with a contractor for the construction of the project, are satisfactory to the Corporation;
 - (h) evidence satisfactory to the Corporation has been provided that the borrower has or is able to provide funds sufficient when added to the proceeds of the loan made by His Majesty to ensure the completion of the project;
 - (i) the powers given to the borrower by its charter or instrument of incorporation are satisfactory to the Corporation; and
 - (j) in the case of a subsidiary company, repayment of the loan and the performance of the contract made by it pursuant to this section are guaranteed by the parent company.
- (7) A contract with a borrower shall provide that,
- (a) the borrower shall make to the Corporation promptly on the due dates the annual or semi-annual payments required to be made in order to pay the interest on and amortize the loan during the term thereof;
 - (b) the borrower shall furnish efficient management of such project and maintain the project in a satisfactory state of repair and permit representatives of the Corporation to inspect the project at any time;
 - (c) moneys invested in the project by the borrower shall not produce a return above operating expenses greater than the rate of interest agreed to be paid by the borrower on the loan made by His Majesty and that any return in excess of this amount shall be used as the Corporation determines for the benefit of the occupants of the housing units of the project;
 - (d) the borrower may receive contributions to a rent reduction fund and shall use such fund solely for the purpose of reducing the rentals that otherwise would be charged;
 - (e) the amount of surplus earnings to be used or set aside for reserves, maintenance, repairs, possible decline in rentals or other contingencies shall be determined by the Corporation;
 - (f) The Corporation shall have the right in the event of the borrower failing to maintain the low or moderate rental character of the project or otherwise committing a breach of

Further provisions of contract.

contract, to declare the unpaid principal of the loan due and payable forthwith or to increase the interest payable thereafter on the unpaid balance of the said loan at such a rate as the Governor in Council may determine;

- (g) the borrower shall maintain books, records and accounts in a form satisfactory to the Corporation, shall permit the inspection of such books, records and accounts by a representative of the Corporation at any time and shall make such annual or other reports to the Corporation in such form and containing such particulars as the Corporation may require;
- (h) the borrower may rent the housing units to its employees or to other persons living in the community adjacent to or connected with its operations at rentals to be approved by the Corporation;
- (i) the borrower during the term of the loan may with the approval of the Corporation, and upon terms and conditions satisfactory to the Corporation, sell under agreement for sale or lease and option, units of the said project to prospective home owners;
- (j) in the event of a sale referred to in paragraph (i) of this subsection the Corporation may undertake that when the home owner has fulfilled the terms of the agreement for sale it will discharge its mortgage claim or charge upon the unit purchased by the prospective home owner.

Powers of Corporation.

(8) The Corporation may—

- (a) prescribe the manner in which the cost of such project shall be calculated or estimated and determine the lending value for the purpose of this section;
- (b) prescribe the standards of construction and the type of project in respect of which a loan is made under this section;
- (c) prescribe the information to be given by an applicant for a loan under this section;
- (d) prescribe the conditions and procedures under which the proceeds of any loan under this section may be advanced to the borrower;
- (e) prescribe the circumstances in which additional security may be taken for any loans under this section;
- (f) make provision for any other matters deemed necessary or desirable to carry out the purposes or provisions of this section and to safeguard the interests of His Majesty.

Further powers of Corporation.

9B. (1) The Corporation may, on behalf of His Majesty and upon terms and conditions satisfactory to the Minister,

- (a) acquire by way of lease or otherwise from the owners thereof buildings suitable for conversion into multiple housing units and convert such buildings into multiple housing units;
- (b) hold, operate and manage real or personal property of His Majesty made available to the Corporation;
- (c) hold, operate and manage any real property and the interests of His Majesty in any such property in which His Majesty has a leasehold interest;

- (d) lease such property and collect the rentals and revenues therefrom;
- (e) surrender the interests of His Majesty to the owner of any such property in which His Majesty has a leasehold interest and dispose of any personal property used in connection therewith;
- (f) pay any claims, taxes and expenses incurred or arising out of or incidental to the holding, operating, managing or leasing of such property or leasehold interest.

(2) The Minister shall pay to the Corporation out of moneys Appropriation. from time to time appropriated by Parliament for the purpose the cost of the acquisition and conversion of buildings pursuant to paragraph (a) of subsection one of this section.

(3) The Corporation shall pay to the Minister the moneys Payments to the Minister. received by it in respect of the property referred to in subsection one of this section after deducting therefrom the amount of payments made by it in accordance with paragraph (f) of that subsection and such compensation as may be agreed upon by the Minister and the Corporation.

10. (1) The Governor in Council may by regulation make pro- Regulations by Governor in Council. vision for any matters concerning which he deems regulations are necessary or desirable to carry out the purposes or provisions of this Part.

(2) The Corporation may,

- (a) prescribe the manner in which the cost of construction of a Power of Corporation to determine administrative matters. rental housing project or a low-rental housing project or the cost of converting existing buildings into a low-rental housing project shall be calculated or estimated and by whom and in what manner an appraisal of any rental housing project shall be made;
- (b) prescribe sound standards of construction and the arrangements that shall be made to assure adequate supervision of any construction or conversion in respect of which a loan is made under this Part;
- (c) prescribe the information to be given by an applicant for a loan under this Part;
- (d) prescribe the conditions and procedures under which the proceeds of any loan under this Part may be advanced to a builder or a limited-dividend housing company;
- (e) prescribe the circumstances in which a chattel mortgage, an assignment of rents or other security, may be taken as additional security for any loans made under this Part;
- (f) prescribe the books, accounts and records to be maintained by a limited-dividend housing company to which a loan is made under this Part and the manner in which and by whom they shall be audited, and the form of the annual or any other report to be made to the Corporation; and
- (g) prescribe the manner in which losses sustained in connection with joint loans made under this Part shall be determined.

11. (1) Notwithstanding any restriction on its power to lend Life insurance companies investment. or invest money contained in any other statute or law, any life insurance company subject to the jurisdiction of Parliament may,

1932, c. 46.

subject to the conditions hereinafter stated, invest its funds to an aggregate amount not exceeding five per centum of its total assets in Canada allowed by the Superintendent of Insurance under section seventy-three of The Canadian and British Insurance Companies Act, 1932, in the purchase of land and the construction thereon of a low cost or moderate cost rental housing project, including such buildings or such accommodation for retail stores, shops, offices and other community services, but not including hotels, as the company may deem proper and suitable for the convenience of the tenants of such rental housing project, and thereafter may hold, maintain, repair, alter, demolish, reconstruct, manage, collect or receive income from, sell or convey, in whole or in part, land so acquired and the improvements thereon.

Life insurance companies may form institutional holding companies or housing corporations.

(1A) Notwithstanding any restrictions or limitations on its powers contained in any other statute or law, any life insurance company subject to the jurisdiction of Parliament may cause to be formed one or more institutional holding companies and one or more institutional housing corporations and may invest its funds in shares or debentures of the said companies and in shares of the said corporations to an aggregate amount, which, when added to the aggregate amount invested by the said life insurance company under subsection one of this section does not exceed five per centum of its total assets in Canada allowed by the Superintendent of Insurance under section seventy-three of The Canadian and British Insurance Companies Act, 1932.

1932, c. 46.

Conditions of investment.

(2) The conditions under which an investment referred to in subsection one of this section may be made shall be as follows:—

- (a) the project shall, in the discretion of the Corporation, be constructed in accordance with or in harmony with an official community plan satisfactory to it;
- (b) the project shall be designed to provide housing accommodation for families of low or moderate income and the Corporation may prescribe a maximum average cost per room or per family housing unit provided thereby, or per person to be accommodated;
- (c) the company shall submit to the Corporation an application in a form to be prescribed by it and accompanied by the following:—
 - (i) a map showing the location of the land and of the structures thereon, the purchase of which is deemed by the company to be necessary to the project;
 - (ii) a plan and specifications prepared by an architect showing the buildings or improvements to be constructed thereon pursuant to the project;
 - (iii) an estimate of the cost of the entire project prepared by an architect or engineer and approved by the company;
 - (iv) an estimate of the rentals of the family housing units and the other facilities to be provided necessary to assure a minimum return of five per centum per annum upon the cost of the entire project after payment of all taxes, insurance, cost of operation and maintenance, and an annual amount sufficient to amortize the cost

of construction of the project less the cost of the land, within a period representing the estimated useful life of the project but not in any case exceeding fifty years from the date of completion of the project; and

(v) such other information or material as the Corporation may require; and

(d) the investment is approved by the Corporation.

(2A) No investment under subsection one A of this section shall be made unless Conditions of investment.

(i) the project of the institutional housing corporation in the shares of which the investment is to be made, or each project of the institutional housing corporations the shares of which are held by the institutional holding company in the shares and debentures of which the investment is to be made, complies with paragraphs (a) and (b) of subsection two of this section;

(ii) an application has been submitted to the Corporation in the form prescribed by it accompanied by the information in respect of the said project or each of the said projects required by paragraph (c) of subsection two of this section, and

(iii) the investment is approved by the Corporation.

(3) Where a life insurance company agrees with the Corporation, Guarantee to life insurance company.

(a) to maintain separate books and records relating to a rental housing project in which the company invests under this section satisfactory to the Corporation and open to its inspection at any time;

(b) to establish a reserve on account of such project comprising all net earnings in any year after its completion in excess of six per centum per annum on the cost of the project; and

(c) to repay out of the said reserve any advances made by the Corporation under the guarantee hereinafter mentioned;

the Corporation shall guarantee to the company, for as long as it retains ownership of the whole or any part of the project, a net return in any year after the completion of the project of two and one-half per centum per annum of the cost of the project for a period not exceeding the estimated useful life of the project and in any case not exceeding fifty years.

(3A) Where an institutional housing corporation is formed and agrees with the Corporation:— Guarantee to institutional housing corporation.

(a) to maintain separate books and records relating to the rental housing project in which the institutional housing corporation invests under this section satisfactory to the Corporation and open to its inspection at any time;

(b) to establish a reserve on account of such project comprising all net earnings, including any net profit realized on the sale of the project or any part thereof, in any year after its completion in excess of six per centum per annum on the cost of the project; and

(c) to repay out of the said reserve any advances made by the Corporation under the guarantee hereinafter mentioned,

the Corporation shall guarantee to the institutional housing corporation as long as it retains ownership of the whole or any part of the project but not longer than the estimated useful life of the project and in any case not longer than fifty years, a net return in any year after the completion of the project of two and one-half per centum per annum of that portion of the cost of the project that was provided from funds subscribed by shareholders; and the Corporation in its discretion may guarantee the principal of the debentures of an institutional holding company and interest thereon at a rate not more than two and one-half per centum per annum if it is satisfied that such a company holds at the time the guarantee is given all the shares, except directors' qualifying shares, of one or more institutional housing corporations that have been guaranteed by it under this subsection.

"net return in any year" defined.

(3B) For the purpose of this section "net return in any year" means an amount equal to annual net earnings derived from the project computed by deducting from the total annual revenues therefrom all expenses of the year in respect thereof including provision for taxes, insurance, repairs and maintenance, interest and an amount sufficient to amortize the cost of construction of the project, including the cost of the land, over the estimated useful life of the project.

Two or more companies join in project.

(4) Two or more life insurance companies may join in the development, ownership and management of a rental housing project under this section or in causing to be formed an institutional holding company or an institutional housing corporation under subsection (1A) of this section.

Approved lending institutions designated.

(5) The Governor in Council may for the purposes of this section designate:—

- (a) an approved lending institution subject to the jurisdiction of Parliament and in such case the provisions of the eight last preceding subsections and the next following section shall mutatis mutandis apply to the said lending institution except that the amount of its funds which may be invested shall not exceed five per centum of its assets in Canada at such amount as is approved by the Governor in Council for the purposes of this section; and
- (b) an approved lending institution which is not subject to the jurisdiction of Parliament but which is empowered to make investments referred to in this section and in such case the provisions of the six last preceding subsections and the next following section shall mutatis mutandis apply to the said lending institution provided that the amount of investments in respect of which guarantees may be given under this section shall not exceed five per centum of its assets in Canada at such amount as is approved by the Governor in Council for the purposes of this section.

Regulations.

(6) The Governor in Council may make regulations to provide for any matters concerning which he deems regulations are necessary or desirable to carry out the purposes or provisions of this section.

Power of Corporation to determine administrative matters.

(6A) The Corporation may,

- (a) prescribe the manner in which the cost of a rental housing project shall be calculated for the purposes of this section and may adjust the said cost in the event of the sale of a portion of a rental housing project or an addition thereto;

- (b) prescribe the manner in which the net earnings shall be calculated for the purposes of this section;
- (c) take such other measures as the Corporation may deem necessary or desirable to give effect to the purposes or provisions of this section and to safeguard the interests of His Majesty.

(7) The Corporation may in consideration of the giving of any guarantee under this section enter into a contract with the institutional housing corporation or the institutional holding company to or in respect of which the guarantee is given on such terms and conditions as it deems advisable to give effect to the purposes and provisions of this Act and to safeguard the interests of His Majesty.

Corporation may enter into contract.

(8) Any guarantee entered into by the Corporation under this Part shall be entered into by it on behalf of His Majesty.

Guarantee entered into on behalf of His Majesty.

(9) Prior to the approval of an investment pursuant to paragraph (d) of subsection two of this section a life insurance company subject to the jurisdiction of Parliament may, notwithstanding any restriction on its power to invest money contained in any other statute or law, with the approval of the Corporation, purchase land for the purpose of making an investment under subsections one and two of this section and may hold and manage such land upon such terms and conditions as the Corporation may specify.

Insurance company may acquire land.

11A. The aggregate principal amount of investments that may be guaranteed by the Corporation under this Part shall not exceed one hundred and twenty-five million dollars.

Aggregate principal amount guaranteed.

11B. (1) Notwithstanding any restriction on its power to lend and invest money contained in any other statute or law, any life insurance, trust or loan company subject to the jurisdiction of Parliament (in this section called "company"), may, subject to the conditions hereinafter set out, invest its funds in the purchase and improvement of land to be used for a residential housing development to an aggregate amount which, when added to the aggregate amount invested by the said company under section eleven of this Act, does not exceed the limitation on such investment imposed by or pursuant to the said section eleven and subject to the provisions of this section may hold, maintain, repair, alter, demolish, improve, manage, collect or receive income from, sell or convey, in whole or in part, land so acquired and the improvements thereon.

Company may invest funds in purchase of land for housing development.

(2) The conditions under which an investment referred to in subsection one of this section may be made, are as follows:—

Conditions of investment.

- (a) the land shall, in the opinion of the Corporation, be suitable for a residential housing development;
- (b) the purchase price of the said land shall be satisfactory to the Corporation;
- (c) the improvements to be effected and the cost thereof shall be satisfactory to the Corporation;
- (d) the company shall submit to the Corporation an application in a form satisfactory to the Corporation containing such information and accompanied by such material as the Corporation may prescribe;
- (e) the investment shall first be approved in writing by the Corporation; and

In case of agreement with the Corporation.

(f) the company shall enter into an agreement with the Corporation in accordance with subsection three of this section.

(3) Where a company agrees with the Corporation

(a) to acquire land and effect improvements thereon in accordance with this section;

(b) to maintain separate books and records relating to such land, the expenses incurred in respect thereof, the improvements made thereon and sales made thereof satisfactory to the Corporation and open to its inspection at any time; and

(c) to sell such land at such price as the Corporation may determine and on terms and conditions satisfactory to the Corporation or as may be set out in the agreement; the Corporation shall guarantee to the company for so long as it retains ownership of the whole or any part of the land in which an investment is made pursuant to this section but not longer than the time specified in the said agreement, which shall not exceed five years from the date of acquisition of the said land by the company, the return of an amount equal to the company's investment in such land, together with interest thereon at a rate specified in the said agreement but not in excess of two per centum per annum compounded annually.

Corporation to guarantee return and interest.

Further provisions of agreement.

(4) The agreement referred to in subsection three of this section may also provide

(a) that the company shall plan the development of such land in a manner satisfactory to the Corporation and as a condition of the sale of such land shall receive an undertaking from the purchaser that any structures erected upon the said land shall conform to the plan of the area and shall comply with standards of construction prescribed by the Corporation under this Act; and

(b) for such other measures to be taken by the Corporation and the company as the Corporation may deem necessary or desirable to give effect to the purposes or provisions of this section, and to safeguard the interests of His Majesty.

Corporation to determine amount of interest, investment and amount recovered.

(5) At the end of the time specified in the agreement referred to in subsection three of this section, or when all the said land has been sold by the company, whichever is earlier, the Corporation shall

(a) determine the aggregate amount of the investment by the company in the said land and the interest thereon at the rate specified in the said agreement compounded annually; and

(b) determine the amount recovered by the company out of the said land from sales thereof or otherwise.

When Corporation to pay excess.

(6) If the aggregate amount determined pursuant to paragraph (a) of subsection five of this section exceeds the amount determined pursuant to paragraph (b) of the said subsection, the Corporation shall pay to the company the amount of such excess, and the company shall transfer and convey to the Corporation all the unsold portion of the said land.

When company to pay excess

(7) If the amount determined pursuant to paragraph (b) of subsection five of this section exceeds the amount determined pursuant to paragraph (a) of the said subsection the company shall pay the amount of such excess to the Corporation.

(8) Two or more companies may join in the purchase and improvement of land for a residential housing development under this section.

Companies may join in purchase of land.

(9) For the purpose of this section "investment" includes the purchase price of the land, moneys expended on the installation of services, the laying out and construction of streets, sidewalks, lanes and the development of park areas, public space and facilities appropriate to a residential housing development, and such carrying charges and other expenses incurred by the company in respect of the said land as may be approved by the Corporation, including taxes, insurance, repairs and maintenance.

"investment" defined.

(10) The Governor in Council may designate as a company, for the purposes of this section,—

Governor in Council may designate lending institutions as companies.

(a) an approved lending institution subject to the jurisdiction of Parliament, and in such case the provisions of subsections one to nine, inclusive, of this section shall mutatis mutandis apply to the said lending institution, provided that the amount of its funds which may be invested shall not exceed five per centum of its assets in Canada or such amount as is approved by the Governor in Council for the purposes of this section; and

Proviso.

(b) an approved lending institution which is not subject to the jurisdiction of Parliament, but which is empowered to make investments referred to in this section and in such case the provisions of subsections one to nine, inclusive, of this section shall mutatis mutandis apply to the said lending institution, provided that the amount of investments in respect of which guarantees may be given under this section shall not exceed five per centum of its assets in Canada or such amount as is approved by the Governor in Council for the purposes of this section.

Proviso.

(11) The Governor in Council may make regulations to provide for any matters concerning which he deems regulations are necessary or desirable to carry out the purposes or provisions of this section.

Regulations.

(12) The Corporation may take such measures as it deems necessary or desirable to give effect to the purposes or provisions of this section and to safeguard the interests of His Majesty.

Corporation may take necessary measures.

12. (1) In order to assist in the clearance, replanning, rehabilitation and modernization of slum areas or blighted or sub-standard areas in any municipality, the Minister, with the approval of the Governor in Council, may make grants to a municipality in order to assist in defraying the cost to such municipality of acquiring and clearing, whether by condemnation proceedings or otherwise, an area of land suitable as a location for a low cost or moderate cost rental housing project.

Slum areas.

(2) A grant shall be made under this section only if,

Grant in aid of clearance.

(a) the land is acquired and cleared and is to be developed in accordance or in harmony with an official community plan, satisfactory to the Minister;

(b) the land is sold by the municipality to a limited-dividend housing corporation or a life insurance company which has agreed to construct thereon a rental housing project under

the provisions of section nine or section eleven, respectively, of this Act, at a price which in the opinion of the Minister will enable the family housing units to be provided by the rental housing project to be leased to tenants on a fair and reasonable basis; and

- (c) the acquisition and clearing of the land by the municipality have been approved by the government of the province concerned.

Amount of grant.

(3) No grant made under this section shall exceed one-half of the amount by which the cost of acquisition and clearance of the land, including cost of condemnation proceedings, if any, exceeds the cost at which the land so acquired and cleared is sold to a limited-dividend housing corporation or an insurance company for the purpose of constructing thereon a rental housing project, and no grant shall be made under this section unless the remainder of the excess is borne by the municipality or jointly by the municipality and the government of the province in which the municipality is situated.

Grant out of Consolidated Revenue Fund. Aggregate not to exceed \$20,000,000.

(4) A grant under this section shall be paid out of any unappropriated moneys in the Consolidated Revenue Fund, but the aggregate amount thereof shall not exceed twenty million dollars.

Regulations.

(5) The Governor in Council, on the recommendation of the Minister, may make regulations determining the manner in which costs are to be determined for the purposes of this section, and providing for such other matters as may be deemed necessary and desirable for the carrying out of the purposes or provisions of this section.

Payments out of C.R.F. of loans and losses not exceeding \$150,000,000.

13. (1) The Minister may make loans under this Part and pay losses in respect of loans made under this Part not exceeding, in the aggregate, one hundred and fifty million dollars out of unappropriated moneys in the Consolidated Revenue Fund.

Payments out of C.R.F. in respect of guarantees.

(2) The Minister may make payments under any guarantee given under this Part out of unappropriated moneys in the Consolidated Revenue Fund.

PART III

RURAL HOUSING

Corporation may enter into contract with approved lending institution.

14. (1) The Corporation may, on behalf of His Majesty and with the approval of the Governor in Council enter into a contract with an approved lending institution on the terms set out in this section to join with the said institution in the making of loans to assist in the construction of houses on farms.

Terms.

(2) The terms of a contract entered into under this section shall provide that,

- (a) a joint loan shall be made only to the person who owns the farm upon which the house is to be built;
- (b) a joint loan shall be made only for the purpose of assisting in the construction of a house according to sound standards approved by the Corporation for the purpose of this section and under such supervision as the Corporation may determine;

- (c) where a farm is clear of encumbrances a joint loan shall not exceed the least of
 - (i) five thousand dollars;
 - (ii) the cost of building the said house, or
 - (iii) two-thirds of the appraised value of the farm;
- (d) where the farm is encumbered and the Corporation is satisfied that the encumbrance was not incurred for the purpose of increasing the joint loan that otherwise might be made under this section, a joint loan shall not exceed the least of
 - (i) eight thousand dollars;
 - (ii) the aggregate of the cost of building the said house and the amount necessary to discharge all encumbrances on the said farm; or
 - (iii) two thirds of the appraised value of the farm;
- (e) the portion of the joint loan advanced by His Majesty shall not exceed twenty-five per centum of the said loan;
- (f) the rate of interest payable by the borrower in respect of a joint loan shall not exceed a rate of four and one-half per centum per annum calculated semi-annually and no other charge in respect of the said loan shall be payable by the borrower except as may be authorized by regulation;
- (g) the interest payable to His Majesty on the portion of the joint loan advanced by His Majesty shall be at such rate as is agreed upon between the Corporation and the lending institution;
- (h) the amount of a joint loan shall be subject to approval by the Corporation;
- (i) repayment of a joint loan shall be secured by a first mortgage or hypothec on the house and farm upon which it is situate in favour of His Majesty and the lending institution jointly;
- (j) a joint loan shall be for a term not in excess of twenty years from the date of completion of the house;
- (k) a joint loan shall be made on such terms as to payment of principal, interest and taxes by instalments not less frequently than yearly as the Corporation may determine;
- (l) the amount of a joint loan shall be advanced to the borrower in such instalments as may be determined by the Corporation;
- (m) losses sustained as a result of joint loans shall be shared by His Majesty and the lending institution in the proportion of the shares of His Majesty and the lending institution in the said joint loans and that in addition His Majesty shall be liable to pay to the lending institution such amount of the losses the lending institution sustained as a result of joint loans within any class of joint loans established by agreement, as may be agreed upon, not exceeding, however, fifteen per centum of the aggregate amount of the share of the lending institution in all joint loans within the said class, each said class to be based on the ratio of the joint loans to the lending values or on the location of the houses or on both; and
- (n) such other measures will be taken as may be agreed upon between the Corporation and the said lending institution in order to safeguard the interests of His Majesty.

Loan deemed
a loan under
Part I, 1945
(2nd Sess.),
c. 15.

(3) A loan made under this section shall, for the purposes of The Central Mortgage and Housing Corporation Act and section seven of this Act, be deemed to be a loan under Part I of this Act.

How appraised
value
determined.

(4) For the purposes of subsection two of this section the appraised value of the farm shall be determined by appraising the value of the land, exclusive of buildings, and adding thereto the appraised increase in the value of such land attributable to existing buildings and the construction of the said house.

Contract with
manufacturer
of component
parts of
houses for
experimental
production.

15. (1) The Corporation may, on behalf of His Majesty and with the approval of the Governor in Council, enter into a contract with a manufacturer of plumbing or heating equipment or other component parts of houses for the experimental production of the said equipment or component parts in accordance with standardized designs that, in the opinion of the Corporation, may be manufactured or produced at low cost.

Guarantee to
manufacturer.

(2) The Corporation may, on behalf of His Majesty and with the approval of the Governor in Council, enter into a contract with a manufacturer referred to in subsection one of this section, to underwrite or guarantee the sale, at such price as may be agreed upon and specified in the contract, of the equipment or component parts referred to in the said subsection, manufactured or produced for installation, or use in farm or rural homes if the said manufacturer manufactures or produces the said equipment or component parts in such volume as may be agreed upon and specified in the said contract and the Corporation may, with the said approval, enter into contracts with the said manufacturer or any other person for the sale or distribution of the said equipment or component parts in such manner as it may deem advisable.

Appropriation
of \$5,000,000.

16. The Minister may pay any expenditures incurred under or in carrying out any contract entered into under the last preceding section out of unappropriated moneys in the Consolidated Revenue Fund, but the aggregate amount of the direct or contingent liabilities of His Majesty pursuant thereto shall not at any time exceed five million dollars.

PART IV

HOME IMPROVEMENT LOANS AND HOME EXTENSION LOANS

Corporation to
pay losses upon
terms
prescribed.

17. (1) The Corporation shall, subject to this section and sections eighteen and nineteen of this Act, pay to a bank or to an approved instalment credit agency the amount of loss sustained by it as a result of a home improvement loan, or a home extension loan, if

- (a) the loan was made pursuant to an application in the form prescribed by regulation, signed by the borrower, stating the purpose for which the proceeds of the loan were to be expended;
- (b) the application stated that the borrower was the owner of the home in respect of which the loan was to be expended;
- (c) a responsible officer of the bank or of the approved instalment credit agency certified that he had scrutinized and checked the application for the loan with the care required of him by the bank or the said agency in the conduct of its ordinary business;

- (d) in the case of a home improvement loan, the principal amount of the loan did not exceed two thousand dollars in the case of a one-family dwelling, or two thousand dollars for the first family housing unit and an additional one thousand dollars for every other family housing unit in the case of a multiple-family dwelling;
- (e) in the case of a home extension loan, the principal amount did not exceed three thousand dollars for the first family housing unit which was to be added to the existing home as a result of the expenditure of the loan and one thousand dollars for each additional family housing unit so to be added;
- (f) the loan was repayable in full by the terms thereof in not more than three years if the principal amount of the loan did not exceed, in the case of a home improvement loan, one thousand dollars for a one-family dwelling or for each family housing unit in a multiple-family dwelling, or, in the case of a home extension loan, one thousand dollars for each family housing unit to be comprised within the multiple-family dwelling, and in not more than five years in the case of any other loan;
- (g) the loan was repayable by the terms thereof in monthly instalments;
- (h) the rate of interest on the loan did not exceed an effective rate of five per centum per annum as long as the borrower was not in default; Rate of interest.
- (i) no fee, service charge, insurance premium or charge of any kind other than interest, was by the terms of the loan payable so long as the borrower was not in default;
- (j) in the case of a home extension loan, the plans and specifications of the additions or alterations to be financed by the loan were approved by or on behalf of the Corporation before the loan was made;
- (k) no security by way of endorsement (other than that of the husband or wife of the owner) or otherwise was taken if the loan was made to an owner who occupied a one-family dwelling in respect of which the loan was to be expended so long as the borrower was not in default or except as provided by regulation in any other case; and If no security.
- (l) the loan was made on such terms and in accordance with such conditions in addition to those specified in the preceding paragraphs as may be prescribed by the regulation.

(2) The Corporation may, with the approval of the Governor in Council, by notice to a bank or an approved instalment credit agency, terminate the operation of this section in respect of home improvement loans or home extension loans, such termination to be effective after a time set out in the notice but not earlier than at least twenty-four hours after receipt of the notice at the head office of the said bank or agency, and the Corporation is not liable under this Part to make any payment to the said bank or agency in respect of any of the said loans made after the said time; but the said termination does not relieve the Corporation of any liability imposed on it under this Part, in respect of a home improvement loan or home extension loan made by the said bank or agency before the said time of termination. Termination of operation of this section by notice.

Notice only operative as to specified loans.

(3) A notice given by the Corporation under subsection two of this section may terminate the operation of this section in respect only of home improvement loans or in respect only of home extension loans or in respect of any class thereof, as may be specified in the said notice.

Amount of payment for which Corporation liable.

18. The Corporation is not liable under this Part to pay to a bank or an approved instalment credit agency an amount in excess of five per centum of the aggregate principal amount of the guaranteed home improvement loans and guaranteed home extension loans made by the said bank or agency.

No liability on excess of \$100,000,000.

19. The Corporation is not liable under this Part to make any payment to a bank or approved instalment credit agency in respect of loss sustained by it as a result of a home improvement loan or a home extension loan made after the aggregate principal amount of guaranteed home improvement loans and guaranteed home extension loans equals one hundred million dollars.

Regulations.

20. (1) The Governor in Council may, on the recommendation of the Minister, make regulations,

- (a) to define for the purposes of this Part the following expressions:—
 - (i) “owner” with power to include as owners, life-tenants, persons holding property under agreements for sale, or under long term leases, and any other person having rights approximating ownership;
 - (ii) “repairs, alterations and additions”;
 - (iii) “home”; and
 - (iv) “responsible officer”;
- (b) to prescribe a form of application for guaranteed home improvement loans or guaranteed home extension loans;
- (c) to prescribe in respect of guaranteed home improvement loans or guaranteed home extension loans:—
 - (i) the security, if any, to be taken by the bank or the approved instalment credit agency making the loan, for the repayment thereof;
 - (ii) the terms of repayment and other terms not inconsistent with this Part upon which the said loans are to be made; or
 - (iii) conditions to the liability of the Corporation under this Part in respect of home improvement loans or home extension loans in addition to but not inconsistent with the conditions set out in paragraphs (a) to (k) inclusive of subsection one of section seventeen of this Act;
- (d) to prescribe forms of notes, agreements, certificates and other documents to be used in connection with guaranteed home improvement loans or guaranteed home extension loans, or as are considered necessary or advisable for the effective operation of this Part;
- (e) to provide that in the event of an actual or impending default in the repayment of a guaranteed home improvement loan or a guaranteed home extension loan the bank or the approved instalment credit agency which made the

loan, may, notwithstanding anything contained in this Part, alter or revise with the approval of the borrower by way of extension of time or otherwise any of the terms of the loan, or any agreement in connection therewith, and that the said alteration or revision shall not discharge the liability of the Corporation in respect thereof under this Part;

- (f) to prescribe in the event of default in the repayment of a guaranteed home improvement loan or a guaranteed home extension loan, the legal or other measures to be taken by the bank or the approved instalment credit agency and the procedure to be followed for the collection of the amount of the loan outstanding, the disposal or realization of any security for the repayment thereof held by the said bank or agency, and the rate of interest to be charged on overdue payments;
- (g) to prescribe the method of determination of the amount of the loss sustained by a bank or approved instalment credit agency as a result of a guaranteed home improvement loan or guaranteed home extension loan;
- (h) to prescribe the steps to be taken by a bank or an approved instalment credit agency to effect collection on behalf of the Corporation of any guaranteed home improvement loan or guaranteed home extension loan in respect of which payment has been made by the Corporation to the said bank or agency under this Part, and to provide that in the event of neglect by the said bank or agency to take the said steps, the amount of the said payment may be recovered by the Corporation;
- (i) to require reports to be made periodically to the Corporation by a bank or approved instalment credit agency in respect of guaranteed home improvement loans or guaranteed home extension loans made by it;
- (j) to make provision for any other matter which he deems necessary or advisable to carry out the purposes or provisions of this Part.

21. (1) Any person who makes a statement in an application for a home improvement loan or a home extension loan which is false in any material respect or who uses the proceeds of the said loan for a purpose other than that stated in his application for the loan, shall be guilty of an offence under this Part and liable to a fine of not less than fifty dollars and of not more than five hundred dollars.

False statement or unauthorized use of loans.
Offence.

(2) When any person is convicted of an offence under this section, there shall be imposed on him, in addition to any fine, a penalty equal to such amount of the loan made to him in respect of which such offence was committed as has not been repaid by him, with interest thereon to the date of payment, and such penalty shall be paid to the bank or approved instalment credit agency by which the loan was made, or if payment has been made by the Corporation under this Part to the said bank or agency in respect of the loan, the said penalty shall be paid to the Receiver General of Canada, and such payment shall discharge the liability of such person to repay the loan.

Pecuniary penalty in addition to fine.

Subrogation of the rights of bank or agency to the Corporation.

22. (1) Where payment is made by the Corporation to a bank or an approved instalment credit agency under this Part in respect of any loss sustained by the said bank or agency as a result of a loan, the said bank or agency shall execute a receipt in favour of the Corporation in a form prescribed by regulation, and the Corporation shall thereupon be subrogated in and to all the rights of the said bank or agency in respect of the said loan, and, without limiting the generality of the foregoing, all rights and powers of the said bank or agency in respect of the loan, and in respect of any judgment in respect thereof obtained by the said bank or agency and in respect of any security taken by the said bank or agency for the repayment thereof, shall thereupon be vested in the Corporation on behalf of His Majesty, and the Corporation shall be entitled to exercise all the rights and privileges which the said bank or agency had or might exercise in respect of the said loan, judgment or security, and to commence or continue any action or proceeding in respect thereof and to execute any document necessary by way of release, transfer, sale or assignment thereof, or in any way to realize thereon.

Evidence of receipt to Corporation for losses paid to bank or agency.

(2) A document purporting to be a receipt executed under subsection one of this section in the form prescribed by the regulations and purporting to be signed on behalf of a bank or an approved instalment credit agency shall be evidence of the payment by the Corporation to the said bank or agency under this Part in respect of the loan therein mentioned, and of the execution of the said document on behalf of the said bank or agency.

Amounts payable out of Consolidated Revenue fund.

23. The Minister may pay any amount payable to a bank or an approved instalment credit agency under this Part out of unappropriated moneys in the Consolidated Revenue Fund.

PART V

HOUSING RESEARCH AND COMMUNITY PLANNING

Investigation into housing conditions.

24. It shall be the responsibility of the Corporation to cause investigations to be made into housing conditions and the adequacy of existing housing accommodation in Canada or any part of Canada and to cause steps to be taken for the distribution of information leading to the construction or provision of more adequate and improved housing accommodation and the understanding and adoption of community plans in Canada.

General and special powers of Corporation.

25. For the purpose of carrying out its responsibility under this Part, the Corporation may cause

- (a) investigations to be made into housing conditions and the adequacy of existing housing accommodation in Canada or in any part of Canada and into measures which may be taken for the improvement thereof;
- (b) studies to be made of investigations into housing conditions and housing accommodation made elsewhere than in Canada and into measures and plans or proposals taken or adopted or proposed elsewhere than in Canada for the improvement thereof;

- (c) investigations to be made into the factors affecting the cost of construction of housing accommodation and measures which may be taken to secure economies and increased efficiency in the said construction;
- (d) plans and designs to be prepared for houses having a low cost of construction and which in the opinion of the Corporation will provide suitable accommodation and arrangements to be made for the sale or distribution of the said plans and designs in such manner as it sees fit; Powers.
- (e) information to be prepared and distributed and public lectures to be delivered to promote an understanding of the advisability of, and the principles underlying land, community and regional planning;
- (f) studies to be made of land utilization and community planning and arrangements to be made for the furnishing of information and advice with regard to the establishment of community planning agencies, and the planning of regional areas, communities and subdivisions, in co-operation with any local or other authority having jurisdiction over community planning and land subdivisions or otherwise with a view to promoting co-ordination between local community planning and the development of public services; and
- (g) generally such steps as it may deem necessary or advisable to promote construction of housing accommodation which in its opinion is sound and economical and to encourage the development of better housing and sound community planning.

26. The Corporation may, with the approval of the Governor in Council, Technical research and investigation.

- (a) cause to be prepared and undertaken, directly or in co-operation with other departments or agencies of the Government of Canada or the government of any province or with any municipality, university, educational institution or person, programs of technical research and investigation into the improvement and development of methods of construction, standards, materials, equipment, fabrication, planning, designing and other factors involved in the construction or provision of improved housing accommodation in Canada and co-ordinate the said programs or measures with other similar programs or measures undertaken in Canada;
- (b) enter into contracts for the production or development of materials, equipment or component parts for houses through the pilot-plant stage of production or development and for the testing of such materials, equipment or component parts; Tests.
- (c) undertake the publication, and the distribution of publications co-ordinating the results of the said technical research, investigations, programs and testing in such forms as may be most useful to the public or to the building industry; Publication and distribution of results of tests.
- (d) conduct competitions to secure plans, designs and specifications which in his opinion are suitable for housing to be constructed at low cost, and purchase the said plans or otherwise compensate persons taking part in the said competitions; and Competitions.

Promotion of training in the construction or designing of houses.

(e) make provisions, in such manner as it deems advisable directly or in co-operation with any other department or agency of the Government of Canada, with the government of any province or with any university, educational institution or person, for promoting training in the construction or designing of houses, in land planning or community planning or in the management or operation of housing projects.

Advisory Committees.

27. The Corporation may, with the approval of the Minister for the purpose of assisting it in carrying out its responsibilities under this Act, appoint such advisory committees as it may deem advisable and may pay the reasonable travelling and living expenses incurred by the members of the said advisory committees while attending the meetings thereof.

Payments out of C.R.F.

27A. The Minister may pay any expenditures incurred under or in carrying out the provisions of this Part, out of unappropriated moneys in the Consolidated Revenue Fund to an aggregate amount not exceeding five million dollars.

PART VI

GENERAL

Professional, technical and other assistance.

28. The Minister may, with the approval of the Governor in Council, employ architects, accountants, solicitors, and other technical and clerical staff necessary for the efficient administration of this Act and may fix their remuneration, and the sums necessary to pay their remuneration, travelling expenses and other expenses incurred in the administration of this Act shall be paid out of moneys appropriated by Parliament for the purpose.

Loan insurance.

29. The Corporation may make arrangements with an insurance company or companies under which any borrower under any Part of this Act may purchase reducing term insurance to pay the amount of the loan made to him in the event of his death before the loan is fully paid and the Governor in Council may make regulations prescribing classes of cases and circumstances under which such insurance shall be purchased.

Report to the Minister.

30. (1) Within ten weeks after the end of the fiscal year of the Corporation, the Corporation shall make a report to the Minister with regard to the administration of this Act and the loans made under this Act during the preceding calendar year, and with regard to the administration of loans made under The Dominion Housing Act, 1935, and The National Housing Act, 1938.

1935, c. 58.

1938, c. 49.

To be laid before Parliament.

(2) The report shall be laid before Parliament within fourteen days after the receipt thereof by the Minister or, if Parliament is not then in session, within fourteen days after the commencement of the next ensuing session thereof, and the filing of such report shall be deemed to be a sufficient compliance with the provisions of section twenty-eight of The National Housing Act, 1938.

1938, c. 49.

Regulations.

31. (1) In addition to the authority elsewhere in this Act conferred upon him, the Governor in Council may make regulations for any purpose for which regulations are to be made under this Act.

(2) A regulation made under any Part of this Act, shall not be effective until published in the *Canada Gazette* and upon such publication shall be effective and shall have the same force and effect as if it had been enacted by this Act.

Effective upon publication.

31A. (1) If in the opinion of the Corporation a loan is not being made available to a person pursuant to sections four, eight or fourteen of this Act, the Corporation may make a loan to such person to assist in the construction of a house or rental housing project on the same terms and conditions and subject to the same limitations as those upon which a joint loan may be made to such person under the provisions of the said sections four, eight or fourteen of this Act.

If loan not available under ss. 4, 8 or 14 Corporation may make loan.

(2) A loan under this section, if made to assist in the construction of a house as defined by subsection seven of section four of this Act shall, for the purposes of The Central Mortgage and Housing Corporation Act, and section seven of this Act, be deemed to be a loan under Part I of this Act, and if made to assist in the construction of a rental housing project shall for the purposes of The Central Mortgage and Housing Corporation Act and section thirteen of this Act be deemed to be a loan under Part II of this Act.

Loan deemed a loan under Part I or Part II. 1945, (2nd Sess.) c. 15.

(3) The Governor in Council may by regulation make provision for any matters concerning which he deems regulations are necessary or desirable to carry out the purposes or provisions of this section.

Regulations.

32. Each Part of this Act shall come into force upon a date to be fixed by proclamation of the Governor in Council, provided that such proclamation may limit the type of loan to be made under any Part or the areas in which such loans may be made and the Governor in Council may fix and determine a date on and after which or a period during which no loans under any Part or Parts of this Act or no loans in excess of a stipulated maximum amount may be made

Coming into force.

Restrict period for loaning.

9-10 GEORGE VI.

CHAP. 15.

An Act to incorporate the Central Mortgage and Housing Corporation.

[Assented to 18th December, 1945.]

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

SHORT TITLE.

1. This Act may be cited as *The Central Mortgage and Housing Corporation Act*. Short title.

INTERPRETATION.

2. In this Act unless the context otherwise requires:
- | | |
|--|---|
| (a) "Board of Directors" or "Board" means the Board of Directors of the Corporation; | Definitions
"Board of Directors." |
| (b) "Corporation" means the Central Mortgage and Housing Corporation; | "Board."
"Corporation." |
| (c) "director" means any member of the Board of Directors; | "director." |
| (d) "Executive Committee" means the Executive Committee of the Board; | "Executive Committee." |
| (e) "Housing Acts" means <i>The National Housing Act, 1944</i> , <i>The National Housing Act, 1938</i> , which for the purposes of this Act includes Item 452 set out in Schedule B to <i>The Appropriation Act, No. 5, 1942</i> , <i>The Home Improvement Loans Guarantee Act, 1937</i> , which for the purposes of this Act includes Item 453 set out in Schedule B to <i>The Appropriation Act, No. 5, 1942</i> , and <i>The Dominion Housing Act, 1935</i> ; | "Housing Acts."
1944-45, c. 46.
1942-43, c. 36.
1938, c. 49.
1937, c. 11.
1935, c. 58. |
| (f) "lending institution" means a loan, insurance, trust or other company or corporation, trustee of trust funds, building society, credit union or other co-operative credit society authorized to lend money on the security of real or immovable property; | "lending institution." |
| (g) "Minister" means the Minister of Finance; | "Minister". |
| (h) "mortgage" includes a hypothec and an agreement for sale; | "mortgage." |

- "President." (i) "President" means the President of the Corporation;
and
"Vice-President." (j) "Vice-President" means the Vice-President of the Corporation.

PART I

CONSTITUTION OF CORPORATION.

Corporation established. **3.** There is hereby established a Corporation called the "Central Mortgage and Housing Corporation" consisting of the Minister and those persons who from time to time comprise the Board of Directors.

Head office **4.** The head office of the Corporation shall be in the City of Ottawa.

Agent of Crown. **5.** (1) Except as provided in section fourteen of this Act, the Corporation is for all purposes an agent of His Majesty in right of Canada and its powers under this Act may be exercised by it only as an agent of His Majesty.

Contracts on behalf of His Majesty (2) The Corporation may, on behalf of His Majesty, enter into contracts in the name of His Majesty or in the name of the Corporation.

Property of His Majesty. (3) Property acquired by the Corporation is the property of His Majesty and title thereto may be vested in the name of His Majesty or in the name of the Corporation.

Suits in name of Corporation. (4) Where the Corporation has acquired or incurred a right or obligation in the name of the Corporation, it may sue or be sued in respect thereof in the name of the Corporation.

Board of Directors. Constitution. **6.** (1) The Board of Directors shall consist of a President and Vice-President appointed in accordance with this Act, the persons who, respectively, from time to time hold or are acting in the offices of the Governor of the Bank of Canada, the Deputy Minister of Finance and the Deputy Minister of Reconstruction and five other directors appointed in accordance with this Act.

Deputy Governor of Bank acting for Governor. (2) During incapacity or absence for any reason of the Governor of the Bank of Canada, the Deputy Governor of the Bank of Canada may act on behalf of the Governor under this Act and while so acting shall be deemed to be a director.

Substitute director for deputy head. (3) Where a director is the deputy head of a government department, the Minister of the said department may authorize a person to act as director in his stead and the person while so acting shall be deemed to be a director.

First appointment and initial salaries of President and Vice-President **7.** (1) The Governor in Council shall make the first appointments to the offices of President and Vice-President and in the first instance fix their salaries and thereafter the

Board with the approval of the Governor in Council shall appoint and fix the salaries of the President and Vice-President.

(2) The President and Vice-President shall hold office during good behaviour for a term of seven years but are removable by the Governor in Council, on a resolution of the Board, for permanent incapacity or for other cause. Term of office.

(3) The President and the Vice-President on the expiration of their term of office may, if eligible, be reappointed. Reappointment.

8. (1) The Minister, with the approval of the Governor in Council, shall appoint five directors to hold office during the following terms: Directors appointment.

(a) one director to hold office until the first day of April, 1949; Term of office.

(b) two directors to hold office until the first day of April, 1950;

(c) two directors to hold office until the first day of April, 1951;

and shall, with the approval of the Governor in Council, on the expiration of the terms of office of the directors so appointed, and at intervals of three years thereafter, appoint a corresponding number of directors to hold office for a term of three years.

(2) If in the opinion of the Board a director appointed under this section becomes permanently incapacitated he may be removed from office by resolution of the Board approved by the Governor in Council. Removal from office.

(3) Where the office of a director becomes vacant during the term of the director appointed thereto, the Minister shall, with the approval of the Governor in Council, appoint a director for the remainder of the said term. Vacancy.

(4) A director on the expiration of his term of office may, if eligible, be reappointed. Reappointments.

(5) The directors appointed under this section are entitled to receive for attendance at directors' meetings and Executive Committee meetings, such fee as may be fixed by the by-laws of the Corporation, but the aggregate amount of the fees paid to all directors, exclusive of expenses, shall not in any year exceed ten thousand dollars. Fees.

9. (1) No person shall be appointed as President or Vice-President or, under section eight of this Act, as a director, and no person shall continue to hold any such office who: Persons ineligible to hold office.

(a) is a director, officer or employee of a lending institution;

(b) is not a British subject, ordinarily resident in Canada;

(c) is employed in any capacity in the public service of Canada or of any province of Canada or holds any office or position for which any salary is payable out of public moneys but nothing contained in this para-

graph shall prohibit the said persons from holding office while performing temporary services for the Government of Canada or of any province; or

(d) has reached the age of seventy years.

Shareholder in lending institution.

(2) A person appointed as President or Vice-President or, under section eight of this Act, as a director, who is a shareholder of a lending institution shall divest himself of ownership of his shares of the lending institution within three months after the date of his appointment and shall not thereafter during his term of office have an interest either directly or indirectly as a shareholder in a lending institution.

Failure to comply with provisions of subsection (2).

(3) A person appointed as President or Vice-President or under section eight of this Act as a director who fails to comply with the provisions of subsection two of this section shall thereupon cease to hold office.

Executive Committee

10. There shall be an Executive Committee of the Board consisting of the President, the Vice-President, the Deputy Minister of Finance or any person acting as director in his stead, and one other director selected by the Board.

CONDUCT OF BUSINESS OF CORPORATION.

Board to manage affairs of Corporation.
Votes.

11. (1) The Board shall manage the affairs of the Corporation and conduct its business and may for such purposes exercise all powers of the Corporation.

(2) Each director has one vote in the transaction of the business of the Board and if the number of votes are equal the President has an additional vote.

By-laws.

(3) The Board, with the approval of the Governor in Council, may make by-laws not inconsistent with the provisions of this Act with respect to:

(a) the calling of meetings of the Board and of the Executive Committee and the number of persons which shall constitute a quorum in each case and the manner in which questions considered at such meetings shall be determined;

(b) the fees of directors;

(c) the conduct of the affairs of the Corporation.

By-laws require approval of G. in C.

(4) No by-law is effective until approved by the Governor in Council and upon becoming effective shall be published in the *Canada Gazette*.

Executive Committee powers

12. The Executive Committee may exercise the powers of the Board and shall submit at each meeting of the Board minutes of its proceedings since the last preceding meeting of the Board.

President.

13. (1) The President is the chairman of the Board of Directors and the Chief Executive Officer of the Corporation and has on behalf of the Board the direction and control

of the business of the Corporation with authority to act in the conduct of the business of the Corporation in all matters which are not by this Act or by the by-laws, specifically reserved to be done by the Board or by the Executive Committee.

(2) During incapacity or absence for any reason of the President, the Vice-President may exercise and perform all the powers and functions of the President. Vice-President.

(3) During incapacity or absence for any reason of both the President and Vice-President, the Board shall authorize a director or an officer of the Corporation to act as the President for the time being, but no person so authorized by the directors has authority to act as President for a period exceeding one month without the approval of the Governor in Council. Incapacity or absence of President and Vice-President.

14. (1) The Corporation may on its own behalf employ such officers and employees for such purposes and on such terms and conditions as may be determined by the Executive Committee and such officers and employees are not officers or servants of His Majesty. Officers. Employees.

(2) Each officer or employee employed by the Corporation shall before entering upon his duties, take, before a Justice of the Peace or a Commissioner for Oaths, an Oath of Fidelity and Secrecy in the form prescribed in the Schedule to this Act. Oath of office

(3) The Board may establish a pension fund for the officers and employees of the Corporation and their dependents and may contribute to it out of the funds of the Corporation and the pension fund shall be invested in securities in which a trust company may invest under the *Trust Companies Act*. Pension fund. R.S., c. 29

15. The Corporation may establish branches or employ agents in any part of Canada. Branches and agents.

16. The President may authorize any officer, agent or employee of the Corporation to act in the conduct of the business of the Corporation in all matters which are not by this Act or by the by-laws of the Corporation specifically reserved to be done by the Board or by the Executive Committee. President's authority over officers and agents.

CAPITAL.

17. The Minister, at the request of the Corporation and with the approval of the Governor in Council, may, from time to time out of unappropriated moneys in the Consolidated Revenue Fund, pay to the Corporation an amount or amounts not exceeding a total amount of twenty-five million dollars which shall constitute the capital of the Corporation. Capital payable out of C.R.F.

PART II.

BUSINESS AND POWERS OF THE CORPORATION.

Transfer of
authority
from
Housing
Acts.

18. The Corporation shall, on behalf of His Majesty and in the place of the Minister, have, exercise and perform all rights, powers, duties, liabilities and functions of the Minister under the Housing Acts or under any contract entered into under the said Acts, except the authority of the Minister under the said Acts to pay moneys out of the Consolidated Revenue Fund, or under section twelve of *The National Housing Act, 1944*, to make grants for slum clearance.

Housing Acts
functions
vested in
Corporation.

19. Wherever in any contract, agreement, guarantee or mortgage made or entered into under the Housing Acts prior to the commencement of this Part, it is provided that any right, power, duty, liability or function is vested in or to be exercised or performed by the Minister or by any officer of the Department of Finance or by any person acting on behalf of the Minister, the said right, power, duty, liability or function shall be vested in and exercised or performed by the Corporation.

Moneys due
under
Housing Acts
payable to
Receiver
General.

20. The Corporation shall, immediately after the commencement of this Part, pay to the Receiver General out of its capital an amount equal to the total of the moneys due or accruing due to His Majesty immediately before the commencement of this Part under or pursuant to the Housing Acts.

Corporation
responsible
to make
loans and
payments
instead of
Minister.

21. The Corporation may, in the place of the Minister, make, out of moneys received by it under this Act or otherwise made available to it by Parliament, all loans or payments which His Majesty or the Minister may make or is liable to make under or pursuant to the Housing Acts, except grants for slum clearance under section twelve of *The National Housing Act, 1944*.

Moneys ow-
ing the
Crown to be
paid to Cor-
poration.

22. (1) All moneys owing to His Majesty under or pursuant to the Housing Acts shall be paid to the Corporation and payment thereof to the Corporation is payment to His Majesty.

Moneys paid
into C.R.F.
to be paid to
Corporation.

(2) Where any moneys owing to His Majesty under or pursuant to the Housing Acts are, after the commencement of this Part, paid to the Receiver General or to any other person on behalf of His Majesty or are in any way paid into the Consolidated Revenue Fund, the said moneys shall be paid to the Corporation.

23. (1) The Minister may, at the request of the Corporation and with the approval of the Governor in Council, on such terms and conditions as he may determine, from time to time advance to the Corporation:

Advances to the Corporation.

(a) out of unappropriated moneys in the Consolidated Revenue Fund, amounts not exceeding the total of the moneys due or accruing due to His Majesty immediately before the commencement of this Part under the Housing Acts and which remain unpaid; and

(b) out of moneys appropriated under *The National Housing Act, 1944*, with which the Minister was authorized before the commencement of this Part to make loans on behalf of His Majesty or out of moneys otherwise appropriated by Parliament to be lent by the Minister to the Corporation for the said purpose, amounts not exceeding at any time the total of moneys payable to His Majesty in respect of loans made on behalf of His Majesty under *The National Housing Act, 1944*, after the commencement of this Part.

(2) Advances made by the Minister to the Corporation under this section may be evidenced by debentures or other evidences of indebtedness furnished by the Corporation to the Minister, as the Minister may require.

Evidence of advances.

24. The Corporation shall be liable to repay advances made to it by the Minister under section twenty-three of this Act out of moneys received by it under this Act in such manner that the total amount of the said advances owing by it shall not, at any time, exceed the total amount payable to the Corporation under or pursuant to section twenty-two of this Act.

Corporation liable to repay advances.

25. The Minister shall reimburse the Corporation:

(a) for losses sustained by it in respect of His Majesty's share of loans made under the Housing Acts other than *The National Housing Act, 1944*, out of unappropriated moneys in the Consolidated Revenue Fund;

(b) for losses sustained by it in respect of His Majesty's share of loans made by His Majesty jointly with any other person, or in respect of loans made by His Majesty alone, under *The National Housing Act, 1944*, whether made before or after the commencement of this Part, out of moneys appropriated under the said Act for the making of the said loans by the Minister;

(c) for payments made by it to discharge liabilities of His Majesty under any contract, agreement or guarantee made or entered into under the Housing Acts, whether made or entered into before or after the commencement of this Part, out of moneys appropriated for the payment by the Minister of such liabilities under *The Home Improvement Loans Guarantee*

Reimbursement for losses, payments and expenditures.

1937, c. 11.
1938, c. 49.

Act, 1937, and The National Housing Act, 1944, as the case may be;

(d) for payments made by it to a bank or an approved instalment credit agency under Part IV of *The National Housing Act, 1944*, out of moneys appropriated for such payments by the Minister under the said Part; and

(e) for expenditures incurred by the Corporation under any contract not referred to in paragraphs (a), (b), (c) or (d) of this section entered into under *The National Housing Act, 1944*, out of moneys appropriated for the payment of the said expenditures by the Minister under the said Act or otherwise appropriated by Parliament therefor.

Total of
loans or
guarantees
not to
exceed those
under
N.H. Act.

26. The total amount of loans made or guarantees entered into by the Corporation on behalf of His Majesty under *The National Housing Act, 1944*, for any purpose specified in the said Act, shall not, together with any loans or guarantees made or entered into by the Minister on behalf of His Majesty under the said Act before the commencement of this Part for the same purpose, exceed the total amount of the loans or guarantees for the said purpose for which moneys are appropriated under the said Act or are otherwise appropriated by Parliament and made available to the Corporation for the said purpose.

Research
and
information.

27. The Corporation shall conduct research into the business of lending money on the security of mortgages and for such purpose shall compile information relating thereto.

Agreement
with lending
institution.

28. The Corporation may enter into an agreement with a lending institution under which the lending institution agrees to furnish to the Corporation information in respect of interest rates, losses on loans secured by mortgages, costs of construction and of land, comparative rentals, availability of money for loans on the security of mortgages in different parts of Canada, costs of operation of the business of lending money on the security of mortgages, methods of appraising real and immovable property and such other information as may assist the Corporation in research into the conduct of the business of lending money on the security of mortgages and under which the Corporation will agree to furnish to the lending institution information and material relating to the lending of money on the security of mortgages.

Corporation
powers under
agreement
with lending
institution.

29. (1) Where the Corporation has entered into an agreement with a lending institution under section twenty-eight of this Act, the Corporation may out of its capital

and reserve fund established under section thirty-one of this Act or out of such other moneys as may be appropriated by Parliament for such purpose:—

- (a) purchase all right or interest of the lending institution in a mortgage and take an assignment of the said mortgage;
 - (b) if the lending institution is a trust or loan company, make loans to the company on such terms and conditions including the rate of interest, as the Board may determine, upon the security of an assignment of or an agreement to assign mortgages held by the company; and
 - (c) if the lending institution is a trust or loan company, buy the debentures or other evidences of indebtedness, Guaranteed Investment Receipts or Guaranteed Investment Certificates of the company,
- and the Corporation may sell to any person all right or interest of the Corporation in any mortgage held by it and assign the said mortgage to the said person.

(2) The Corporation may acquire, hold and dispose of collateral security for the repayment of loans or the payment of debentures, other evidences of indebtedness, Guaranteed Investment Receipts or Guaranteed Investment Certificates, made or purchased by the Corporation under this section.

Acquire and dispose of collateral security.

ANCILLARY POWERS.

30. (1) The Corporation may:

- (a) in realizing upon any mortgage or other security, assigned to or acquired by the Corporation, take title to real or immovable property and may sell or dispose of such property;
- (b) acquire and hold real or immovable property for its actual use in operation and management of its business, sell or dispose of the same and acquire other such property in its stead for the same purposes;
- (c) open deposit accounts with the Bank of Canada or any bank incorporated under *The Bank Act*;
- (d) invest in securities of or guaranteed by the Dominion of Canada;
- (e) borrow from the Minister and expend moneys appropriated by Parliament to be lent by the Minister to the Corporation or expend any moneys appropriated by Parliament to be expended by the Corporation, for the purposes for which such moneys are appropriated;
- (f) make recommendations to the Minister with regard to the making of grants for slum clearance under section twelve of *The National Housing Act, 1944*;
- (g) exercise or perform any other powers, duties or functions conferred on or required to be performed by

Corporation ancillary powers.

1944-45, c. 30.

1944-45, c. 46.

the Corporation under any other Act or order in council; and

(h) do any act or thing incidental to the conduct of the business of the Corporation.

Corporation
may pay
certain taxes.

(2) Where title to real or immovable property becomes vested in the name of the Corporation or of His Majesty, whether alone or jointly with any other person, in consequence of foreclosure or other proceedings taken in respect of a mortgage assigned to the Corporation or to which His Majesty is a party under the Housing Acts, the Corporation may pay to a municipal or other taxing authority an amount equivalent to the taxes which might be levied in respect of the said property or of the interest of the Corporation or of His Majesty therein by the said authority if the said property or interest were not so vested, and may enter into such agreements as may be necessary to give effect to the provisions of this subsection.

RESERVE.

Reserve
fund.

31. The Corporation shall establish a reserve fund and the profits of the Corporation in each fiscal year remaining after such provision as the Board thinks proper for bad and doubtful debts, depreciation in assets and all such other matters as in the opinion of the Board should be provided for, shall be credited to the reserve fund; Provided that when the reserve fund has reached a total of five million dollars, any profits of the Corporation which would be credited to the reserve fund, shall be paid to the Receiver General.

Proviso.

PART III.

AUDIT.

Auditors ap-
pointment.

32. (1) The Minister, with the approval of the Governor in Council, shall appoint two auditors to hold office for a term not exceeding two years, to audit the affairs of the Corporation.

Audit.

(2) No person shall be eligible to be an auditor unless he resides in Canada, is an accountant who has for a least six years preceding the date of his appointment practised his profession in Canada, and is a member in good standing of an institute or association of accountants incorporated under the authority of the Legislature of any Province of Canada.

Ineligibility.

(3) No person shall be eligible to be an auditor if he or any member of his firm has been auditor for two successive years during the three next preceding years.

Vacancy.

(4) If any vacancy occurs in the office of the auditor of the Corporation, notice thereof shall forthwith be given by the Corporation to the Minister who thereupon shall

appoint some other auditor to serve until the last day of February next following.

(5) No director or officer of the Corporation and no member of a firm of auditors of which a director is a member, shall be eligible for appointment as an auditor. Ineligibility.

(6) The Minister may from time to time require the auditors to report to him upon the adequacy of the procedure adopted by the Corporation for the protection of its creditors and as to the sufficiency of their procedure in auditing the affairs of the Corporation; and the Minister may, in his discretion, enlarge or extend the scope of the audit or direct that any other procedure be established or that any other examination be made by the auditors as the public interest may seem to require. Report.

(7) A copy of every report made by the auditors to the Corporation under this section shall be transmitted to the Minister by the auditors at the same time as such report is transmitted to the Corporation. Copy of reports to be transmitted to Minister.

FISCAL YEAR OF CORPORATION.

33. The fiscal year of the Corporation shall be the calendar year. Fiscal year.

RETURNS.

34. (1) Within ten weeks after the end of each fiscal year, the Corporation shall transmit to the Minister a statement, in the form prescribed by its by-laws, of its accounts for the fiscal year, signed by the President or the Vice-President and the Chief Accountant or Acting Chief Accountant and certified by the auditors of the Corporation, together with such report as the Board may deem desirable or as may be required by the Minister. Annual statement of accounts to Minister.

(2) A copy of the accounts so signed and certified and of the report of the Board shall be forthwith published in the *Canada Gazette* and if Parliament is then sitting, shall, within fourteen days after the receipt thereof by the Minister, be laid before Parliament or if Parliament is not sitting, shall be laid before Parliament within fourteen days after the commencement of the next ensuing session thereof. Publication of accounts.

(3) As soon as practicable after the end of each calendar year, the Board shall prepare a report with regard to the administration of the affairs of the Corporation during the preceding calendar year, and the report shall be laid before Parliament at the same time as the copy of the accounts and report mentioned in the preceding subsection. Annual report to be laid before Parliament.

35. The Corporation shall furnish to the Minister from time to time or periodically at such times and in such manner as he may require, such statements or reports Corporation to furnish Minister statements and reports as required.

with regard to any or all of its business under this Act as he may require.

Falsifying reports

36. Every officer or auditor of the Corporation who verifies any statement, account or list required to be furnished to the Minister pursuant to the provisions of this Act, or who has to do with the delivering or transmitting of the same to the Minister knowing the same to be false in any material particular, shall be guilty of an indictable offence and liable to imprisonment for not more than five years and not less than six months.

Offence.

GENERAL.

Insolvency of winding-up not applicable.

37. No Act relating to the insolvency or winding-up of any corporation shall apply to the Corporation and in no case shall the affairs thereof be wound up unless Parliament so provides.

Organization and preliminary expenses.

38. The Minister, with the approval of the Governor in Council, may incur organization and preliminary expenses in the furtherance of the purposes of this Act between the date of the passing of this Act and the first meeting of the Board of Directors not exceeding twenty-five thousand dollars, and any expenses so incurred may be paid out of unappropriated moneys in the Consolidated Revenue Fund and shall be recoverable from the Corporation.

Approval of G. in C. on recommendation of Minister.

39. Where under the Housing Acts any act, matter or thing to be done by the Minister requires the approval of the Governor in Council or where the Governor in Council may make any orders or regulations on the recommendation of the Minister, the said approval or the said orders or regulations may be made on a recommendation of the Minister.

Salary of officer or employee transferred from Civil Service.

40. (1) Where an officer or employee of the Corporation was an officer, clerk or employee in the Civil Service of Canada immediately prior to his employment by the Corporation, the rate of salary paid to him by the Corporation shall not be less than the rate of salary which he was receiving in the Civil Service immediately prior to his employment by the Corporation.

Superannuation contributions continued until pension fund established.

(2) Where an officer or employee of the Corporation was immediately prior to his employment by the Corporation a contributor under the *Civil Service Superannuation Act*, he shall continue to be such a contributor until the coming into operation of a by-law under subsection three of section fourteen of this Act establishing a pension fund for the officers and employees of the Corporation when he shall

cease to be a contributor under the *Civil Service Superannuation Act* and shall, in the place of receiving any allowance, gratuity or other benefit, under the said Act, become a contributor to the said pension fund.

R.S., c. 24.

(3) During any period while an officer or employee of the Corporation continues to be a contributor under the *Civil Service Superannuation Act* the Corporation shall pay into the Consolidated Revenue Fund to be credited to the Superannuation Account under the said Act a like amount to that contributed by the said officer or employee.

Corporation contribution to Superannuation Account.

(4) When an officer or employee of the Corporation referred to in subsection two of this section becomes a contributor to the pension fund established by the Corporation, the Minister shall, as the Governor in Council may direct, pay to the Corporation, out of the Superannuation Account in the Consolidated Revenue Fund or out of unappropriated moneys in the Consolidated Revenue Fund, such amount as may, with the approval of the Governor in Council, be agreed upon between the Minister and the Corporation in respect of the service of the officer or employee which might have been counted under the *Civil Service Superannuation Act* at the time he became a contributor to the pension fund of the Corporation and the said service of the officer or employee in the Civil Service shall be counted as service with the Corporation for the purposes of the pension fund established by the Corporation.

Payment by Minister to pension fund when officer becomes contributor.

(5) Where an officer or employee of the Corporation mentioned in subsection four of this section terminates his service with the Corporation to return to a position in the Civil Service and becomes a contributor under the *Civil Service Superannuation Act*, the Corporation shall pay into the Consolidated Revenue Fund, out of the pension fund of the Corporation or otherwise, such amount as may, with the approval of the Governor in Council be agreed upon between the Corporation and the Minister, in respect of the service of the said officer or employee which may have been counted for the purposes of the said pension fund at the time of the termination of his service with the Corporation, which amount shall be credited to the Superannuation Account and the said service may thereupon be counted as service in the Civil Service for the purposes of the said Act.

Corporation payment into C.R.F. when officer returns to position in Civil Service.

(6) Where, for the purpose of the *Civil Service Superannuation Act* or the pension fund established by the Corporation, any computation is based on the salary payable during any period to an officer, clerk or employee to whom this section applies, the computation shall be based on the salary payable to the officer, clerk or employee during the relevant period whether in the Civil Service or in the employment of the Corporation.

Basis of computation of salary.

Assistance from government services.

41. The Minister of any department, or the officer in charge of any branch or portion of the Government of Canada, or any agent of His Majesty in right of Canada, may, upon request of the Corporation and with the approval of the Governor in Council, agree to assist the Corporation on such terms and conditions as may be approved by the Governor in Council by providing such services as the Executive Committee may deem advisable for carrying out the business of the Corporation.

Repeal, 1939, c. 40. Assets of Central Mortgage Bank transferred to Corporation.

42. The *Central Mortgage Bank Act* is hereby repealed and the assets of the Central Mortgage Bank shall be transferred to the Corporation which, at their market value, shall be deemed to be a payment of capital by the Minister to the Corporation under section seventeen of this Act.

Coming into force of Part II and Sec. 42.

43. Part II and section forty-two of this Act shall come into force on a date to be fixed by proclamation.

SCHEDULE

OATH OF FIDELITY AND SECRECY

I..... do solemnly swear that I will faithfully, truly and to the best of my judgment, skill and ability, execute and perform the duties required of me as a director (officer or employee as the case may be) of the Central Mortgage and Housing Corporation and which properly relate to any office or position in the said Corporation held by me.

I further solemnly swear that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Corporation, nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Corporation and relating to the business of the Corporation.

OFFICE CONSOLIDATION

1935

CANADIAN FARM LOAN ACT

As amended by 24-25 George V, Chapter 46 (1934) and by
The Canada Farm Loan Act Amendment Act, 1935.

OTTAWA
J. O. PATENAUDE
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1935

CANADIAN FARM LOAN ACT

R.S.C. 1927, Chapter 66, as amended by 24-25 George V, Chapter 46 (1934) and by The Canadian Farm Loan Act Amendment Act, 1935.

NOTE.—All persons making use of this consolidation are reminded that it has not Parliamentary sanction, that the amendments have been embodied only for convenience of reference and that the original Act should be consulted for all purposes of interpreting and applying the Act.

SHORT TITLE

1. This Act may be cited as the Canadian Farm Loan Act. Short title. 1927, c. 43, s. 1.

INTERPRETATION

- 2. In this Act, unless the context otherwise requires,
 - (a) " Board " means the Canadian Farm Loan Board established by this Act; Definitions.
" Board."
 - (b) " Borrower " means a farmer who has obtained a loan under the provisions of this Act; " Borrower."
 - (c) " Commissioner " means the Canadian Farm Loan Commissioner appointed under the provisions of this Act; " Com-
missioner."
 - (d) " Farmer " means a person whose principal occupation consists in farming. " Farmer."
 - (e) " Farming " includes stock raising, dairying and the tillage of the soil. " Farming."
 - (f) " Farm Land " or " Farm " means land under occupation and cultivation by a farmer for immediate occupation and cultivation by him; " Farm
Land."
 - (g) " Farm Loan " or " Loan " means a loan made to a farmer under the provisions of this Act; " Farm
Loan."
 - (h) " Farm Loan bond " means a bond issued under the authority of this Act; " Loan."
" Farm Loan
bond."
 - (i) " Minister " means the Minister of Finance for the time being; " Minister."
 - (j) " Mortgage " and " First Mortgage " include, with relation to loans made in the province of Quebec under this Act, hypothecs and vente à réméré, whether, with relation to the latter, the Board has or has not expressly accorded to the borrower, at the time of making the loan, an additional right to redeem notwithstanding elapse of the time for repayment, and " mortgagor " and " mortgagee " shall be construed accordingly. 1927, c. 43, s. 2. 1935, c. 16 Am. " Mortgage."

PART I

3. (1) There shall be a board, known as the Canadian Farm Loan Board, which shall consist of not less than three nor more than five members who shall be appointed by the Governor in Council, on such terms and conditions as the

Governor in Council may prescribe. One of such members shall be the Deputy Minister of Finance or the Comptroller, Government Guarantee Branch of the Department of Finance.

Farm Loan
Com-
missioner.

(2) One of the members so appointed shall be designated the "Canadian Farm Loan Commissioner," and shall be the chairman of the Board.

Tenure
of office.

(3) The Commissioner shall be appointed for such a period of years as the Governor in Council may designate.

Compen-
sation.

(4) The Commissioner shall be paid such salary and the other members such fees as the Governor in Council may prescribe, such salary and fees to be a charge against the revenues of the Board.

Board as
agent of
owner.

(5) The Board shall be a body corporate and politic and be and be deemed to be for all the purposes of this Act, except contractual dealings between the Government of Canada and the Board relating to the purchase by that Government of the capital stock or bonds of the Board or the repurchase by the Board of those bonds, the agent of His Majesty the King in his right of the Dominion of Canada and to take security, receive, lend, pay, agree, acquire, hold, convey, transfer and otherwise do as this Act directs or authorizes as such agent and not otherwise. 1927, c. 42, s. 3; 1935, c. 16 Am.

Power of
board.
Farm Loan
bonds.

4. The Board may

(a) issue and sell bonds to be known as Canadian Farm Loan bonds, buy the same on its own account and retire the same at or before maturity;

Long term
loans.

(b) make long term loans to farmers on the security of first mortgages on farm lands upon and subject to the conditions hereinafter prescribed;

Real
Estate.

(c) hold real estate which, having been mortgaged or otherwise secured to it, is acquired by it for the protection of any loan, sell, mortgage, lease or otherwise dispose thereof and, if the Board in its discretion shall decide so to do, but not as an obligation, pay yearly to local taxing authorities amounts to the extent of the taxes that would have been owing on such real estate had the same been assessed and a levy made thereon in that year: Provided, however, that any such real estate shall be disposed of within three years from the date on which it is acquired or within such additional period, not exceeding two years, as the Governor in Council may fix and determine;

Investments.

(d) invest its funds in the debentures, bonds, stocks or other securities of, or guaranteed by, the government of Canada, or of, or guaranteed by, the government of any province of Canada;

Assistance.
Incidental
powers.

(e) employ such assistance and exercise by itself or through its duly authorized agents all such incidental powers as shall be necessary or expedient to carry on the business authorized by this Act.

Collateral
Security.

(f) accept and hold such additional and collateral security for loans as the Board may deem proper;

Composi-
tion, etc.

(g) make such composition, extension of time or scheme of arrangement with any borrower on his loan as the Board deems advisable;

- (h) subsequent to the making of any loan, make advances to borrowers for seed grain, fodder, fertilizer, or harvesting expenses. 1927, c. 43, s. 4, 1934, c. 46, s. 2, 3; 1935, c. 16 Am. Advances
for seed
grain, etc.

5. The capital requirements of the Board shall be provided as follows:— Capital
requirements

(1) The Government of Canada may subscribe to an initial capital to an amount not exceeding five million dollars and may pay the amount of any such subscription at such times and in such amounts as in the judgment of the Board are necessary for the purposes of the Board; and the amounts provided from time to time under this subsection shall be free from interest charges for a period of three years, after which time interest shall be paid at such rate as the Governor in Council shall direct, repayment of the amounts so provided shall be made from time to time out of the earnings of the Board; Provided that before any such proposed repayment is made, the reserve fund of the Board provided for by section nine of this Act, shall be at least equal to the total repayments, including the repayment then proposed to be made. Initial
capital.

(2) In addition to the initial capital provided for in the next preceding subsection the Board shall issue capital stock in shares of one dollar each, which shares shall be subscribed for by the Government of Canada from time to time as loans are made under this Act to an amount equal to five per cent of the said loans, so that the total amount subscribed under this subsection shall equal at any time as nearly as may be, five per cent of the total amount of principal outstanding on loans theretofore made, the same to be called for by the Board as required. Capital
stock.

(3) The Minister may purchase at a price not exceeding the par value thereof, the capital stock issued by the Board to any province and for the purpose of such purchase the Minister may make the necessary expenditure out of any unappropriated moneys in the Consolidated Revenue Fund. Purchase of
capital stock.

(4) The Board may retire the outstanding capital stock subscribed by borrowers under the Act, by crediting the amount of the par value of the stock subscribed by the borrower as a payment upon the borrower's indebtedness under his loan from the Board, and when so credited, the borrower shall thereupon cease to be a stockholder of the Board. 1927, c. 43, s. 5; 1935, c. 16 Am. Retirement
of out-
standing
capital
stock.

6. (1) The outstanding Farm Loan bonds shall not exceed at any time twenty times the paid up capital stock subscribed for by the Government of Canada in the manner provided in the next preceding section. Limit of
outstanding
bonds.

(2) Such bonds shall be issued at such a rate of interest as in the opinion of the Board will make the market value of the bonds at the date of issue approximately par. Rate of
interest.

(3) The bonds shall be issued for such period, not exceeding thirty-five years, and in such denominations as the Board may determine. Time limit.
Denomina-
tions.

(4) Provision may be made for the redemption of the bonds at the option of the Board before their due date, in which case the Board may provide for the payment of such premium as it may deem reasonable. Redemption
before date
due.

Form and conditions.

(5) Each Farm Loan bond shall be signed by the Commissioner, or by a member specially authorized thereunto by the Board, and by the secretary or treasurer of the Board, and it shall have printed thereon a certificate by the Commissioner that it is issued under the authority of this Act and that at the time of issue the Board holds mortgages or charges on farm lands, and personalty at least equal to the total amount of bonds issued under this Act. 1927, c. 43, s. 6; 1934, c. 46, s. 4; 1935, c. 16 Am.

LOANS

Conditions for loans.

7. Loans made under the authority of this Act shall be subject to the following conditions:—

“First Mortgages.”

(a) Loans shall be made only on the security of first mortgages on farm lands not exceeding fifty per cent of the actual value of such lands and the buildings thereon as appraised by the Board: Provided that in arriving at such actual value, the value of the buildings shall be considered only to the extent to which the same add to the actual value of the land as farm land and no one person and no two or more persons having joint or several ownership of the land to be mortgaged shall have by way of loan in the aggregate at any one time more than five thousand dollars.

Use of proceeds.

(b) The proceeds of such loan shall be used for following purposes and no other:—

(i) To purchase farm land;

(ii) To purchase fertilizers, seed, live-stock, tools, machinery and any implements and equipment necessary to the proper operation of the farm mortgaged;

(iii) To erect farm buildings or to clear, drain, fence or make any other permanent improvement tending to increase the productive value of the land;

(iv) To discharge liabilities already accumulated;

(v) Any purpose which in the judgment of the Board may be reasonably considered as improving the value of the land for agricultural purposes.

Loans only to persons engaged in cultivation of farm mortgaged.

(c) Loans under this Act shall be made only to farmers actually engaged in or shortly to become engaged in the cultivation of the farm mortgaged and whose experience, ability and character are such as to warrant the belief that the farm to be mortgaged will be successfully cultivated: Provided that no loan shall be made on the security of unimproved land except for the purpose of making improvements on the same.

Appraisal value.

(d) The appraised value shall be based on the value of the land for agricultural purposes and as far as possible on the productive value as shown by experience; and no other basis of valuation shall be considered.

Interest.

(e) The interest rate on loans under this Act shall be such a rate in excess of the interest rate yielded at the time of issue by the last series of Farm Loan bonds issued by the Board as shall be sufficient, in the judgment of the Board, to provide for the expenses of operation and for the necessary reserves for losses, or if no such bonds have been issued, such a rate as in the judgment of the

Board will be yielded by the Farm Loan bonds when issued, increased by provision for expenses and reserves as aforesaid.

- (f) Every loan made under this section shall be repay-able upon such terms and within such periods not in excess of twenty-five years as the Board may prescribe: Provided, however, that all loans repayable over a period in excess of five years shall be repayable in equal annual or semi-annual instalments of principal and interest. Repayment.
- (g) Notwithstanding anything contained in the Interest Act every borrower shall pay simple interest on defaulted payments at a rate not exceeding eight per cent per annum and shall agree to pay when due all assessments, taxes and other charges necessary to be paid for the security of the Board in respect of the loan and to effect such insurance as the Board may require; and should such taxes, assessments and charges not be paid when due, they may be paid by the Board and charged to the borrower, and if not repaid to the Board on or before the next interest date with interest thereon at a rate not exceeding eight per cent per annum the borrower shall be considered in default under the mortgage. Interest on defaulted payments.
- (h) Except as provided in, and subject to, such regulations, not inconsistent with the provisions of the Interest Act, as the Board may prescribe, any borrower may at any time repay the whole or part of his loan on any date on which an instalment becomes due. When the payment is part of the loan only it shall be credited to the borrower in such manner as the Board may by regulation prescribe, but so that no such payment shall relieve the borrower from liability to pay or from continuing to pay, at the times agreed upon, the various instalments next ensuing due after such partial payment is made, and until the loan and interest is repaid in full. "Payments by Borrowers."
- (i) If any borrower under this Act expends any part of a loan for any purpose other than that approved by the Board, the said loan shall at the option of the Board become forthwith payable in full. If loan expended for other purposes.
- (j) It shall be a term of any mortgage taken as security for a loan that upon the sale or lease of the farm land mortgaged the loan shall, at the option of the Board, immediately become due and payable. 1927, c. 43, s. 7; 1935, c. 16 Am. In case of sale.

8. (1) All monies lent under this Act after the thirtieth day of June, 1935, by the Board upon mortgage or other security, and, as well, all monies thereafter owing to the Board by reason of the terms of such mortgage or other security, and secured thereby or pursuant to the provisions of this Act, shall be deemed, for so long as any part of any of such monies remains unpaid to the Board, to be monies of His Majesty the King in his right of the Dominion of Canada, secured by a first and paramount right, privilege, lien and charge upon and against the land or other property to which such mortgage or other security relates.

(2) When the effect at law of any mortgage or other security made or given under this Act after the thirtieth day of June, 1935, to the Board is to convey or transfer to the Board the legal title to the land or other property to which such mortgage or other security relates, such land or other property shall, for so long as any part of any monies lent upon such mortgage or other security or owing to the Board by reason of the terms of such mortgage or other security, and secured thereby or pursuant to the provisions of this Act, remains unpaid, be deemed to be the land or property of His Majesty the King in his right of the Dominion of Canada.

(3) Notwithstanding any law, whether statute or other, now in force or which hereafter may be in force in any province, no mechanic's lien law, taxation lien law or other law or privilege of any species whatever whereunder liens, charges or privileges upon or against land or other property of any species whatever are created, arise or exist shall, without the consent in writing of the Board, which consent shall be revocable, affect or apply to any land or other property of any species whatever or any part thereof or interest therein, to which any mortgage or other security, lien, charge or privilege made or given to the Board under this Act after the thirtieth day of June, 1935, shall relate, in prejudice of the Board as the holder of any such mortgage or other security, lien, charge or privilege so made or given, but every such mortgage or other security, lien, charge or privilege thereafter made or given to the Board shall, for so long as it shall remain wholly or partially unpaid, rank upon such land or other property or part thereof or interest therein, as the case may be, in priority to all other securities, liens, charges or privileges, whatsoever.

(4) Notwithstanding the provisions of the next preceding subsection, if any mortgagor or other person who shall give or make to the Board under this Act after the thirtieth day of June, 1935, any mortgage or other security, lien, charge or privilege shall fail or neglect to pay any lawful rates, taxes or assessments, which, under the law of the province concerned, are claimed to be liens or charges upon or against any land or any such other property, or part thereof or interest therein, to which any mortgage or other security, lien, charge or privilege so thereafter made or given to the Board relates, or if the mortgagor of such mortgage, or other person who has made or given such security, lien, charge or privilege, having agreed with the Board to insure the property to which such mortgage, security, lien, charge or privilege relates and to pay the premiums of insurance, shall fail or neglect to pay such premiums of insurance, as agreed with the Board, and at the times agreed, it shall be lawful, but not obligatory, for the Board to pay—

- (a) such rates, taxes or assessments, if any, as the Board by regulation approved by the Governor in Council on the recommendation of the Minister shall determine to be of a species of taxation which, in general, is of benefit to farm lands.
- (b) such premiums of insurance, if any, as such mortgagor or other person shall have so failed or neglected to pay: Provided, that in any case where the Board shall be advised in advance by the insurer that the latter has

reason to believe that the mortgagor or other person concerned will fail or neglect to pay any such premium of insurance, as and when due, the Board may, in order to prevent the lapse of such insurance, pay or contract to pay any such premium before failure or neglect as aforesaid has actually occurred.

(5) Whenever, pursuant to the two next preceding subsections, the Board shall have paid any such rates, taxes, assessments or insurance premiums all monies so expended by it, with interest thereon not exceeding eight per centum per annum, computed from the time of payment, shall be repaid by such mortgagor or such other person, as the case may be, to the Board on demand and until wholly repaid such payments shall be and be deemed to have been added to the principal sum secured by the mortgage or other security, lien or charge, as the case may be, and failure or neglect fully to repay such payments or any of them on demand shall constitute default on the part of such mortgagor or such other person, as the case may be, entitling the Board to proceed at once to realize by suit or, lawfully, otherwise, upon the mortgage, lien, charge, privilege or other security concerned. 1935, c. 16 Am.

9. The Board shall annually carry to a reserve fund ^{Reserve fund.} twenty-five per cent of the net earnings of the Board until the said reserve shall equal twenty-five per cent of the paid capital stock of the Board, and thereafter there shall be carried to the reserve fund at least ten per cent of the net earnings.

(2) A dividend may be declared annually on the capital ^{Dividend.} stock of the Board when in the judgment of the Board the net earnings of the Board warrant such payment: Provided that no dividend greater than five per cent shall be declared until the reserve fund shall have reached the amount of twenty-five per cent of the paid capital stock.

(3) Whenever, whether as the result of proceedings taken ^{"When title transferred to Board."} to realize upon a mortgage or other security or as the result of compromise or agreement, the right or interest in the land and/or other property concerned which by law remained in the mortgagor or other person after the making or giving of the mortgage or other security becomes vested in the Board so that it holds, as against such mortgagor or other person, title, ownership and right to possession, or whenever, as the result of such proceedings, an amount is realized which is not sufficient to discharge in full the amount of the loan, interest, costs and charges, the capital stock of the Board subscribed for by the Government of Canada shall be cancelled to an amount equivalent to that so subscribed for with relation to loans of the like amount and the amount paid upon capital stock in respect of such loan shall be transferred to reserve account. 1927, c. 43, s. 9; 1935, c. 16 Am.

10. (1) The Board may appoint, for any province or prov- ^{Chief executive officer in provinces.} inces in which it operates or is about to operate, such chief executive officer as, on the nomination of the Board and the recommendation of the Minister, the Governor in Council may approve.

(2) Such officer shall, in the province or provinces for which he is appointed have charge of the operations of the

Board and exercise and perform such powers and duties as it may confer and impose upon him. 1935, c. 16 Am.

Local loan
advisory
board.

11. The Board may appoint for any province or for any two or more provinces in which the Board is authorized to make loans, a local loan advisory board of not more than three members. The chief executive officer appointed by the Board for such province or provinces shall, *ex officio*, be a member of such local loan advisory board and the chairman thereof. The associate members of such local board shall hold office at the pleasure of the Board, and shall be paid such fees as the Board may by regulation prescribe. 1935, c. 16 Am.

Legislation
prejudicially
affecting
security.

12. In the event of legislation being passed by the legislature of any province after loans have been made available in that province which, in the opinion of the Board, would prejudicially affect the security of existing or future loans, the Board, by notice to be published in the *Canada Gazette*, may cease to make further loans in that province. 1927, c. 43, s. 12.

Audit.

13. An audit of the books of the Board shall be made in accordance with regulations made under the provisions of section seventeen of this Act by a firm of chartered accountants appointed for that purpose by the Governor in Council, and a copy of the report of the said accountants on the annual statement of the Board shall be laid before Parliament by the Minister within the first fifteen days of the first session thereof following the date of the said report. 1927, c. 43, s. 14; 1935, c. 16 Am.

Report.

Action of
Board
conclusive.

14. Except as may be otherwise decided from time to time by the Governor in Council, all actions and decisions of the Board shall be deemed within its powers and shall be conclusive against all interested parties. 1927, c. 43, s. 16.

Investment
by
insurance
companies.

15. (1) Notwithstanding anything contained in the Insurance Act any Canadian company as defined in the said Act, may invest its funds or any portion thereof, in the purchase of Farm Loan bonds, and any British company and any foreign company, as therein defined, may hold the said bonds as assets in Canada for the purposes of the said Act.

Investment
by loan
companies.

(2) Notwithstanding anything contained in the Loan Companies Act, any loan company subject to the provisions of the said Act, or any of them, may invest its funds, or any portion thereof, in the purchase of Farm Loan bonds.

Investment
by trust
companies.

(3) Notwithstanding anything contained in the Trust Companies Act, any trust company subject to the provisions of the said Act, or any of them, may invest its funds or any portion thereof in the purchase of Farm Loan bonds. 1927, c. 43, s. 17.

Purchase
of bonds by
Minister.

16. (1) The Minister may purchase from time to time, on behalf of the Dominion of Canada, from the Board, bonds issued by the Board, which bonds shall on the request of the Minister be repurchased by the Board at the price originally paid therefor when funds for that purpose become available through the public sale of Farm Loan bonds: Provided that the amount of such bonds held at any one time by the Minister on behalf of the Dominion of Canada shall not exceed fifty million dollars.

(2) The Governor in Council may authorize the guarantee of the principal and interest of Farm Loan bonds to the amount of forty million dollars. Guarantee.

(3) The guarantee or guarantees may be signed on behalf of His Majesty by the Minister and such signature shall be conclusive evidence for all purposes of the validity of the guarantee and that the provisions of this Act have been complied with. 1927, c. 43, s. 18; 1934, c. 46, s. 8; 1935, c. 16 Am. Signed by
the Minister.

17. The Board may, subject to the approval of the Governor in Council, make regulations not inconsistent with the provisions of this Act for the conduct of the business of the Board, and without limiting the generality of the foregoing provision the Board shall have power to provide by regulation for Regulations.

- (a) the employment of officers, appraisers, inspectors attorneys, clerks and other employees, their remuneration and their duties;
- (b) the charges to be made against borrowers for the expenses of appraisal, determination of title and recording;
- (c) the bases of valuation of farm land;
- (d) the form of application for loans, farm loan bonds, mortgages, books of account and annual statements of the Board;
- (e) the manner of crediting advance payments by borrowers under the mortgages;
- (f) the auditing and inspection of the accounts and assets of the Board;
- (g) the bonding of agents, officers and employees of the Board;
- (h) the signing of cheques, transfers, assignments, discharges, deeds, bonds and other instruments of the Board;
- (i) the duties and salaries of the chief executive officers appointed under section ten;
- (j) the duties, fees and scale of expenses of the local advisory loan committees appointed under section eleven. 1927, c. 43, s. 19; 1935, c. 16 Am.

18. The amount of any payment by the Government of Canada on account of capital of the Board or as payment for Farm Loan bonds purchased shall be paid out of the Consolidated Revenue Fund on the authority of the Governor in Council. Payments
out of the
Consolidated
Revenue
Fund. 1927, c. 43, s. 20.

PART II

19. (1) Notwithstanding anything contained in Part I of this Act, the Board may in any case where it lends on the security of a first mortgage, make a further loan for a period of not more than six years, repayable on such terms as the Board may determine, on the security of a second mortgage on the farm lands and in those provinces of Canada where chattel security may be taken by the Board, of a charge on live stock and other personal property. Further
loan may
be made.

(2) The aggregate of loans made to any one borrower under the provisions of Parts I and II of this Act shall not exceed, in those provinces of Canada where chattel security may be Aggregate
of loans.

taken by the Board, two-thirds of the appraised value of the land and buildings in respect of which security is taken, and in any province where chattel security may not be taken sixty per cent of the said value and shall not exceed at any one time the sum of six thousand dollars. The amount advanced under this section shall not exceed one-half the amount advanced on the security of the first mortgage.

Purposes
for which
loan is
to be used.

(3) Loans made under this Part of this Act shall be used for the following and no other purposes:—

- (a) to enable the debtor to pay existing liabilities;
- (b) to purchase live stock, tools, machinery, implements and equipment necessary for the proper operation of the farm mortgaged;
- (c) to erect farm buildings or to clear, drain, fence or make any other permanent improvement tending to increase the productive value of the land;
- (d) for such other purposes relating to the development and operation of the farm as the Board approves.

Interest
rates.

(4) The interest rate on loans made under this section shall not exceed the current rate charged in respect of first mortgage loans under this Act by more than one per centum per annum. 1934, c. 46, s. 9; 1935, c. 16 Am.

Loans to
mortgagee.

20. (1) In addition the Board may, subject to the conditions hereinafter provided, lend to a mortgagee on the security of the assignment or hypothecation of a first mortgage on farm lands situate in any province in which the Board is empowered to make loans under this Act.

When
composition,
etc.
approved,
1934, c. 53.

(2) Whenever a proposal for a composition, extension or scheme of arrangement made under *The Farmers' Creditors Arrangement Act, 1934*, has been duly approved, the mortgagee shall be eligible for a loan which shall be disbursed to the farmer for such purposes in connection with the proper operation of the farm lands covered by the first mortgage and in such instalments as may be agreed to by the Board.

Limit
of loan.

(3) No loan made hereunder shall be for an amount exceeding one-quarter of the principal amount owing on account of the mortgage assigned or hypothecated.

Rate of
interest.

(4) Each loan shall bear interest at the rate charged by the Board on loans made under Part I of this Act and shall be for a period not exceeding one year, but in any event shall be repayable with interest out of the first moneys received by the mortgagee or the Board on account of the mortgage assigned or hypothecated.

Extension
of time for
repayment.

(5) The Board may on the application of the mortgagee extend the time for the repayment of the loan for a further period not exceeding one year.

Conditions
as to rate
of interest.

(6) No loan shall be made to a mortgagee unless the mortgagee agrees that the rate of interest payable by the mortgagor to the mortgagee on advances made out of the proceeds of such loan shall not be in excess of the rate of interest payable on the mortgage assigned or hypothecated, and shall in no case be more than one per cent in excess of the rate charged the mortgagee by the Board.

When loans
become
payable
in full.

(7) In the event of the proceeds of any loan not being expended as provided by this section, such loan shall at the option of the Board become forthwith payable in full.

(8) The provisions of subsection two of section five of Part I of this Act shall not apply with respect to loans made under this section. Certain provisions not to apply.

(9) The Governor in Council may make advances to the Board out of any unappropriated moneys in the Consolidated Revenue Fund for the purposes of this section. Advances.

(10) In this section unless the context otherwise requires or implies, the expression, Interpretation.

(a) "first mortgage" and "mortgage" includes an agreement for sale securing the purchase price of farm lands to which the mortgagee has title; "First mortgage."

(b) "mortgagee" means any loan, trust or insurance company incorporated under Dominion or Provincial laws and such other corporations or persons or classes of corporations or persons as may be designated by the Governor in Council. 1934, c. 46, s. 10; 1935, c. 16 Am. "Mortgagee."

21. (1) The Board shall keep separate accounts in respect of the loans made under the provisions of this Part and if such accounts show that losses have been sustained, the amount of such losses shall at the close of each fiscal year be advanced to the Board out of any unappropriated moneys in the Consolidated Revenue Fund, and repayment of the amounts so advanced out of the Consolidated Revenue Fund shall be a first charge on any future profits resulting from operations under this Part. Separate accounts to be kept.

(2) For the purpose of ascertaining whether or not a loss has been sustained, the Governor in Council may make regulations to determine what expenses of the Board shall be allocated to operations under this Part. Regulations.

(3) The provisions of subsection three of section nine of this Act shall apply to loans made under section nineteen of this Act. When title transferred to the Board.

(4) Dividends on capital stock issued by the Board in respect of loans made under this Part shall be declared only out of profits from the operations of the Board under this Part and no such dividend shall be declared until all advances made under the provisions of sub-section one of this section are repaid. 1934, c. 46, s. 11; 1935, c. 16 Am. Dividends.

22. The provisions of Part I of this Act shall apply *mutatis mutandis* in the case of loans made under this Part, except in so far as the provisions of this Part are inconsistent therewith. 1934, c. 46, s. 12. Application of Part I.



CHAPTER 102.

An Act respecting Interest.

SHORT TITLE.

1. This Act may be cited as the Interest Act. R.S., c. 120, s. 1. Short title.

RATE OF INTEREST.

2. Except as otherwise provided by this or by any other Act of the Parliament of Canada, any person may stipulate for, allow and exact, on any contract or agreement whatsoever, any rate of interest or discount which is agreed upon. R.S., c. 120, s. 2. No restriction as to rate except as provided by statute.

3. Except as to liabilities existing immediately before the seventh day of July, one thousand nine hundred, whenever any interest is payable by the agreement of parties or by law, and no rate is fixed by such agreement or by law, the rate of interest shall be five per centum per annum. R.S., c. 120, s. 3. Five per centum to be rate if no other provision.

4. Except as to mortgages on real estate, whenever any interest is, by the terms of any written or printed contract, whether under seal or not, made payable at a rate or percentage per day, week, month, or at any rate or percentage for any period less than a year, no interest exceeding the rate or percentage of five per centum per annum shall be chargeable, payable or recoverable on any part of the principal money unless the contract contains an express statement of the yearly rate or percentage of interest to which such other rate or percentage is equivalent. R.S., c. 120, s. 4. When rate not per annum contracted for only 5 per centum recoverable unless equivalent rate per annum stated.

5. If any sum is paid on account of any interest not chargeable, payable or recoverable under the last preceding section, such sum may be recovered back or deducted from any principal or interest payable under such contract. R.S., c. 120, s. 5. Recovery of sums paid otherwise.

INTEREST ON MONEYS SECURED BY MORTGAGE ON
REAL ESTATE.

No interest recoverable in certain cases unless mortgage states actual rate.

6. Whenever any principal money or interest secured by mortgage of real estate is, by the same, made payable on the sinking fund plan, or on any plan under which the payments of principal money and interest are blended, or on any plan which involves an allowance of interest on stipulated repayments, no interest whatever shall be chargeable, payable or recoverable, on any part of the principal money advanced, unless the mortgage contains a statement showing the amount of such principal money and the rate of interest chargeable thereon, calculated yearly or half-yearly, not in advance. R.S., c. 120, s. 6.

No rate recoverable beyond that so stated.

7. Whenever the rate of interest shown in such statement is less than the rate of interest which would be chargeable by virtue of any other provision, calculation or stipulation in the mortgage, no greater rate of interest shall be chargeable, payable or recoverable, on the principal money advanced, than the rate shown in such statement. R.S., c. 120, s. 7.

No fine, etc., allowed on payments in arrears.

8. No fine or penalty or rate of interest shall be stipulated for, taken, reserved or exacted on any arrears of principal or interest secured by mortgage of real estate, which has the effect of increasing the charge on any such arrears beyond the rate of interest payable on principal money not in arrear.

Interest on arrears.

2. Nothing in this section contained shall have the effect of prohibiting a contract for the payment of interest on arrears of interest or principal at any rate not greater than the rate payable on principal money not in arrear. R.S., c. 120, s. 8.

Overcharge may be recovered back.

9. If any sum is paid on account of any interest, fine or penalty not chargeable, payable or recoverable under the three sections last preceding, such sum may be recovered back, or deducted from any other interest, fine or penalty chargeable, payable or recoverable on the principal. R.S., c. 120, s. 9.

No further interest payable after five years on certain conditions.

10. Whenever any principal money or interest secured by mortgage of real estate is not, under the terms of the mortgage, payable till a time more than five years after the date of the mortgage, then, if at any time after the expiration of such five years, any person liable to pay or entitled to redeem the mortgage tenders or pays, to the person entitled to receive the money, the amount due for principal money and interest to the time of payment, as calculated under the provisions of the four sections last preceding

ceding, together with three months' further interest in lieu of notice, no further interest shall be chargeable, payable or recoverable at any time thereafter on the principal money or interest due under the mortgage.

2. Nothing contained in this section shall apply to any mortgage upon real estate given by a joint stock company or other corporation, nor to any debenture issued by any such company or corporation, for the payment of which security has been given by way of mortgage on real estate. R.S., c. 120, s. 10. When section not to apply.

11. The provisions of the five sections last preceding shall apply only to moneys so secured by mortgage executed after the first day of July, one thousand eight hundred and eighty. R.S., c. 120, s. 11. Preceding sections apply only to mortgages since July 1, 1880.

MANITOBA, BRITISH COLUMBIA, SASKATCHEWAN, ALBERTA
AND THE TERRITORIES.

12. The three sections next following apply to the provinces of Manitoba, British Columbia, Saskatchewan and Alberta and to the Northwest Territories and the Yukon Territory only. 1917, c. 17, s. 1.

13. Every judgment debt shall bear interest at the rate of five per centum per annum until it is satisfied. R.S., c. 120, s. 13. Interest on judgment at 5 per centum.

14. Unless it is otherwise ordered by the court, such interest shall be calculated from the time of the rendering of the verdict or of the giving of the judgment, as the case may be, notwithstanding that the entry of judgment upon the verdict or upon the giving of the judgment has been suspended by any proceedings either in the same court or in appeal. R.S., c. 120, s. 14. From what time calculated.

15. Any sum of money or any costs, charges or expenses made payable by or under any judgment, decree, rule or order of any court whatsoever in any civil proceeding shall for the purposes of this Act be deemed to be a judgment debt. R.S., c. 120, s. 15. Judgment debt defined.

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CHAPTER 28.

An Act respecting Loan Companies.

SHORT TITLE.

1. This Act may be cited as the Loan Companies Act. Short title.
1914, c. 40, s. 1.

PART I.

INTERPRETATION.

- 2.** In this Act, unless the context otherwise requires, Definitions.
- (a) "Minister" means the Minister of Finance and Receiver General; "Minister."
- (b) "real estate" or "land" includes messuages, lands, tenements and hereditaments of any tenure and all immovable property of any kind; "Real estate" or "land."
- (c) "shareholder" means every subscriber to or holder of stock in the company and includes the personal representatives of the shareholder; "Shareholder."
- (d) "Superintendent" means the Superintendent of Insurance; "Superintendent."
- (e) "the company" or "loan company" means a company incorporated for the purpose of "The company" or "loan company."
- (i) exercising the powers set forth in sections sixty-one and sixty-two of this Act; or
- (ii) lending money on the security of mortgages or hypothecs upon freehold real estate, either with or without other objects or powers. 1914, c. 40, s. 2; 1920, c. 14, s. 1.

APPLICATION OF ACT.

3. The provisions of this Act shall apply to every loan company incorporated by Act of the Parliament of Canada after the twelfth day of June, one thousand nine hundred and fourteen. Application.

2. The provisions of Part II of the Companies Act shall not apply to any loan company which after the twelfth day of June, one thousand nine hundred and fourteen, may be incorporated by Act of the Parliament of Canada. Companies incorporated after June 12, 1914.

Loan companies incorporated under R.S.C. 1886, c. 119.

3. Subject to the provisions of subsection five hereof, loan companies formed or incorporated under the provisions of the Companies Act, chapter one hundred and nineteen of the Revised Statutes of Canada 1886, before the eleventh day of August, one thousand eight hundred and ninety-nine, remain and continue subject to the said provisions of the said Companies Act as heretofore amended, and Part III of the Companies Act, chapter seventy-nine of the Revised Statutes of Canada, 1906, shall not, as to any such loan company, in any wise affect any of the said provisions.

Companies incorporated by Act of Parliament.

4. The provisions of paragraph (d) of subsection one and subsection two of section 15, sections 43, 54, 59 to 89 inclusive, and 91 to 98, inclusive, of this Act shall apply to every loan company incorporated by Act of the Parliament of Canada and, in so far as there are provisions in such Act or in any Act applicable to such company inconsistent with the provisions of these sections, the provisions of these sections shall apply and the provisions which are inconsistent as aforesaid shall not apply.

By letters patent.

5. The provisions of paragraph (d) of subsection one and subsection two of section 15, sections 43, 54, 59 to 89, inclusive, and 91 to 98, inclusive, of this Act shall apply to every loan company incorporated by letters patent under authority of any Act of the Parliament of Canada and in so far as there are provisions in such letters patent or in any Act applicable to such loan company inconsistent with the provisions of these sections, the provisions of these sections shall apply and the provisions which are inconsistent as aforesaid shall not apply.

For other provisions, see R.S.C. 1906, c. 79, Part III.

6. For provisions other than those mentioned in the last preceding subsection applicable to loan companies incorporated by letters patent before the twelfth day of June, one thousand nine hundred and fourteen, reference should be had to Part III of the Companies Act, chapter seventy-nine of the Revised Statutes of Canada 1906. R.S., c. 79, s. 275; 1914, c. 40, s. 3; 1927, c. 61, s. 1.

INCORPORATION AND ORGANIZATION.

No letters patent to be issued.

4. No letters patent incorporating a loan company shall after the twelfth day of June, one thousand nine hundred and fourteen, be issued under the provisions of Part III of the Companies Act, chapter seventy-nine of the Revised Statutes of Canada, 1906. 1914, c. 40, s. 4.

Declarations in Act.

5. The capital stock of every loan company incorporated after the twelfth day of June, one thousand nine hundred and fourteen, the name of the loan company, the place where its head office is to be situated, the names, place of

residence and description of each of the provisional directors, shall be declared in the Act of incorporation of every such loan company. 1914, c. 40, s. 5.

6. Every loan company incorporated by Act in the form Model Bill. set forth in Schedule A to this Act shall be a body corporate by the name contained in its Act of incorporation, capable forthwith of exercising all the functions of an incorporated company and shall be invested with all the powers, privileges and immunities and shall be subject to all the liabilities and provisions set forth in this Act. 1914, c. 40, s. 6.

7. The number of provisional directors shall be not less Provisional directors. than five, a majority of whom shall be a quorum. 1914, c. 40, s. 7.

8. The provisional directors may, after giving notice Organization. thereof by advertisement in one or more newspapers published at the place where the head office of the company is situate and in the *Canada Gazette*, open stock books, procure subscriptions of stock, make calls on stock subscribed and do generally what is necessary to organize the company.

2. The first of such calls shall not exceed twenty-five Calls. per cent of the amount subscribed and no subsequent call shall exceed ten per cent thereof and such calls shall be made at intervals of not less than thirty days.

3. Not less than thirty days' notice shall be given of any Notice. call and any notice of call may be effectually given by sending the notice by registered letter to the last known address of each shareholder as contained in the books of the company.

4. The provisional directors may if they think fit, receive Advances. from any shareholder willing to advance the same all or any part of the money due upon the shares held by him beyond the sums actually called for; and upon the money so paid in advance or so much thereof as from time to time exceeds the amount of the calls then due upon the shares in respect of which such advance has been made, the company may pay interest at such rate as the shareholder paying such sum in advance and the directors may agree upon.

5. The provisional directors shall deposit to the credit Deposits. of the company in a chartered bank all moneys received by them on account of stock subscribed or otherwise on account of the company and may withdraw the moneys so deposited for the purposes of the company only. 1914, c. 40, s. 8.

Tenure of office.

9. The provisional directors shall hold office until directors are elected by the shareholders qualified as hereinafter provided. 1914, c. 40, s. 9.

General meeting.

10. As soon as not less than one hundred thousand dollars of the capital stock has been *bona fide* subscribed, and not less than fifty thousand dollars has been paid thereon in cash, the provisional directors may call a general meeting of the shareholders to be held at the place named in the Act of incorporation as the head office of the company.

Limitations as to subscriptions.

2. For the purpose of the organization of the company under the provisions of this Act,

(a) stock upon which less than ten per cent has been paid in cash by the subscriber shall not be deemed to have been *bona fide* subscribed;

(b) any sum paid by any subscriber less than ten per cent of the amount subscribed by him shall not be taken into account as part of the sums paid in on account of subscriptions of stock. 1914, c. 40, s. 10.

Voting.

11. At such meeting only the shareholders who have paid in cash at least ten per cent of the amount of the shares subscribed for by them shall be qualified to vote. 1914, c. 40, s. 11.

Proceedings. Annual meeting.

12. The shareholders so qualified shall at such meeting, (a) determine the day upon which the annual general meeting of the company is to be held;

Election of directors.

(b) elect such number of directors duly qualified under this Act as they think necessary, not less than five nor more than twenty-one.

Quorum.

2. When the number of the directors does not exceed thirteen a majority shall be a quorum, and when the number exceeds thirteen the quorum shall be seven.

Upon election of directors.

3. Upon the election of directors the functions of the provisional directors shall cease. 1914, c. 40, s. 12; 1922, c. 31, s. 2.

Certificate for commencement of business.

13. The company shall not borrow or lend money or otherwise carry on business by exercising any of the powers set forth in sections sixty-one and sixty-two of this Act until it has obtained from the Minister a certificate permitting it to do so, and no application for such certificate shall be given until it has been shown to the satisfaction of the Minister by affidavit or otherwise that

(a) the board of directors has been duly elected;

(b) not less than two hundred and fifty thousand dollars of capital stock has been *bona fide* subscribed;

- (c) the company has at its credit in a chartered bank a sum not less than one hundred thousand dollars paid in by subscribers on account of their subscriptions in excess of any and all liabilities of the company in connection with or arising out of the incorporation, procuring of subscriptions, organization or otherwise howsoever;
- (d) all other requirements of this Act antecedent to the granting of a certificate have been complied with; and
- (e) the expenses of incorporation and organization are reasonable.

2. The particulars of all liabilities of the company shall be disclosed to the Minister at the time the application is made. Particulars of liabilities.

3. No certificate under this section shall be given unless application therefor is made within two years after the passing of the company's Act of incorporation, or within such extended period not exceeding one year as the Governor in Council before the expiration of such two years allows. Time limit for application.

4. If a certificate has not been obtained as in this section provided, the company's Act of incorporation shall thereupon cease to be in force, except for the purpose of winding up the affairs of the company and returning to subscribers the amounts paid by them upon the stock subscribed or so much thereof as they may be entitled to. 1914, c. 40, s. 13. Cessation of Act.

14. Notice of the issue of a certificate of the Minister permitting the company to commence business shall be published by the company in the *Canada Gazette* and in at least one newspaper in the city or place where the head office of the company is situate, and such publication shall be continued for the period of four weeks. 1914, c. 40, s. 14. Publication.

INTERNAL REGULATIONS.

15. The shareholders may at any annual general meeting or at any special general meeting duly called for the purpose fix and regulate by by-law the following matters incident to the management and administration of the affairs of the company, that is to say:— Regulations.

- (a) The day on which the annual general meeting shall be held;
- (b) The notice to be given to shareholders of special general meetings;
- (c) The requirements as to proxies, the record to be kept of them and the time, not exceeding ten days, within which proxies must be produced and recorded prior to a meeting in order to entitle the holder to vote thereon;
- (d) The number of directors, which shall be not less than five nor more than twenty-one;

- (e) Subject to the provisions hereinafter contained, the qualifications of directors;
- (f) The remuneration of the president, vice-presidents and other directors; and
- (g) the exercise of the borrowing powers of the company.

Quorum.

2. When the number of directors does not exceed thirteen a majority shall be a quorum, and when the number exceeds thirteen the quorum shall be seven.

Not to reduce nor increase number of directors.

3. Nothing in this Act shall operate to reduce the number of directors or increase the number forming a quorum of directors of any company permitted under the laws applicable to such company on the first day of July, one thousand nine hundred and twenty-two. 1914, c. 40, s. 15; 1922, c. 31, s. 2.

Election of directors.

16. The election of directors shall be by ballot of the shareholders and shall take place each year at the annual general meeting of the company.

Majority.

2. The persons to the number authorized to be elected who have the greatest number of votes at any election shall be directors.

Equal number of votes.

3. If it happens at any election that two or more persons have an equal number of votes and the election or non-election of one or more of such persons as a director or directors depends on such equality, then the directors who have a greater number of votes or majority of them shall, in order to complete the full number of directors, determine which of the said persons so having an equal number of votes shall be a director or directors.

Failure to elect directors.

4. If at any time, an election of directors is not made or does not take effect at the proper time, the company shall not be held to be thereby dissolved; but such election may take place at any general meeting of the company, duly called for that purpose, and the retiring directors shall continue in office until their successors are elected. 1914, c. 40, s. 16.

Re-elections.

17. Directors shall hold office until the annual general meeting in the year succeeding their election and shall, if otherwise qualified, be eligible for re-election. 1914, c. 40, s. 17.

Qualification of directors.

18. No shareholder shall be eligible for election as a director unless he holds in his own name and for his own use at least twenty-five shares of capital stock of the company and has paid in cash all calls due thereon and all liabilities incurred by him to the company, and if any director makes an assignment for the benefit of creditors or comes within the operation of any insolvency law then in force, or ceases to hold at least twenty-five shares as aforesaid, he shall *ipso facto* cease to be a director. 1914, c. 40, s. 18.

19. The majority of the directors of the company shall at all times be persons resident in Canada and subjects of His Majesty by birth or naturalization. 1914, c. 40, s. 19. Residence and nationality.

20. Vacancies occurring in the board of directors may be filled for the remainder of the term by the directors from among the qualified shareholders of the company; but if the vacancies are not filled, the acts of a quorum of the remaining directors shall not be thereby invalidated. 1914, c. 40, s. 20. Vacancies in board.

21. The directors, as soon as may be after their election, shall proceed to elect by ballot from their number a president and one or more than one vice-president. President and vice-presidents.

2. No general manager or manager of the company shall act in the capacity of president or vice-president of the company. 1914, c. 40, s. 21.

22. The president, or in his absence a vice-president, shall preside at all meetings of the directors and of the shareholders. Chairman.

2. In the absence of both the president and vice-presidents at any meeting, a chairman shall be selected by the directors or shareholders present at such meeting.

3. The presiding chairman may vote as a director at all meetings of directors and as a shareholder at all general meetings of the company, and in case of an equality of votes at any meeting he shall have a second or casting vote. 1914, c. 40, s. 22. Voting.

23. If a vacancy occurs in the office of president or vice-president, the directors shall from themselves elect a president or vice-president who shall continue in office until the next election of directors. Vacancies among officers.

2. If at any time an election of directors is not made or does not take effect at the proper time, the company shall not be held to be thereby dissolved, but such election may take place at any general meeting of the company duly called for that purpose, and the retiring directors shall continue in office until their successors are elected. 1914, c. 40, s. 23.

24. The directors may establish branch offices and local advisory boards within Canada at such times and in such manner as they deem expedient. 1914, c. 40, s. 24. Branch offices.

25. The directors may in all things administer the affairs of the company and may make or cause to be made for the company any description of contract which the company may by law enter into. 1914, c. 40, s. 25. Powers.

BY-LAWS.

By-laws. 26. The directors may make by-laws not contrary to law or to this Act or to any by-law duly passed by the shareholders for

- (a) regulating the allotment of stock, making calls thereon, the payment thereof, the issue and registration of certificates of stock, the issue of share warrants, the forfeiture of stock for non-payment, the disposal of forfeited stock and of the proceeds thereof, and the transfer of stock;
- (b) the declaration and payment of dividends;
- (c) the appointment, functions, duties and removal of all agents, officers and servants of the company, the security to be given by them to the company and their remuneration;
- (d) the time and place for holding meetings of the board of directors, and the procedure in all things at such meetings;
- (e) the imposition and recovery of all penalties and forfeitures admitting of regulation by by-law; and
- (f) the conduct in all other particulars of the affairs of the company.

Confirmation. 2. By-laws made under the authority of this section shall, unless confirmed at the next annual general meeting, only have force until such meeting and in default of confirmation thereat shall from the time of such default cease to have force or effect. 1914, c. 40, s. 26.

CAPITAL STOCK AND CALLS THEREON.

Capital stock. 27. The capital stock of any loan company incorporated by Act in the form set forth in Schedule A to this Act shall be not less than two hundred and fifty thousand dollars and shall be divided into shares of one hundred dollars each. 1914, c. 40, s. 27.

Personal estate. 28. The stock of the company shall be personal estate, and shall be transferable in such manner only, and subject to such conditions and restrictions as are prescribed by this Act, or the by-laws of the company. 1914, c. 40, s. 28.

Calls. 29. The directors may make calls upon the several shareholders in respect of the amount of capital subscribed by them respectively at such times and places and in such payments as this Act and the by-laws, if any, made under its provisions require or allow.

Percentage. 2. The first of such calls shall not in respect of shares subscribed after the organization of the company exceed twenty-five per cent, and no subsequent call in respect of shares subscribed before or after organization shall

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exceed ten per cent, and not less than thirty days' notice shall be given of any call, and any notice of call may be effectually given by sending the notice by registered letter to the last known address of each shareholder as contained in the books of the company. Notice.

3. There shall be an interval of not less than thirty days between the times at which successive calls are payable. Interval.

4. Interest shall accrue and fall due, at the rate of five per cent per annum, upon the amount of any unpaid call, from the day appointed for payment of such call. Interest.

5. The directors may if they think fit receive from any shareholder willing to advance the same all or any part of the money due upon the shares held by him beyond the sums actually called for; and upon the money so paid in advance or so much thereof as from time to time exceeds the amount of the calls then due upon the shares in respect of which such advance has been made, the company may pay interest at such rate as the shareholder paying such sum in advance and the directors may agree upon. 1914, c. 40, s. 29. Advances.

30. If any shareholder fails to pay any call or instalment on or before the day appointed for the payment of the same, the directors may at any time thereafter during such time as the call or instalment remains unpaid, send a notice to such shareholder by registered post to his last known post office address as shown by the books of the company, requesting him to pay the same together with any interest that may have accrued. Forfeiture.

2. The notice shall name a day not less than thirty days from the date of mailing the notice and a place or places on and at which such call or instalments and such interest are to be paid. Notice.

3. Such notice shall also state that in the event of non-payment at or before the time and at the place appointed, the shares in respect of which the call was made or instalment is payable will be liable to be forfeited. Shares to be forfeited.

4. If the requisitions of any such notice are not complied with, any shares in respect of which such notice has been given may at any time thereafter, before payment of all calls or instalments and interest due in respect thereof, be forfeited by resolution of the directors to that effect; and such forfeiture shall include all dividends declared in respect of the forfeited shares and not actually paid before the forfeiture. Forfeit on resolution.

5. Notwithstanding such forfeiture, the holder of such shares at the time of forfeiture shall continue liable to the creditors of the company at such time for the full amount unpaid on such shares at the time of forfeiture, less any Holder to continue liable to creditors.

sums which are subsequently received by the company in respect thereof.

Notice to prior holder.

6. When any share shall have been so forfeited, notice by registered post as aforesaid of the resolution shall be given to the shareholder in whose name it stood immediately prior to the forfeiture, and an entry of the forfeiture with the date thereof shall forthwith be made in the proper books of the company.

Disposal.

7. Any share so forfeited shall be deemed to be the property of the company, and the directors may sell, reallot and otherwise dispose of the same in such manner as they think fit.

Annul forfeits.

8. The directors may, at any time before any share so forfeited shall have been sold, reallotted or otherwise disposed of, annul the forfeiture thereof upon such conditions as they think fit. 1914, c. 40, s. 30.

Transfer.

31. No share shall be transferable, until all calls due thereon up to the date of transfer have been fully paid or until it is declared forfeited for non-payment of a call or calls thereon.

2. No transfer of shares in respect of which the whole amount subscribed has not been paid in shall be made without the consent of the directors. 1914, c. 40, s. 31.

PREFERENCE STOCK.

Preference stock.

32. The directors may make by-laws for creating and issuing any part of the capital stock of the company as preference stock, which preference stock may be preferred in any respect and deferred in any other respect; and without limiting the generality of the foregoing, such preference stock may be either preferred or deferred in matters of the division of profits, payment of dividends and bonuses, election of directors, voting at meetings, rank as regards capital, and in winding up proceedings and in such other matters and respects as may be deemed advisable and as any such by-law may provide.

Sanction of shareholders.

2. No such by-law shall have any force or effect whatever until after it has been unanimously sanctioned by a vote of the shareholders present in person or represented by proxy at a general meeting of the company duly called for considering the same, and representing two-thirds of the subscribed and issued stock of the company, or unanimously sanctioned in writing by the shareholders of the company.

Governor in Council may approve by-law.

3. If the by-law be sanctioned by not less than three-fourths in value of the shareholders of the company, the company may through the Minister petition the Governor in Council for an order approving the said by-law, and the Governor in Council may, if he sees fit, approve thereof,

and from the date of such approval the by-law shall be valid and may be acted upon.

4. Holders of such shares of preference stock shall be Holders to be shareholders shareholders within the meaning of this Act, and shall in all respects possess the rights and be subject to the liabilities of shareholders within the meaning of this Act: but in respect of dividends and otherwise they shall, as against the ordinary shareholders, be entitled to the preferences and Exception. rights given by such by-law.

5. Nothing in this section contained, or done in pursuance thereof, shall affect or impair the rights of creditors Rights saved. of the company. 1914, c. 40, s. 32.

PROCEDURE.

33. The company may enforce payment of all calls and interest thereon, by action in any court of competent jurisdiction. Enforcement of payment. 1914, c. 40, s. 33.

34. In such action it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the defendant is a holder of one share or more, stating the number of shares, and is indebted to the company in the sum of money to which the calls in arrears amount, in respect of one call or more, stating the number of calls and the amount of each call, whereby an action has accrued to the company under this Act. Declaration in action. 1914, c. 40, s. 34.

35. Service of any process or notice upon the company Service. may be made by leaving a copy thereof at the head office of the company, with any adult person in charge thereof, or elsewhere with the president or secretary of the company.

2. If the company has no known office and has no known president or secretary, the court may order such publication as it deems requisite to be made in the premises, for at least one month, in at least one newspaper. Publication.

3. Such publication shall be deemed to be due service Publication deemed service. upon the company. 1914, c. 40, s. 35.

36. Any description of action may be prosecuted and maintained between the company and any shareholder thereof. Actions. 1914, c. 40, s. 36.

INCREASE OF CAPITAL STOCK.

37. The directors may, after the whole authorized capital stock of the company has been subscribed and fifty per cent paid thereon in cash, increase the capital stock to an amount not exceeding the sum named for that purpose in the company's Act of incorporation; but the Increase of capital stock. stock shall not be increased until a resolution of the board Confirmation.

of directors authorizing such increase has been first submitted to and confirmed by the shareholders present or represented by proxy at a special general meeting of the shareholders of the company duly called for that purpose, the vote in favour of such resolution being that of shareholders holding not less than two-thirds of the subscribed capital stock of the company. 1914, c. 40, s. 37.

DECREASE OF CAPITAL STOCK.

38. The directors may by by-law provide for the decrease of the capital stock of the company to any amount not less than two hundred and fifty thousand dollars which they consider sufficient. 1914, c. 40, s. 38.

39. Such by-law shall declare the number of the shares of the stock so decreased and the allotment thereof, or the rules by which the same is to be made. 1914, c. 40, s. 39.

40. The liability of shareholders to persons who are, at the time the stock is decreased, creditors of the company, shall remain as though the stock had not been decreased. 1914, c. 40, s. 40.

41. No by-law for decreasing the capital stock of the company shall have any force or effect unless and until it has been sanctioned by a vote of the shareholders present or represented by proxy at a general meeting of the company duly called for considering such by-law, such vote being that of shareholders holding not less than two-thirds of the subscribed and issued capital stock of the company, and provided that such by-law has afterwards been confirmed by a certificate of the Minister given under the authority of the Treasury Board. 1914, c. 40, s. 41.

42. Upon the application to the Minister for a certificate confirming such by-law, the company shall satisfy him of the *bona fide* character of the decrease of the capital thereby provided for; and, unless it appears that the granting of such certificate would not be in the public interest, the Minister, with the approval of the Treasury Board,

may grant the same: Provided that with the consent of the directors the amount of such decrease of capital may, by the said certificate, be changed, and the decrease made subject to such conditions as the Treasury Board may think proper. 1914, c. 40, s. 42.

SHARE WARRANTS.

43. The company may, if so provided by by-law with respect to any share which is fully paid up, issue under its common seal a warrant stating that the bearer of the

warrant is entitled to the share or shares therein specified, and may provide by coupons or otherwise for the payment of the future dividends on the share or shares included in such warrant, hereinafter referred to as a "share warrant."

2. A share warrant shall entitle the bearer of such share warrant to the shares specified in it, and such shares may be transferred by the delivery of the share warrant. Transfer by delivery.

3. The bearer of a share warrant shall, subject to the by-laws of the company, be entitled on surrendering such share warrant for cancellation to have his name entered as a shareholder in the books of the company, and the company shall be responsible for any loss incurred by any person by reason of the company entering in its books the name of any bearer of a share warrant in respect of the shares specified therein without the share warrant being surrendered and cancelled. Surrender and cancellation.

4. The bearer of a share warrant may, if the by-law so provide, be deemed to be a shareholder of the company within the meaning of this Act either to the full extent or for such purposes as are prescribed by the by-laws: Provided that the bearer of a share warrant shall not be qualified, in respect of the shares specified in such share warrant, to be a director of the company. Bearer to be deemed shareholder.

5. On the issue of a share warrant in respect of any share or shares, the company shall strike out of its books the name of the shareholder then entered therein as holding such share or shares as if he had ceased to be a shareholder, and shall enter in the books the following particulars:— Effect of share warrant

- (a) The fact of the issue of the share warrant;
- (b) A statement of the number of shares included in the share warrant;
- (c) The date of the issue of the share warrant;

and until the share warrant is surrendered the above particulars shall be deemed to be the particulars which are required by section fifty-one of this Act to be entered in the books of the company in respect of such share or shares, and on the surrender of a share warrant the date of such surrender shall be entered as if it were the date at which a person ceased to be a shareholder. Particulars required.

6. The by-laws may determine the conditions upon which share warrants shall be issued, and in particular upon which a new share warrant or coupon will be issued in the place of one worn out, defaced, lost or destroyed, and the conditions upon which the bearer of a share warrant shall be entitled to attend and vote at general meetings, and upon which a share warrant may be surrendered and the name of the holder entered in the books of the company in respect of the shares therein specified. Conditions determined by by-laws.

7. Unless the bearer of a share warrant is entitled to attend and vote at general meetings, the shares represented by such share warrant shall not be counted as part of the stock of the company for the purposes of a general meeting.

8. The holder of a share warrant shall be subject to the by-laws for the time being in force, whether made before or after the issue of such share warrant. 1914, c. 40, s. 43.

SHAREHOLDERS' LIABILITY.

Liability of shareholder.

44. Every shareholder shall, until the whole amount of his stock has been paid, be individually liable to the company to an amount equal to that not paid up thereon. 1914, c. 40, s. 44.

Limited liability.

45. The shareholders of the company shall not, as such, be held responsible for any act, default or liability whatsoever of the company or for any engagement, claim, payment, loss, injury, transaction, matter or thing whatsoever relating to or connected with the company beyond the amount unpaid on their respective shares in the capital stock thereof. 1914, c. 40, s. 45.

Exemptions.

46. No person holding stock in the company as an executor, administrator, tutor, curator, guardian or trustee, shall be personally subject to liability as a shareholder; but the estate and funds in the hands of such person shall be liable in like manner and to the same extent as the testator, or intestate if living, or the minor, ward or other person interested in such trust fund if competent to act and holding such stock in his own name, would be liable. 1914, c. 40, s. 46.

Collaterals.

47. No person holding stock in the company as collateral security shall be personally subject to liability as a shareholder; but the person pledging such stock shall be considered as holding the same and shall be liable as a shareholder accordingly. 1914, c. 40, s. 47.

TRANSMISSION OF INTEREST IN SHARES, DEBENTURE STOCK, ETC.

Declaration of transmission.

48. If the interest of any person in any share in the capital stock or debenture stock, or in any bond, debenture or obligation of the company, such bond, debenture or obligation not being payable to bearer, or in any deposit or any other money in the hands of the company, is transmitted in consequence of the death, or bankruptcy, or insolvency of the holder thereof, or by any lawful means other than a transfer upon the books of the company, the directors shall not be bound to allow any transfer pursuant

to such transmission to be entered upon the books of the company, or to recognize such transmission in any manner until a declaration in writing, showing the nature of such transmission, and signed and executed by the person claiming by virtue of such transmission, and also executed by the former shareholder, or holder, if living, and having power to execute the same, shall have been filed with the manager or secretary of the company and approved by the directors, and if the declaration purporting to be signed and executed also purports to be made or acknowledged in the presence of a notary public, or of a judge of a court of record or of a mayor of any city, town or borough, or other place, or a British consul, or vice-consul or other accredited representative of the British Government in any foreign country, the directors may, in the absence of direct actual notice of a contrary claim, give full credit to the declaration and, unless the directors are not satisfied with the responsibility of the transferee, shall allow the name of the party claiming by virtue of the transmission to be entered in the books of the company. 1914, c. 40, s. 48.

Filing and approval.

49. If the transmission takes place by virtue of any testamentary act or instrument, or in consequence of an intestacy, and if the probate of the will or letters of administration or testamentary documents, or other judicial or official instrument under which the title, whether beneficial or as a trustee, or the administration or control of the personal estate of the deceased is claimed to vest, purports to be granted by any court or authority in Canada or elsewhere, and if the probate of the said will or the said letters of administration or the said document testamentary or the said other judicial or official instrument or an authenticated copy thereof or official extract therefrom, together with the declaration mentioned in the last preceding section of this Act, be produced and deposited with the manager, secretary, treasurer or other officer named by the directors for the purpose of receiving it, such production and deposit shall be sufficient justification and authority to the directors for paying the amount or value of any dividend, coupon, bond, debenture, obligation or share, or any deposit or any other moneys payable by or in the hands of the company, or transferring or consenting to the transfer of any bond, debenture, obligation or share, or any deposit or any other moneys payable by or in the hands of the company, in pursuance of, and in conformity to, such probate, letters of administration or such other document as aforesaid. 1914, c. 40, s. 49.

Transmission by will or intestacy.

Production and filing of documents.

Judicial
order in case
of doubt.

50. Whenever the directors entertain reasonable doubts as to the legality of any claim to or upon such shares, bonds, debentures, obligations, dividends or coupons, or the proceeds thereof, or any deposit or any other moneys payable by or in the hands of the company, then and in such cases the directors may file in any court of competent jurisdiction in the province in which the head office of the company is situated a petition stating such doubts, and praying for an order or judgment adjudicating and awarding the said shares, bonds, debentures, obligations, dividends, coupons, or proceeds thereof or any deposit or any other moneys payable by or in the hands of the company to the parties legally entitled thereto.

Authority
of court.

2. Such court shall have authority to restrain any action, suit or proceedings against the company, the directors and officers thereof, for the same subject matter, pending the determination of the petition, and the company and the directors and officers thereof shall be fully protected and indemnified by obedience to such order or judgment against all actions, suits, claims and demands in respect of the matters which have been in question in such petition, and the proceedings thereupon.

Costs, etc.

3. If the court adjudges that such doubts were reasonable, the costs, charges and expenses of the company in and about such petition and proceedings, shall form a lien upon such shares, bonds, debentures, obligations, dividends, coupons or proceeds thereof or any deposit or any other moneys payable by or in the hands of the company, and shall be paid to the company before the directors shall be obliged to transfer, or assent to the transfer of or to pay such shares, bonds, debentures, obligations, dividends, coupons or proceeds thereof or any deposit or any other moneys payable by or in the hands of the company to the parties found entitled thereto. 1914, c. 40, s. 50.

BOOKS OF THE COMPANY.

Books and
contents.

51. The company shall cause a book or books to be kept by the secretary, or by some other officer specially charged with that duty, wherein shall be kept recorded

- (a) the names, alphabetically arranged, of all persons who are or have been shareholders;
- (b) the address and description of every such person, while such shareholder;
- (c) the number of shares of stock held by each shareholder;
- (d) the amounts paid in, and remaining unpaid, respectively, on the shares of stock of each shareholder;

- (e) all transfers of stock, in their order as presented to the company for entry, with the date and other particulars of each transfer, and the date of the entry thereof;
- (f) particulars of outstanding share warrants;
- (g) the names, addresses and description of all persons who are or have been directors of the company, with the several dates at which each became or ceased to be such director;
- (h) where debentures of the company are payable to registered holders, a register wherein shall be set forth the names and addresses of persons holding such debentures, with the respective amounts thereof to which they are respectively entitled and the numbers by which the debenture certificates are distinguished;
- (i) all transfers of registered debentures in their order as presented to the company for entry, with the date and other particulars of each transfer, and the date of entry thereof;
- (j) a similar register and transfer book for debenture stock;
- (k) books of account from which shall be made up the annual statement required by this Act to be made to the Minister, such books of account as regards liabilities to the public to be kept separate and distinct from other books of account of the company. 1914, c. 40, s. 51.

52. No transfer of stock of the company, unless made by sale under execution or under the decree, order or judgment of a court of competent jurisdiction, or unless the stock is represented by an outstanding share warrant, shall be valid for any purpose whatsoever until entry thereof has been duly made in such book or books, except for the purpose of exhibiting the rights of the parties thereto towards each other, and of rendering the transferee liable, in the meantime, jointly and severally with the transferor, to the company and its creditors. 1914, c. 40, s. 52.

Validity of transfers of stock.

53. Such books shall, during reasonable business hours of every juridical day, be kept open at the head office of the company, for the inspection of shareholders and creditors of the company, and their attorneys, agents or other representatives without the payment of any fee or charge, and every shareholder, creditor or his representative may make extracts therefrom. 1914, c. 40, s. 53.

Inspection of books.

MEETINGS AND VOTING.

54. An annual general meeting of the company shall be called at its head office once in each year after the organization of the company and the commencement of business,

Annual general meetings.

and at such meeting a statement of the affairs of the company shall be submitted.

Special
general
meetings.

2. Special general meetings may be called by any three of the directors, or the directors shall upon a written requisition signed by any twenty-five shareholders, specifying in the requisition the object of the meeting, call such special general meeting and notice thereof shall be given as provided in the by-laws of the company.

Statement
of affairs
to be
furnished
shareholders.

3. The directors shall, at least ten days before the date on which the annual general meeting is to be held, forward through the post a copy of the statement of the affairs of the company to each shareholder at his last known address as shown by the records of the company together with a notice of the time and place at which the meeting will be held and the names of the auditors eligible for appointment at the meeting under the provisions hereinafter set out.

Certificate
to be
appended to
statement.

4. A certificate forming part of such statement shall be appended thereto and shall be signed by the manager, general manager or other chief executive officer of the company and not less than two of the directors, and shall state that to the best of their knowledge and belief the statement is correct and shows truly and clearly the financial condition of the company's affairs. 1914, c. 40, s. 54.

Voting.

55. No shareholder who is in arrears in respect of a call upon any share shall be entitled to vote in respect of such share at any meeting of the company. 1914, c. 40, s. 55.

Publication
of notices.

56. In the absence of other provisions in that behalf in the by-laws of the company, notice of the time and place for holding general meetings of the company shall be given at least ten days previously thereto, in some newspaper published at the place in which the head office of the company is situated, or if there is no newspaper there published, then in the newspaper published nearest thereto. 1914, c. 40, s. 56.

Number of
votes.

57. Subject to the provisions of this Act and the by-laws made hereunder every shareholder shall be entitled to as many votes at all general meetings of the company as he owns shares in the company and may vote by proxy, but the holder of a proxy must himself be a shareholder and entitled to vote.

Ballot.

2. In all cases where the votes of the shareholders are taken the voting shall be by ballot. 1914, c. 40, s. 57.

Executors,
etc., may
vote.

58. Every executor, administrator, tutor, curator, guardian or trustee shall represent the stock in his possession in his fiduciary capacity at all meetings of the company, and may vote as a shareholder. 1914, c. 40, s. 58.

AUDIT.

59. The shareholders shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting. Auditors.

2. If an appointment of auditors is not made at an annual general meeting, the Minister may, on the application of any shareholder, 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. Appointment by Minister.

3. A director or officer of the company shall not be capable of being appointed auditor of the company. Officers excluded.

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 fifteen 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 as in this Act provided. Notice of nomination of new auditor.

5. The first auditors of the company may be appointed by the directors before the first annual general meeting, but shall only hold office by virtue of such appointment until the time of such meeting. Appointments prior to first meeting.

6. The directors may fill any casual vacancy in the office of auditor, but while any such vacancy continues the surviving or continuing auditor, if any, may act. Vacancies.

7. The remuneration of the auditors of the company shall be fixed by the shareholders at each annual general meeting, except that the remuneration of any auditors appointed before the first annual general meeting or to fill any casual vacancy may be fixed by the directors. 1914, c. 40, s. 59. Remuneration.

60. 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 an auditor. Powers of auditor.

2. The auditors shall make a report Report.

(a) to the shareholders on the statement submitted to the company at the annual general meeting; and

(b) to the Minister on the annual statement to be prepared and transmitted to him in pursuance of this Act, and the report in each case shall state

(i) whether they have obtained all the information and explanations they have required, and

- (ii) whether in their opinion the respective statements are 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.

Copy and
statement.

3. A copy of the auditors' report to the shareholders shall be attached to and sent to each shareholder with the statement to be forwarded to him through the post under the provisions of this Act. 1914, c. 40, s. 60.

POWERS OF THE COMPANY.

Debentures,
bonds,
stocks, and
securities
of Canada,
Provinces,
Great
Britain,
United
States, etc.

61. The company may invest its funds in

(a) the debentures, bonds, stocks or other securities of or guaranteed by the Government of the Dominion of Canada; or of or guaranteed by the Government of any province of Canada; or of or guaranteed by the Government of Great Britain, or of any colony or dependency thereof; or of or guaranteed by the Government of the United States or of any state thereof; or of any municipal or school corporation in Canada; or guaranteed by any municipal corporation in Canada; or secured by rates or taxes, levied under the authority of the Government of any province of Canada on property situated in such province and collectable by the municipalities in which such property is situated;

Company
bonds.

(b) the bonds, debentures, debenture stock or other securities of any company incorporated under the laws of Canada or of any province of Canada, or of any former province now forming part of Canada, which are secured by a mortgage or hypothec to trustees or a trust corporation or otherwise, upon improved real estate of such company or other assets of such company of the classes mentioned in paragraph (a) hereof;

Company
debentures
paying
dividends.

(c) the bonds, debentures, notes or other obligations whether secured or unsecured of any such company which has earned and paid regular cash dividends of not less than four per cent per annum on its issued stock for a term of at least five years immediately preceding the date of investment in such bonds, debentures, notes or other obligations;

Preferred
stocks of
dividend
paying
companies.

(d) the preferred stocks of any such company which has paid regular dividends upon such stocks or upon its common stocks for not less than five years immediately preceding the purchase of such preferred

stocks, or the stocks of any such company which are guaranteed by a company incorporated as aforesaid which has paid regular dividends upon its preferred or common stocks for not less than five years immediately preceding the purchase of such guaranteed stocks: Provided that the amount of stocks so guaranteed is not in excess of fifty per cent of the amount of the preferred or common stocks, as the case may be, of the guaranteeing company;

- (e) the common stocks of any such company or of any chartered bank in Canada upon which regular cash dividends of at least four per cent per annum have been paid for the seven years immediately preceding the purchase of such stocks: Provided that not more than thirty per cent of the common stocks and not more than thirty per cent of the total issue of the stocks of any company or bank shall be purchased by the company; or Common stocks of dividend paying companies and chartered banks.
- (f) mortgages or hypothecs on improved real estate or leaseholds, but the amount paid for any such mortgage or hypothec shall in no case exceed sixty per cent of the value of the real estate or leaseholds covered thereby. Mortgages on improved real estate.
2. The company may lend its money on the security of Loans.
- (a) any of the securities mentioned in paragraphs (a) and (b) of subsection one hereof; Authorized securities.
- (b) the bonds, debentures, notes, stocks or other securities of any chartered bank in Canada or of any company incorporated under the laws of Canada or of any province of Canada, or of any former province now forming part of Canada, other than those mentioned in paragraph (b) of subsection one hereof, provided that the market value of the securities on which the loan is made shall exceed the amount of the loan by at least twenty per cent of such market value, or twenty per cent of the par value, whichever is the less; and provided further that the amount loaned on the security of the stocks of any such company or bank shall not exceed twenty-five per cent of the market value of the total stocks of such company or bank; or Bonds, debentures, etc.
- (c) improved real estate or leaseholds: Provided, however, that no such loan shall exceed sixty per cent of the value of the real estate or leaseholds which forms the security for such loan, but this proviso shall not prohibit a company from accepting as part payment for real estate sold by it, a mortgage or hypothec thereon for more than sixty per cent of the sale price of such real estate. Improved real estate.

Other investments on authority of Treasury Board.

3. The Treasury Board may authorize the company to purchase or invest in stocks and securities not fulfilling the foregoing requirements of this section.

(a) for the *bona fide* purpose of protecting investments previously made by the company.

(b) obtained under a *bona fide* arrangement for the reorganization of a company whose stocks or securities were previously owned by the company, or

(c) obtained through the exercise of rights conferred by investments made prior to the first day of July, one thousand nine hundred and twenty-two.

Investments not to exceed 20 per cent of securities issued by company.

4. Notwithstanding anything in this section contained, the amount of the company's investment under the authority of this section in or upon the security of the debentures, bonds, stock and other securities of a company incorporated as aforesaid shall not exceed twenty per cent of the debentures, bonds, stock or other securities issued by such company.

Collateral security.

5. The company may take personal or other security as collateral for an advance or for any debt due to the company.

No loans to directors.

6. The company shall not lend any of its funds to any of its directors, or to the wife or any child of any of its directors.

Vacant lands.

7. The company shall not lend any of its funds on the security of vacant land not used for agricultural purposes. 1922, c. 31, s. 3.

Agency association.

62. The company may act as an agency association for the interest and on behalf of others who entrust it with money for that purpose, and may, either in the name of the company or of such others, lend and advance money to any person, upon such securities as are mentioned in the last preceding section of this Act, and may purchase and acquire any securities on which it is authorized to advance money, and resell the same.

Enforcement of conditions.

2. The conditions and terms of such loans and advances and of such purchases and resales may be enforced by the company for its benefit and for the benefit of the person for whom such money has been lent and advanced, or such purchase and resale made; and the company shall have the same power in respect of such loans, advances, purchases and sales as are conferred upon it in respect of loans, advances, purchases and sales made from its own capital.

Guarantee of repayment.

3. The company may guarantee the repayment of the principal, or the payment of the interest, or both, of any moneys entrusted to the company for investment.

Business of other companies.

4. The company may liquidate and carry on for the purposes of such liquidation the business of any other company

company carrying on any business which the company is authorized to carry on, upon such terms as may be agreed upon. 1914, c. 40, s. 62.

USE OF FUNDS.

63. The company shall not

Limitations.

- (a) lend or advance money upon the security of its own stock;
- (b) invest in or lend money upon the security of the stock of any other loan company;
- (c) lend upon the security of or purchase or invest in bills of exchange or promissory notes. 1914, c. 40, s. 63.

BORROWING POWERS.

64. The company may borrow money and may issue its bonds, debentures or other securities for moneys borrowed.

Borrowing.

2. Bonds and debentures so issued may be made payable to order or to bearer or to registered holder or otherwise as the company deems advisable. 1914, c. 40, s. 64.

How bonds made payable.

65. The company may receive money on deposit upon such terms as to interest, security, time and mode of repayment and otherwise as may be agreed upon, but the amount held on deposit shall not at any time, except as authorized by subsection two of this section, exceed the aggregate amount of its then actually paid up and unimpaired capital stock and of its cash actually in hand or deposited in any chartered bank in Canada, or such larger amount as may be authorized by the company's Act of incorporation.

Deposits.

Limit of amount to be held.

2. The company may, by by-law passed by the directors and approved by at least a three-fourths vote of the shareholders present or represented by proxy at the annual or other general meeting of the company duly called for the purpose of considering the same, increase the amount which may be received on deposit under the provisions of subsection one hereof to such an amount as the said by-law may provide, subject to the provisions of section sixty-eight of this Act and to the following conditions:—

Amount held on deposit increased by by-law.

- (a) A copy of such by-law and notice of meeting of shareholders called to approve the same shall be sent and given by registered mail to every registered debenture holder resident outside of Canada or to the chief agent or chief agents of the company for the sale of debentures of the company outside of Canada at least thirty days before the date for which the said meeting is called;

Notice of meeting to pass by-law.

Notice in
Gazette.

(b) A notice of the by-law and of the meeting of the shareholders called to approve the same shall be given in the *Canada Gazette* at least thirty days before the date for which the said meeting is called and such notice shall be continued for the space of four weeks;

By-law to
provide for
redemption
of
debentures
when
required by
objecting
debenture-
holder.

(c) The said by-law shall provide that any debenture holder of the company who, within sixty days after the approval of the same by the shareholders, notifies the company in writing that he objects to the said by-law and makes application for the redemption of any debenture of the company held by him shall be entitled to have such debenture redeemed according to its terms on the first interest date following the receipt by the company of the said notice, and the company shall on the said interest date redeem the said debenture.

Notice for
withdrawal
of deposits.

3. All deposits of money received by the company under the provisions of this section on and after the first day of January, one thousand nine hundred and twenty-three, shall be, and be deemed to have been, received on the condition that the company shall have the right to require at least thirty days' notice for the withdrawal of the amount so deposited or any portion thereof.

Reserves.

4. The company shall at all times maintain

Cash.

(a) cash on deposit in chartered banks in Canada or in joint stock banks of Great Britain; or

Securities.

(b) securities of or guaranteed by the Government of Canada, or of or guaranteed by any province of Canada, or of or guaranteed by Great Britain, or of any municipal or school corporation in Canada; or

Loans.

(c) loans payable on demand and fully secured by such securities; or

Credits.

(d) a credit from chartered banks in Canada or from joint stock banks of Great Britain, subject to conditions approved by the Superintendent,

To an
aggregate
of at least
20 per cent
of amount
deposited.
Moneys
deemed
borrowed.

to an aggregate amount of at least twenty per cent of the amount of money deposited with the company. 1922, c. 31, s. 4.

66. All moneys of which the repayment of the principal or payment of interest is guaranteed by the company shall be deemed to be money borrowed by the company. 1914, c. 40, s. 66.

Issue of
debenture
stock.

67. The directors of the company may, with the consent of the shareholders at a special general meeting duly called for the purpose, create and issue debenture stock in sterling or currency, in such amounts and manner, on such terms and bearing such rate of interest as the directors from time to time think proper.

2. Debenture stock shall be treated and considered as part of the ordinary debenture debt of the company. Part of ordinary debt.

3. Debenture stock shall rank equally with the ordinary debenture and deposit debt of the company, and no greater rights or privileges shall be conferred upon holders of debenture stock in respect thereof than are held or enjoyed by depositors or holders of ordinary debentures of the company. Ranking.

4. Debenture stock shall be transferable in such amounts and in such manner as the directors determine. Transfer.

5. Holders of ordinary debentures of the company may, with the consent of the directors, at any time exchange such debentures for debenture stock. Exchange.

6. The company having issued debenture stock may from time to time as it thinks fit in the interest of the company, but only with the consent of the holders thereof, buy up and cancel the debenture stock or any portion thereof. Cancellation.

7. All transfers of debenture stock of the company shall be registered at the head office of the company and not elsewhere, but the said transfers may be left with such agent or agents in Great Britain or elsewhere as the company appoints for that purpose, for transmission to the company's head office for registration. 1914, c. 40, s. 67. Registration at head office.

LIABILITIES TO THE PUBLIC.

68. The aggregate of the sums of money borrowed by the company shall not at any time, except as authorized by subsection two of this section, exceed four times the combined amounts of its then actually paid up and unimpaired capital stock and reserve. Limitation of borrowing powers.

2. The company may by by-law passed by the directors and approved by at least a three-fourths vote of the shareholders present or represented by proxy at an annual or other general meeting of the company duly called for the purpose of considering the same, increase the limit of the amount which may be borrowed by the company under the provisions of subsection one hereof to such an amount as the said by-law may provide, subject to the following conditions:— By-law to increase limit of amount.

(a) A notice of the by-law and of the meeting of the shareholders called to approve the same, shall be published in four consecutive issues of the *Canada Gazette* and in four consecutive weekly issues of a newspaper printed in every city or town in Canada where the Company has its head office or a branch office, and the said notice shall also be sent and given by registered mail to every registered debenture holder, whether resident within or outside of Canada, and to the chief agent or chief agents of the Company Conditions. Publication of notice.

for the sale of debentures of the Company outside of Canada at least sixty days before the date for which the said meeting is called;

Rights preserved of debenture-holder objecting to by-law.

(b) The said by-law shall provide that any debenture-holder of the company who, within sixty days after the approval of the same by the shareholders, notifies the company in writing that he objects to the said by-law and makes application for the redemption of any debenture of the company held by him, shall be entitled to have such debenture redeemed according to its terms on the first interest date following the receipt by the company of the said notice, and the company shall, on the said interest date, redeem the said debenture;

Approval of by-law by Treasury Board.

(c) The powers conferred by the said by-law shall not be exercised by the company unless or until, after the expiration of the said sixty days, the by-law is approved by the Governor in Council on the recommendation of the Treasury Board;

Limited to six times capital and reserve.

(d) The said by-law shall not increase the limit of the amount of money which may be borrowed by the company beyond, in the aggregate, six times the combined amounts from time to time of the actually paid up and unimpaired capital stock and reserve.

Deductions.

3. The amount of cash on hand or deposited in chartered banks in Canada belonging to the company shall, for the purposes of this section, be deducted from the aggregate of the sums of money borrowed, and debenture stock issued by the company shall be included in such aggregate. 1927, c. 61, s. 2.

LICENSE.

License must be obtained.

69. No company to which this Act in whole or in part applies, or person acting on its behalf, shall transact the business of a loan company unless the company has obtained from the Minister a license authorizing it so to do.

Conditions for granting.

2. The Minister may issue to any such company which has complied with the provisions of this Act and which is, in the opinion of the Minister, in such a financial position as to justify its transaction of the business of a loan company, a license authorizing the transaction of the said business.

Form.

3. The license shall be in such form as may be from time to time determined by the Minister and may contain any limitations or conditions which the Minister may consistently with the provisions of the Act deem proper.

Duration and renewal.

4. The license shall expire on the thirty-first day of March in each year, but may be renewed from year to year subject, however, to any qualification or limitation which is considered expedient: Provided, that such license may be from time to time renewed for any term less than a year.

5. The Minister shall cause to be published in the *Canada Gazette* a list of all companies to which licenses have been issued as aforesaid in the first issue in the month of April in each year. Publication of list of licensed companies.

6. If any company makes application to the Minister for the issue of a license under the provisions of this section or for the renewal of such license and such application is refused by the Minister, the company shall have the right of appeal to the Governor in Council against the decision of the Minister, and the Governor in Council, after such hearing given to the company as it deems necessary or desirable, shall render a decision on the appeal, which decision shall be final. 1927, c. 61, s. 3. Right of appeal to the G. in C.

ANNUAL STATEMENT.

70. The company shall on or before the first day of March in each year, prepare and transmit by registered post to the Minister a statement setting forth as of the thirty-first day of December preceding, the capital stock of the company, the portion thereof paid up, the assets and liabilities of the company, the amount and nature of the investments made by the company both on its own behalf and on behalf of others, with the particulars called for by Schedule B to this Act, and such other details as the Minister requires. Annual statement to Minister.

2. The statement shall be as nearly as may be in the form in Schedule B to this Act, and shall be signed and declaration made by the president or a vice-president and by the manager or secretary as in the form prescribed. Form.

3. The Minister may make such changes in the form of statement, whether such changes are of general application or are in the opinion of the Minister necessary to meet the circumstances of any particular case, as he may deem best adapted to elicit any information considered necessary or desirable, and the form as changed shall be signed and declared to as hereinbefore prescribed. Changes in form by Minister.

4. In the case of a loan company incorporated prior to the twelfth day of June, one thousand nine hundred and fourteen, the statement of whose affairs submitted at the annual general meeting of the company is made up as of a date other than the thirty-first day of December, it shall be a sufficient compliance with the provisions of this Act if the statement to be submitted to the Minister in pursuance of this section shall set forth as of such date the particulars called for by this section and Schedule B, and such company shall prepare and transmit to the Minister the statement called for by this section within two months after such date. 1914, c. 40, s. 69. Existing companies.

INSPECTION.

Examina-
tion and
report on
condition
of
company.

71. The Superintendent shall visit personally or cause a duly qualified member of his staff to visit, at least once in each year, the head office of each company required by this Act to make returns to the Minister, and to examine carefully the statements of the condition and affairs of each company, and report thereon to the Minister as to all matters requiring his attention and decision.

Inspection
of books.

2. For the purpose of such examination the company shall prepare and submit to the Superintendent such statement or statements with respect to the business, finances or other affairs of the company, in addition to that mentioned in the last preceding section, as the Superintendent may require, and the officers, agents and servants of the company shall cause their books to be open for inspection, and shall otherwise facilitate such examination so far as it is in their power.

Certified
copy of
by-laws to
be filed
with
superin-
tendent.

3. The company shall on the request of the Superintendent file with the Superintendent a certified copy of its by-laws, and notice of every repeal, or addition to, or amendment of, its by-laws shall be filed by the company with the Superintendent within one month after the date of such repeal, addition or amendment.

Oaths.

4. The Superintendent may examine under oath the officers, agents or servants of the company for the purpose of obtaining any information which he deems necessary for the purpose of such examination.

Annual
report.

5. The Superintendent shall also prepare for the Minister from the said statements, an annual report, showing the full particulars of each company's business. 1920, c. 14, s. 2; 1927, c. 61, s. 4.

Special
report
where
assets are
deficient.

72. If as the result of the examination as aforesaid of any company the Superintendent believes that the assets of the company are insufficient to justify its continuance in business, he shall make a special report to the Minister on the condition of such company.

Power to
suspend or
cancel
license.

2. If the Minister, after a reasonable time has been given to the company to be heard by him, and upon such further enquiry and investigation as he sees fit to make, reports to the Governor in Council that he agrees with the opinion of the Superintendent, the Governor in Council may, if he also concurs in such opinion, suspend or cancel the license of the company, and the company shall thereupon cease to transact further business: Provided, however, that the Minister may, during such suspension or cancellation, issue such conditional license as he may deem to be necessary for the protection of the public.

Conditional
license.

3. If the Minister deems it advisable, the said conditional license may provide that the company shall, during the continuance of such conditional license, arrange for the sale of its assets and for the transfer of its liabilities to some other company under the provisions of sections eighty-six to eighty-nine inclusive of this Act.

Small text: Sale and transfer under conditional license.

4. If upon the expiration of the conditional license no arrangement satisfactory to the Minister has been made for such sale and transfer, and if the company's condition is not then such as to warrant the restoration of the company's license, the company shall be deemed to be insolvent. 1927, c. 61, s. 5.

Small text: When company deemed insolvent.

73. In his annual report prepared for the Minister under the provisions of section seventy-one of this Act, the superintendent shall allow as assets only such of the investments of the several companies as are authorized by this Act, or by their Acts of incorporation, or by the general Acts applicable to such investments.

Small text: Only authorized investments allowed as investments.

2. In his said report the Superintendent shall make all necessary corrections in the annual statements made by the companies as herein provided and shall be at liberty to increase or diminish the assets or liabilities of such companies to the true and correct amounts thereof as ascertained by him in the examination of their affairs at the head office thereof, or otherwise.

Small text: Corrections in annual statements by superintendent.

3. The Superintendent may request any company to dispose of and realize any of its investments acquired after the twenty-eighth day of June, one thousand nine hundred and twenty-two, and not authorized by this Act, and the company shall within sixty days after receiving such request absolutely dispose of and realize the said investments, and if the amount realized therefrom falls below the amount paid by the company for the said investments the directors of the company shall be jointly and severally liable for the payment to the company of the amount of the deficiency.

Small text: Any company may be required to dispose of and realize unauthorized investments.

4. If any director present when any such investment is authorized does forthwith, or if any director then absent does, within twenty-four hours after he becomes aware of such investment and is able to do so, enter on the minutes of the board of directors his protest against the same, and within eight days thereafter gives notice of his protest by registered letter to the Superintendent, such director may thereby, and not otherwise, exonerate himself from such liability.

Small text: Liability of directors for deficiencies.

Small text: Director may protest.

5. An appeal shall lie in a summary manner from the ruling of the Superintendent as to the admissibility of any asset not allowed by him, or as to any item or amount so added to liabilities, or as to any correction or alteration

Small text: Appeal to Exchequer Court.

Rules of court.

made in any statement, or as to any other matter arising in the carrying out of the provisions of this Act, to the Exchequer Court of Canada, which Court shall have power to make all necessary rules for the conduct of appeals under this section.

Certificate of ruling appealed from.

6. For the purposes of such appeal the Superintendent shall at the request of the company interested give a certificate in writing setting forth the ruling appealed from and the reasons therefor, which ruling shall, however, be binding upon the company unless the company shall within fifteen days after notice of such ruling serve upon the Superintendent notice of its intention to appeal therefrom, setting forth the grounds of appeal, and within fifteen days thereafter file its appeal with the registrar of the said Court and with due diligence prosecute the same, in which case action on such ruling shall be suspended until the court has rendered judgment thereon. 1922, c. 31, s. 5.

Notice of and filing of appeal.

Appraisalment of overvalued real estate.

74. If upon an examination of the assets of any company it appears to the Superintendent, or if he has any reason to suppose, that the value placed by the company upon the real estate owned by it or any parcel thereof is too great, he may either require such company to procure an appraisalment of such real estate by one or more competent valuers, or may himself procure such appraisalment at the company's expense, and the appraised value, if it varies materially from the return made by the company, may be substituted in the annual report prepared for the Minister by the Superintendent.

Appraisalment of lands held as security for loans on mortgage.

2. If, upon such examination, it appears to the Superintendent, or if he has any reason to suppose that the amount secured by mortgage or hypothec upon any parcel of real estate, together with the interest due and accrued thereon, is greater than the value of such parcel, or that such parcel is not sufficient security for such loan and interest, he may in like manner require the company to procure an appraisalment thereof, or may himself at the company's expense procure such appraisalment, and if from the appraised value it appears that such parcel of real estate is not adequate security for the loan and interest, he may write off such loan and interest a sum sufficient to reduce the same to such an amount as may fairly be realizable from such security, in no case to exceed such appraised value, and may insert such reduced amount in his said annual report. 1922, c. 31, s. 5.

Superintendent to ascertain expense of

75. The Superintendent shall annually as soon as may be after the close of each fiscal year, by reference to the public accounts, and by such further inquiry or investigation

tion as he may deem necessary, ascertain and certify the total amount of the expenditure incurred by the Government for or in connection with the administration of this Act during the last preceding fiscal year, and the amount of the expenditure so ascertained and certified by the Superintendent shall be final and conclusive for all purposes of this section.

administra-
tion of
act during
last
preceding
fiscal year.

2. The Superintendent shall also before the thirty-first day of December in each fiscal year ascertain from the returns made under the requirements of this Act, and from such other information as may be necessary or available, the total amount of income received during the last preceding calendar year by each company required to make returns under this Act and the finding of the Superintendent as to the amounts aforesaid when certified by his hand, shall be final and conclusive.

As to
amount of
income
received by
companies.

3. Thereupon the Superintendent shall ascertain the ratio or percentage which the total expenditure so found and certified bears to the aggregate of the income aforesaid, and he shall cause an assessment to be prepared against each of the aforesaid companies of an amount equivalent to that percentage of the total amount of the income received by each of the said companies respectively, and such assessment when certified by the Superintendent, shall be binding upon the said companies, and each of them, and shall be final and conclusive.

Superin-
tendent to
ascertain
percentage
to aggregate
of income.
Assessment
equivalent
to
percentage.

4. The amount so assessed against each company shall constitute a debt payable to His Majesty, and shall be payable upon demand of the Superintendent, and may be recovered as a debt in any court of competent jurisdiction. 1924, c. 55, s. 1.

Assessment
to constitute
debt
payable to
His
Majesty.

REAL ESTATE.

76. The company may acquire and hold absolutely for its own use and benefit such real and immovable property in Canada as is necessary for its actual use and occupation and the management of its business, and not more than thirty-five per cent of the company's unimpaired paid-up capital and reserve may be laid out or expended for this purpose. 1914, c. 40, s. 71.

Limitation
as to real
estate.

77. The company may also hold real estate which having been mortgaged or hypothecated to it is acquired by it for the protection of its investments, and may from time to time sell, mortgage, lease or otherwise dispose thereof.

Mortgaged
property.

2. No parcel of land or interest therein at any time acquired by the company and not required for its actual use and occupation or held by way of security shall be held by the company or by any trustee on its behalf for a longer

Limitation
as to land
security.

period than seven years after the acquisition thereof, but shall be sold so that the company shall no longer retain an interest therein unless by way of security.

Forfeiture to the Crown.

3. Any such parcel of land or any interest therein not required for the actual use and occupation of the company or held by way of security which has been held by the company for a longer period than seven years without being disposed of shall be forfeited to His Majesty for the use of Canada.

Time may be extended.

4. The Governor in Council may extend the said period from time to time, not exceeding in the whole twelve years.

Notice.

5. No such forfeiture shall take effect or be enforced until the expiration of at least six calendar months after notice is given in writing to the company of the intention of His Majesty to claim such forfeiture. 1914, c. 40, s. 72

CHANGE OF HEAD OFFICE.

Change of head office.

78. The company may by by-law change the locality of its head office in Canada to any other place in Canada.

Approval of change.

2. No such by-law shall have any force or effect until after it has been unanimously sanctioned by a vote of the shareholders present in person or represented by proxy at a general meeting of the company duly called for considering the same and representing two-thirds of the stock of the company or until it is unanimously sanctioned in writing by the shareholders of the company.

Governor in Council may approve by-law in case of dissent.

3. If the by-law is sanctioned in writing by not less than three-fourths in value of the shareholders of the company, the company may, through the Minister, petition the Governor in Council for an order approving the said by-law, and the Governor in Council may, on compliance with such terms and conditions if any, as he directs, approve thereof, and upon such approval the by-law shall be valid.

Publication of notice.

4. No such by-law shall be acted upon until two months after a copy of the by-law has been published by the company, once in the *Canada Gazette* and once in a newspaper published in the city, town or village in or nearest to which the head office of the company is then already situate, and in which a newspaper is published. 1914, c. 40, s. 73.

CONTRACTS, ETC.

Effect of contracts, etc.

79. Every contract, agreement, engagement or bargain made and every bill of exchange drawn, accepted or endorsed, and every promissory note and cheque made, drawn or endorsed on behalf of the company, by any agent, officer or servant of the company, in general accordance with his powers as such, shall be binding upon the company.

2. 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 endorsed, as the case may be, in pursuance of any by-law or special vote or order. Seal unnecessary.

3. The person so acting as agent, officer or servant of the company, shall not thereby be subjected individually to any liability to any third person therefor. 1914, c. 40, s. 74. Exemption from liability.

TRUSTS.

80. The company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any share of its stock or debentures or debenture stock or any deposit or any other moneys payable by or in the hands of the company may be subject. Company not bound to see to execution.

2. The receipt of the parties in whose name such shares, debentures, debenture stock, deposit, or moneys stand in the books of the company, shall be a valid and binding discharge to the company for any payment of any kind to which they may then be subject in respect of such shares, debentures, debenture stock, deposits or moneys, notwithstanding any trust and whether or not notice of such trust has been given to the company. Receipt a valid discharge.

3. The company shall not be bound to see to the application of the money paid upon such receipt. 1914, c. 40, s. 75. Application of money.

EVIDENCE.

81. A copy of any by-law of the company, under its seal, and purporting to be signed by any officer of the company, shall be received as *prima facie* evidence of such by-law in all courts in Canada. Evidence of by-law.

2. All books required by this Act to be kept by the secretary or by any other officer of the company charged with that duty shall, in any suit or proceeding against the company or against any shareholder, be *prima facie* evidence of all facts purporting to be therein stated. Books as evidence.

3. In any action by any company to enforce payment of any call or interest thereon, a certificate under the seal of the company and purporting to be signed by any officer of the company to the effect that the defendant is a shareholder, that the call or calls have been made to enforce payment of which or of any interest thereon such action has been brought, and that so much is due by him and unpaid thereon, shall be received in all courts as *prima facie* evidence of the matters therein stated. 1914, c. 40, s. 76. Certificate prima facie evidence.

RESERVE FUND.

Investment of reserve fund.

82. The directors may set aside out of premiums on stock and out of the profits of the company such sums as they think proper as a reserve fund, in this Act referred to as reserve.

Limitation.

2. The reserve, until distribution in dividends or other lawful application thereof is made, shall be kept invested in the securities and be subject to the limitations mentioned in section sixty-one of this Act. 1914, c. 40, s. 77.

LIABILITY OF DIRECTORS.

Impairing capital by declaring dividends.

83. If the directors of the company declare and pay any dividend which impairs or diminishes the paid-up capital of the company, the directors who knowingly or negligently concur in the declaration or making payable of such dividend whereby the paid-up capital of the company is impaired or diminished shall be jointly and severally liable for the amount of such dividend as a debt due by them to the company. 1914, c. 40, s. 78.

Improvident transfers.

84. Whenever entry is made in the company's books of any transfer of stock not fully paid up, to a person who is not apparently of sufficient means to fully pay up such shares, the directors present who consent to the transfer, and every director present who does not record his vote in opposition thereto, shall be jointly and severally liable to the company in the same manner and to the same extent as the transferring shareholder but for such entry would have been liable. 1914, c. 40, s. 79.

Liability for salaries or wages.

85. The directors of the company shall be jointly and severally liable to the clerks and servants thereof for all debts, not exceeding three months' salary or wages, due for services performed for the company whilst they are such directors respectively.

Limitation.

2. No director shall be liable to an action therefor, unless the company is sued therefor within one year after the debt became due, nor unless such director is sued therefor within one year from the time when he ceased to be such director, nor unless an execution against the company at the suit of such clerk or servant is returned unsatisfied in whole or in part.

Amount recoverable.

3. The amount unsatisfied on such execution shall be the amount recoverable with costs from all directors. 1914, c. 40, s. 80.

PURCHASE AND SALE.

Business of other companies.

86. The company may purchase the whole or any part of the business, assets, rights, credits, effects and property belonging to any other company and may assume and undertake to pay in connection with such purchase the whole

or any part of the liabilities of such other company, provided such other company is a loan company within the meaning of this Act.

2. The consideration for the business and property so purchased may be cash or shares in the company's stock, either fully paid up or partly paid, or in part cash and in part shares, either fully paid up or partly paid, or such other consideration as may be agreed upon. Consideration for purchase.

3. The respective companies may enter into an agreement for such purchase and sale and do all other acts not inconsistent herewith to carry the same into effect. Agreements.

4. The agreement shall first be submitted to the shareholders of each of the said companies at a meeting thereof duly called and held separately for the purpose of taking the same into consideration, and if at each such meeting the same is accepted and approved by resolution passed by at least a three-fourths vote of such shares as are represented in person or by proxy and representing at least fifty per cent of the issued capital stock of the company, the said agreement may be executed under the corporate seal of the companies. Approval of shareholders.

5. No such agreement shall become operative and effective until it has been submitted to and approved by the Treasury Board, and unless it appears that the approval of such agreement would not be in the public interest, the Treasury Board may grant the same and issue a certificate confirming said agreement. Approval and certificate of Treasury Board.

6. Any rights so purchased by the company which are inconsistent with the provisions of this Act shall cease to have effect. 1914, c. 40, s. 81; 1922, c. 31, s. 6. Inconsistent rights.

87. On and after the date of such certificate the assets purchased and sold shall, in accordance with and subject to the terms of said agreement and without any further conveyance, become vested in the purchasing company. Assets vested on date of certificate.

2. The selling company shall, subject to the terms of said agreement, execute such formal and separate conveyances, assignments and assurances for registration purposes or otherwise as may reasonably be required to confirm or evidence the vesting in the purchasing company of the full title and ownership of the assets purchased and sold. 1914, c. 40, s. 82. Formal conveyance.

88. In case any company whose assets are acquired by the company has issued debenture stock, and such debenture stock is outstanding at the date of the acquisition aforesaid, the directors of the company may, if and when they think fit, and either with or without the sanction of the shareholders, issue debenture stock to the extent of the nominal value of the debenture stock of such other company. Outstanding debenture stock.

company, outstanding as aforesaid, and may, with the consent of any holder of debenture stock in such other company, give to him, in lieu of the debenture stock held by him, debenture stock of the company on such terms as may be agreed upon. 1914, c. 40, s. 83.

Disposal of undertaking.

89. The company may sell and dispose of the whole or any part of the business, rights, credits, effects and property of the company for such consideration as the company may think fit.

Disposal to be approved by shareholders and Treasury Board.

2. No such sale or disposal shall be made until it is approved at a meeting of shareholders duly called for that purpose, at which meeting two-thirds in value of the issued shares are represented by shareholders in person or by proxy, and provided further that no such sale or disposal shall take effect until it has been submitted to and approved of by the Treasury Board.

Consideration of sale may be shares in stock of purchasing company.

3. In any sale under the authority of this section of the whole of the business, rights and property of the company to any loan company incorporated under the laws of the Dominion of Canada, or of any province thereof, the consideration for such sale may, notwithstanding anything in this Act contained, be fully paid shares in the capital stock of the purchasing company or in part cash and in part shares of such purchasing company or such other consideration as may be agreed upon. 1914, c. 40, s. 84; 1924, c. 55, s. 3.

PENALTIES.

Payment of organization expenses after certificate.

90. Any director who authorizes payment of or any manager or any other officer or servant of the company who pays or causes to be paid any money for or on account of the incorporation or organization expenses of the company after the certificate permitting the company to commence business has been obtained from the Minister, except and unless the liability so paid has been disclosed to the Minister at the time of the application for such certificate, is guilty of an indictable offence and liable to imprisonment for any term not exceeding two years. 1914, c. 40, s. 85.

Penalty.

Refusal to make entry.

91. Every director, officer and servant of the company who refuses or wilfully neglects to make any proper entry in the books of the company is guilty of an indictable offence and liable to imprisonment for any term not exceeding two years. 1914, c. 40, s. 86.

Penalty.

False statement in accounts, etc.

92. The making of any wilfully false or deceptive statement in any account, statement, return, report or other document respecting the affairs of the company, or the using of any false or deceptive statement in any account,

statement, return, report or other document respecting the affairs of the company with intent to deceive or mislead any person, is an indictable offence punishable, unless a greater punishment is in any case by law prescribed therefor, by imprisonment for a term not exceeding five years. 1914, c. 40, s. 87. Penalty.

93. Every director, auditor, manager or other officer of the company, and every auditor and inspector who negligently prepares, signs, approves or concurs in any account, statement, return, report or document respecting the affairs of the company containing any false or deceptive statement, shall be guilty of an indictable offence punishable, unless a greater punishment is in any case by law prescribed therefor, by imprisonment for a term not exceeding three years. 1914, c. 40, s. 88. Signing, etc.,
of false
statement.

Penalty.

94. Every director, officer and servant of the company who, on the application of any shareholder or creditor, his attorney or agent, refuses or neglects to produce the books of the company within his power or control containing the names of the persons who are or have been shareholders, or who refuses or neglects to produce the books of account of the company within his power or control, or who refuses or neglects to allow any such books to be inspected and extracts to be taken therefrom, during reasonable business hours of any juridical day, is guilty of an offence and liable on summary conviction to a penalty not exceeding fifty dollars and costs. 1914, c. 40, s. 89. Refusal to
produce
books.

Penalty.

95. Every director, officer and servant of the company who refuses to produce for examination to the Superintendent or any member of his staff duly authorized by him to examine the statement of the condition and affairs of the company, all books and documents in his custody or control, is guilty of an offence and liable on summary conviction to a penalty not exceeding fifty dollars and costs. 1914, c. 40, s. 90; 1922, c. 31, s. 8. Refusal to
Inspector.

Penalty.

96. Every company which neglects to prepare and transmit to the Minister on or before the first day of March in each year a statement verified as required by this Act and setting forth the particulars as to capital stock, assets and liabilities, and such other details as is by this Act required, shall incur a penalty of twenty dollars for each day and every day during which such neglect continues. Neglect to
send state-
ment to
Minister.

Penalty.

2. Any loan company to which subsection four of section seventy applies, which neglects to prepare and transmit in each year to the Minister on or before the last day of the two months referred to in said subsection four a statement

Penalty. verified as required by this Act and setting forth the particulars as to capital stock, assets and liabilities, and such other details as are by this Act required, shall incur a penalty of twenty dollars for each and every day during which such neglect continues. 1914, c. 40, s. 91.

Penalty for contravention.

97. Any company which, or person who, does, causes or permits to be done any matter, act or thing contrary to any provision of this Act, or to the orders or directions of the Governor in Council or of the Minister, or of the Superintendent, made under this Act, or omits to do any matter, act or thing by this Act required to be done by or on the part of such company or person, shall, if no other penalty for such act or omission is provided in this Act, be liable for each such offence to a penalty of not less than twenty dollars and not more than five thousand dollars in the discretion of the court before which such penalty is recoverable.

Liability for damages.

2. Such company or person shall also, in addition to such penalty, be liable to any person injured by such matter, act or thing, or by such omission, for all damages sustained thereby. 1922, c. 31, s. 9.

Penalties recoverable at suit of Crown.

98. The amount of the penalties imposed upon a company or person for any violation of this Act shall, unless otherwise provided by this Act, be recoverable and enforceable with costs at the suit of His Majesty instituted by the Attorney General of Canada or by the Minister.

Application.

2. Such penalties shall, unless otherwise provided by this Act, belong to the Crown for the public uses of Canada, provided that the Governor in Council, on the report of the Treasury Board, may direct that any portion of any penalty be remitted. 1914, c. 40, s. 92.

Remittal.

PART II.

BRITISH LOAN COMPANIES.

Interpretation.

Company. **99.** In this part, unless the context otherwise requires, "company" means any institution or corporation duly incorporated under the laws of the Parliament of Great Britain for the purpose of lending money. R.S., c. 79, s. 258.

License.

License may be issued by Secretary of State.

100. The Secretary of State of Canada may, if he sees fit, issue a license under this Part to any company that applies for such license and complies with the provisions of this Part in that behalf, authorizing it to carry on business in Canada. R.S., c. 79, s. 259.

101. Any company so applying, shall furnish the Secretary of State of Canada with a certified copy of the charter, Act of incorporation or articles of association of such company as evidence of the due incorporation of the company and with a power of attorney from such company to the person appointed as the principal agent or manager of such company within Canada, expressly authorizing such agent or manager to apply for such license.

Evidence of incorporation and authority.

2. The power of attorney shall be under the seal of the company and shall be signed by the president or managing director and secretary thereof and verified by the oath of an attesting witness. R.S., c. 79, s. 260.

Verification of authority.

Preliminaries.

102. Every company which obtains such license shall, before commencing business, file in the office of the provincial secretary of each province in which such company proposes to do business, a certified copy of the charter, Act of incorporation or articles of association of such company, and also a power of attorney to the agent or manager of such company in each such province, signed by the president or managing director and secretary thereof, and verified as to its authenticity by the oath of the principal agent or manager of such company in Canada, or by the oath of some person cognizant of the facts necessary for its verification. R.S., c. 79, s. 261.

Formalities to be observed by company before commencing business in Canada.

103. Such power of attorney shall expressly authorize such agent or manager, so far as respects business done by him within the province for which he is agent or manager, to accept service of process in all suits and proceedings against such company in such province for any liabilities incurred by such company therein, and shall declare that service of process on such agent or manager for such liabilities shall be legal and binding on such company to all intents and purposes whatsoever, and shall waive all claims of error by reason of such service. R.S., c. 79, s. 262.

Contents of power of attorney filed.

Powers of Company.

104. Any company which has received a license under this Part and has duly filed as aforesaid such certified copy of charter, Act of incorporation or articles of association and power of attorney may transact any loaning business, of any description whatsoever, within Canada, in its corporate name, except the business of banking, and may take and hold any mortgages of real estate, and any railway, municipal, or other bonds of any kind whatsoever, on the security of which it lends its money, at any rate of interest not exceeding the rate permissible on such securities by the Acts incorporating similar companies in the

Company licensed may transact loaning business in Canada.

Exception.

Securities.

several provinces of Canada, and whether the said bonds form a charge on real estate within Canada or not. R.S., c. 79, s. 263.

Power as to mortgages.

105. Such company may take and hold such mortgages in its corporate name, and may sell and transfer the same, and hold and convey the title to real estate acquired as mortgagees or chargees.

Time limit.

2. Such company shall sell or dispose of the real estate so acquired within five years from the time when the mortgage on such real estate becomes due and payable under the terms of the instrument creating such mortgage. R.S., c. 79, s. 264.

Procedure.

Service of process on company.

106. After such certified copy of charter, Act of incorporation or articles of association, and such power of attorney are filed as aforesaid, any process in any suit, action or proceeding against such company, for any liability incurred in any province, may be served upon the manager or agent so authorized in the same manner as process is served upon the proper officer of any company incorporated in such province; and all proceedings may be had thereupon to judgment and execution in the same manner as in proceedings in any civil suit or action in such province. R.S., c. 79, s. 265.

Judgment on service.

Notices.

Publication of notice of license.

107. Every company which obtains such license as aforesaid shall forthwith give due notice thereof in the *Canada Gazette*, and in at least one newspaper in the county, city or place where the principal manager or agent of such company transacts the business thereof, and shall continue the publication thereof for the space of one calendar month.

Notice of discontinuance.

2. Like notice shall be given when such company ceases to carry on business within the province, and like publication shall be had of notice that it ceases so to carry on business. R.S., c. 79, s. 266.

Returns.

Must be made to Minister of Finance.

108. Every company authorized under the provisions of this Part to lend and invest money in Canada, shall, by its agent or manager in Canada, make returns to the Minister of Finance of all the business done by it in Canada, at the same time and in the same manner as if such company had been incorporated under the provisions of Part III of the Companies Act, chapter seventy-nine of the Revised Statutes of Canada, 1906. R.S., c. 79, s. 267.

License Fee.

109. The fee to be paid by a company, on the issuing Amount. of a license under this Part, shall be twenty dollars. R.S., c. 79, s. 268.

SCHEDULE A.

MODEL BILL.

(For incorporation of a Loan Company).

An Act to incorporate the (state the name of the company).

Whereas the persons hereinafter named have by their petition prayed that it be enacted as hereinafter set forth and it is expedient to grant the prayer of the said petition: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. (Insert names of the persons applying for incorporation), together with such persons as become shareholders in the company, are incorporated under the name of (state name of company) hereinafter called "the company."

2. The persons named in section 1 of this Act (or as the case may be) shall be the provisional directors of the company. (The name, address and description of each director must be given.)

3. The capital stock of the company shall be..... dollars, which may be increased todollars.

4. The head office of the company shall be in the..... of.....in the Province of.....

5. The company shall have all the powers, privileges and immunities conferred by and be subject to all the limitations, liabilities and provisions of the Loan Companies Act. 1914, c. 40, Sch. A.

SCHEDULE B.

This statement is to be filled up and returned in duplicate to the Minister of Finance on or before the first day of March, 19 .

ANNUAL STATEMENT FOR THE YEAR ENDING DECEMBER 31, 19 .

Of the condition and affairs of.....
Head Office.....
President..... Secretary.....
Vice President..... Manager.....
Date of incorporation..... Date of commencement of business.....
Statute under which incorporated.....

1. CAPITAL

Amount of capital stock authorized—preferred stock \$.....
“ “ “ common stock.....
Amount subscribed for—preferred \$.....
“ “ common.....
Amount paid up in cash—preferred.....
“ “ common.....
Reserve fund.....
Share warrants which may be converted into capital stock of.....

LIST OF DIRECTORS.

As at.....19 . (Date of filing of statement).

LIST OF SHAREHOLDERS AS AT DECEMBER 31, 19 .

Name.	Residence.	Amount of capital stock subscribed for.	Amount paid thereon in cash.
		\$	\$

(To be given in a separate schedule attached, and if the company has issued preferred stock, a list of shareholders of preferred and common stock is to be separately given).

ASSETS.	\$ cts.
1. Book value of real estate held for the company's use..... (The location and cost and market value of each piece to be given— Any encumbrances thereon to be deducted).	
2. Amount loaned and invested on mortgages and hypothecs— (a) upon freehold real estate.....	
(b) “ leasehold “.....	
3. Amount loaned upon and invested in freehold real estate subject to an agreement for sale.....	
4. Government, municipal and school securities— (a) Amount loaned upon.....	
(b) “ invested in.....	
*5. Debentures and bonds of incorporated companies— (a) amount loaned upon.....	
(b) “ invested in.....	
*6. Stocks of incorporated companies— (a) amount loaned upon.....	
(b) “ invested in.....	
*7. Bank stocks— (a) amount loaned upon.....	
(b) “ invested in.....	
8. Agency investments as per schedule attached.....	
9. Balances in hand as agency association.....	
10. Cash on hand.....	
11. Cash in banks (with details).....	
Total ledger assets.....	\$.....

OTHER ASSETS.	
12. Market value of real estate, bonds, stocks, etc., over book value (If the total market value is less than the value in account a deduction should here be made).	
13. Interest due— (a) more than six months.....	
(b) less than six months.....	
14. Amount of interest accrued to date of statement but not payable.....	
15. Office furniture and fixtures.....	
16. All other property belonging to the company..... (with details thereof in a separate schedule).	
Total assets of the company.....	\$.....

*N.B.—In the case of items 5, 6 and 7, schedule with particulars, market values, amount loaned upon or paid therefor to be attached.

LIABILITIES.		\$	cts.
<i>Liabilities to Stockholders.</i>			
1. Capital stock fully paid up.....			
2. Capital stock subscribed (\$.....), upon which has been paid.....			
3. Reserve fund.....			
4. Dividends declared and unpaid.....			
5. Unappropriated profits.....			
Total.....		\$.....	
<i>Liabilities to the Public.</i>			
6. Bonds and debentures issued payable in Canada.....			
7. Bonds and debentures issued payable elsewhere.....			
8. Debenture stock issued.....			
9. Deposits by the public payable on demand.....			
10. Deposits by the public payable after notice or on a fixed day including money guaranteed.....			
11. Agency investments as per contra.....			
12. Balances in hand as agency association as per contra.....			
13. Interest due and accruing due to date of statement— (a) on bonds and debentures.....			
(b) on debenture stock.....			
(c) on deposits.....			
(d) on other accounts.....			
14. Due and accruing due for salaries.....			
15. Due for miscellaneous expenses.....			
16. Owing to banks.....			
17. Other liabilities (details to be specified in a separate schedule).....			
Total liabilities.....		\$.....	

GAIN OR LOSS EXHIBIT.	
Surplus of assets over liabilities, Dec. 31 last year.....	
Interest earned during the year.....	
Other income earned.....	
Amount of appreciation on ledger value of assets or items written up.....	
Total.....	\$.....
Expenses incurred during the year.....	
Interest incurred during the year.....	
Amount written off ledger assets during the year.....	
Total.....	\$.....
Balance, surplus of assets over liabilities at December 31 this year... \$.....	

MISCELLANEOUS STATEMENT.	\$ cts.
1. Dividend declared during the year, at..... per cent.....	
2. Amount loaned by the company during the year.....	
3. Amount received from borrowers during the year.....	
4. Amount received from depositors during the year (including money guaranteed).....	
5. Amount repaid to depositors during the year.....	
6. Amount borrowed for purposes of investment during the year.....	
7. Bonds, debenture and debenture stock—	
(a) issued during the year.....	
(b) repaid during the year.....	
(c) maturing within one year.....	
8. Average rate of interest paid for money borrowed—	
Debentures..... per cent.	
Bonds and debentures stock..... per cent.	
Deposits..... per cent.	
9. Total amount of interest paid and accrued during the year.....	
10. Amount of mortgages overdue and in default.....	
11. Number of mortgages upon which compulsory proceedings have been taken during the past year.....	
12. Aggregate amount of mortgages upon which compulsory proceedings have been taken during the past year.....	
13. Value of mortgaged property held for sale.....	
14. Amount chargeable against such property.....	
15. Average rate mortgages yield..... per cent;	
yield of other securities..... per cent.	
16. Real estate acquired by the company under foreclosure or otherwise and held for seven years or more but not required for the use of the company.....	

We declare that the foregoing statement and the separate schedules therein referred to and hereunto attached and signed by us are made up from the books of the company and that to the best of our knowledge and belief they are correct and show truly and clearly the financial position of the company and the condition of the company's affairs.

(Place) thisday of.....19..

A.B.

president (or Vice-President, as the case may be).

C.D.

Manager (or secretary, as the case may be).

1914, c. 40, Sch. B.

OTTAWA: Printed by FREDERICK ALBERT ACLAND, Law Printer to the King's Most Excellent Majesty.

22-23 GEORGE V.

CHAP. 45.

An Act respecting the Department of Insurance.

[Assented to 26th May, 1932.]

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

1. This Act may be cited as *The Department of Insurance Act*. Short title.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,— Definitions.
 (a) "Department" means the Department of Insurance; "Department."
 (b) "Minister" means the Minister of Finance. "Minister."

3. There shall be a Department of the Government of Canada to be called the Department of Insurance over which the Minister shall preside. Constitution of Department.

(2) The Minister shall have the management and direction of the Department. Minister.

4. The Governor in Council may appoint an officer to be called the Superintendent of Insurance, (hereinafter referred to as the Superintendent), who shall be the deputy head of the Department and who shall hold office during pleasure. Superintendent of Insurance, his rank and salary.

(2) Such officer shall be paid such salary as may be authorized by law.

(3) The person now holding the office of Superintendent shall continue to hold office during pleasure and to be paid the salary authorized by law for such office. Continuance in office of present incumbent.

5. Such officers, clerks and servants as are necessary for the proper conduct of the business of the Department may be appointed in the manner authorized by law. Appointment of officers and clerks.

(2) The several officers, clerks and servants now employed in the Department shall continue to hold their respective offices during pleasure. Continuance in office of present officers.

Duties of
Minister.

6. The Minister shall have the administration of the Acts specified in the schedule to this Act and also of all orders or regulations passed or made under any of the said Acts.

Superintendent to
act under
Minister.

(2) The Superintendent shall act under the instructions of the Minister and shall examine into, and report to the Minister from time to time upon, all matters connected with the administration of each of the said Acts and of the orders or regulations passed or made thereunder.

Superintendent
or officers
not to be
interested
in any
company.

7. The Superintendent or any officer or clerk under him shall not, directly or indirectly, be interested as a shareholder in any insurance company, trust company or loan company doing business in Canada or in any province of Canada, or registered or licensed under any of the Acts respecting companies specified in the schedule to this Act.

Superintendent to
ascertain
expenditure
under Acts
during last
preceding
year.

8. The Superintendent shall annually, as soon as may be after the close of each fiscal year, by reference to the public accounts, and by such further inquiry or investigation as he may deem necessary, ascertain and certify the total amount of the expenditure incurred by the Government for or in connection with the administration of the Acts respecting insurance companies specified in the said schedule, the *Loan Companies Act*, and the *Trust Companies Act*, respectively, during the last preceding fiscal year, and the amount of the expenditure so ascertained and certified by the Superintendent shall be final and conclusive for all purposes of this section.

R.S., c. 28;
R.S., c. 29.

(2) The Superintendent shall also before the thirty-first day of December in each fiscal year ascertain from the annual statements filed under the requirements of the said acts and from such other information as may be necessary or available,

Amount of net
premiums
received
by each
insurance
company.

(a) The total amount of net premiums received in Canada during the last preceding calendar year by each company registered under the said acts respecting insurance companies, or any of them, and by each company not so registered but transacting the business of life insurance thereunder and deduct therefrom the amount of the dividends paid or allowed by each such company to its policyholders in Canada during the said calendar year; and

Amount of
income
of each
loan
company.

(b) The total amount of income received during the last preceding calendar year by each loan company licensed under the *Loan Companies Act*; and

Amount of
income of
each trust
company.

(c) The total amount of income received during the last preceding calendar year by each trust company licensed under the *Trust Companies Act*;

and the finding of the Superintendent as to the amount of the net receipts resulting from the said deduction and as to

the amounts of income received as aforesaid, when certified by his hand, shall be final and conclusive.

(3) Thereupon the Superintendent shall ascertain the ratio or percentage which the total expenditure incurred in the administration of the said Acts respecting insurance companies, of the *Loan Companies Act*, and of the *Trust Companies Act*, respectively, so found and certified is of the total net receipts of the said insurance companies, the total income of the said loan companies and the total income of the said trust companies, respectively, and he shall cause an assessment to be prepared against each of the aforesaid companies as follows, that is to say:—

Basis of assessments against companies.

(a) Against each of the said insurance companies of an amount equivalent to such percentage of the said net receipts of each company as the total expenditure incurred in the administration of the said Acts respecting insurance companies is of the total net receipts of all such companies; and

(b) Against each of the said loan companies of an amount equivalent to such percentage of the said income of each company as the total expenditure incurred in the administration of the *Loan Companies Act* is of the total income of all such companies; and

(c) Against each of the said trust companies of an amount equivalent to such percentage of the said income of each company as the total expenditure incurred in the administration of the *Trust Companies Act* is of the total income of all such companies;

and such assessment, when certified by the Superintendent, shall be binding upon the said companies, and each of them, and shall be final and conclusive.

(4) The amount so assessed against each company shall constitute a debt payable to His Majesty, and shall be payable upon demand of the Superintendent, and may be recovered as a debt in any court of competent jurisdiction.

Amount assessed to be a debt payable to His Majesty.

9. The Minister shall lay before Parliament within thirty days after the commencement of each session thereof the annual report of the Superintendent made to the Minister under the provisions of each of the acts specified in the schedule to this Act.

Annual report.

10. Section seventy-five of the *Loan Companies Act*, chapter twenty-eight of the *Revised Statutes, 1927*, and section seventy-eight of the *Trust Companies Act*, chapter twenty-nine of the *Revised Statutes, 1927*, are repealed.

Repeal.

Schedule.

SCHEDULE.

Revised Statutes of Canada, 1927.

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The Trust Companies Act	29

Statutes of Canada, 1932.

The Canadian and British Insurance Companies Act, 1932.

The Foreign Insurance Companies Act, 1932.

The Acts in amendment of any of the aforementioned Acts.

OTTAWA: Printed by FREDERICK ALBERT ACLAND, Law Printer to the
King's Most Excellent Majesty.

24-25 GEORGE V.

CHAP. 56.

An Act to amend the Loan Companies Act.

[Assented to 3rd July, 1934.]

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

R.S., c. 28.
1932, c. 45.

1. The *Loan Companies Act*, chapter twenty-eight of the Revised Statutes of Canada, 1927, is amended by adding thereto the following Part:—

“PART III.

“110. In this Part ‘company’ means as well any company to which Parts I and II of this Act apply as any other company heretofore, presently or hereafter incorporated or authorized to transact business by or under any Act of the Parliament of Canada and having power by virtue of any such Act to make loans of any nature or kind.

“Company”
defined.

“111. Where it is established to the satisfaction of the Minister of Finance that any company has, subsequent to the passing of this Act, in respect of any loan or other transaction, charged, imposed or collected, directly or indirectly, interest and other charges, of any kind, nature or description whatsoever, exclusive of fees disbursed for registration purposes, amounting in the aggregate to more than two and one-half per centum per month on the monthly balance owing by the borrower, the Minister may recommend to the Governor in Council that the charter of the company be forfeited, if it be a Dominion company, and that its Dominion powers be terminated if it be other than a Dominion company, whereupon the Governor in Council may by order provide that upon such day as may thereby be fixed,

Forfeiture
of charter
of company
imposing
interest and
charges
exceeding
fixed
limit.

Order of
Governor in
Council

- (a) if the company be incorporated by an Act of the Parliament of Canada, its charter shall be forfeited;
- (b) if the company be otherwise incorporated, any or all rights, powers, franchises or authorities granted to it by any Act of the Parliament of Canada shall cease and determine.

Effect of
order.

(2) Upon the making of any such order, such charter shall be forfeited or such rights, powers, franchises or authorities shall be terminated, according to its terms, as fully and effectually as if the provisions of such Order in Council were incorporated in this Act.”

OTTAWA: Printed by JOSEPH OSCAR PATENAUDE, Law Printer to the
King's Most Excellent Majesty.

THE CANADIAN AND BRITISH INSURANCE COMPANIES ACT, 1932

22 - 23 Geo. V, Cap. 46,

AS AMENDED BY

23 - 24 Geo. V, Cap. 32,

24 - 25 Geo. V, Cap. 27,

24 - 25 Geo. V, Cap. 45,

1 Edw. VIII, Cap. 18,

1 Geo. VI, Cap. 5,

2 Geo. VI, Cap. 21,

3 Geo. VI, Cap. 10,

8 Geo. VI, Cap. 32,

9 - 10 Geo. VI, Cap. 13

OFFICE CONSOLIDATION

(with index)

COMPILED BY THE DEPARTMENT OF INSURANCE
OTTAWA, CANADA

1946

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
KING'S PRINTER AND CONTROLLER OF STATIONERY

1947

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1947

NOTE:—The following is an office consolidation of the Canadian and British Insurance Companies Act, 1932, with amendments thereto to date. It is not to be regarded as an official compilation of the law.

1946.

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22-23 GEORGE V.

CHAP. 46

An Act respecting Canadian and British Insurance Companies.

[Assented to 26th May, 1932.]

Whereas it is desirable to define the status and powers of insurance companies incorporated by the Parliament of Canada, and by the Legislature of the late Province of Canada, and to prescribe the limitations to be placed on the exercise of such powers; and 1932, c. 46. Preamble.

Whereas it is desirable to provide for the registration of such companies and of British insurance companies which may desire to carry on the business of insurance in Canada, and for the voluntary registration of provincial companies; and 1934, c. 27, s. 1.

Whereas the said companies incorporated by the Parliament of Canada and by the Legislature of the late Province of Canada, carry on business in more than one Province of Canada and many of them carry on business in Great Britain, the other Dominions and foreign countries; and 1932, c. 46.

Whereas the said British insurance companies, when permitted to carry on business in Canada, carry on business in more than one province; and 1932, c. 46.

Whereas the insurance business transacted within and outside of Canada by companies incorporated by the Parliament of Canada, and by the Legislature of the late Province of Canada, and within Canada by British insurance companies, constitutes an important factor in the international and inter-provincial trade and commercial relations of Canada; and 1932, c. 46.

Whereas it is contrary to the public interest that insurance companies which are unable to discharge their liabilities to policyholders in Canada as they become due, or are otherwise insolvent, should be permitted to carry on the business of insurance in Canada; and 1934, c. 27, s. 1.

Whereas it is desirable to provide by a system of returns and inspection against such companies engaging in, or continuing to carry on, business in Canada while unable to discharge their liabilities to such policyholders as they become due or while otherwise insolvent, and to declare the conditions upon which such companies shall be deemed to be insolvent and be subject to be wound up under the provisions of the *Winding-up Act*: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— 1932, c. 46; 1934, c. 27, s. 1.

- Short title. 1. This Act may be cited as *The Canadian and British Insurance Companies Act, 1932*. 1932, c. 46, s. 1.
- Definitions. 2. In this Act, unless the context otherwise requires,—
- “ Agent.” (a) “agent” means an acknowledged agent or other person who in any manner with the authority of the company aids in transacting the insurance business of the company, and includes an insurance broker;
- “ British company.” (b) “British company” means any corporation incorporated under the laws of the United Kingdom of Great Britain and Northern Ireland or any British Dominion or possession other than Canada or a province of Canada for the purpose of carrying on the business of insurance. 1934, c. 27, s. 2.
- “ Business of insurance.” (c) “business of insurance” means the making of any contract of insurance, and includes any act or acts of inducement to enter into such a contract, and any act or acts relating to the performance thereof, or the rendering of any service in connection therewith;
- “ Company.” (d) “company” means any corporation incorporated under the laws of the Dominion of Canada or of the late Province of Canada for the purpose of carrying on the business of insurance, and includes “fraternal benefit society” as defined by this Act;
- “ Department.” (e) “Department” means the Department of Insurance constituted by *The Department of Insurance Act*;
- “ Fraternal benefit society.” (f) “fraternal benefit society” means a corporation having representative form of government, and incorporated under the laws of the Dominion of Canada for fraternal, benevolent or religious purposes among which purposes is the insuring of the members, or the dependent children of the members thereof, exclusively, against accident, sickness, disability or death, and includes a corporation incorporated, as aforesaid, on the mutual plan for the purpose of so insuring the members, or the dependent children of the members, of such a corporation exclusively;
- “ Inland marine insurance.” (g) “inland marine insurance” means marine insurance in respect to subjects of insurance at risk upon the waters of Canada, above the harbour of Montreal;
- “ Minister.” (h) “Minister” means the Minister of Finance;
- “ Officer.” (i) “officer” includes the manager, secretary, treasurer, actuary and any other person designated as “officer” by the by-laws of the company;
- “ Policy.” (j) “policy” means any written contract of insurance whether contained in one or more documents, and in the case of insurance in a fraternal benefit society, any contract of insurance whether evidenced by a written document or not and any certificate of membership relating in any way to insurance; and includes any annuity contract;
- “ Policyholder in Canada.” (k) “policyholder in Canada” means the legal holder for the time being of a “policy in Canada”;

- (l) "policy in Canada" as regards life insurance, means any policy issued or effected by a company registered under this Act upon the life of any person resident in Canada at the time such policy was issued or effected; and, as regards fire insurance, means any policy issued or effected by such a company upon any property within Canada; and, as regards any other class of insurance, means any policy issued or effected by such a company in the transaction of its business of insurance in Canada; "Policy in Canada."
- (m) "provincial company" means a company incorporated under the laws of any province of Canada or of any former province of British North America now forming part of Canada other than the late Province of Canada for the purpose of carrying on the business of insurance; "Provincial company."
- (n) "secretary" includes the officer by whom the usual duties of a secretary are performed; "Secretary."
- (o) "Superintendent" means the Superintendent of Insurance. 1932, c. 46, s. 2; 1934, c. 27, s. 2. "Superintendent."

(2) The Governor in Council may on the recommendation of the Minister make regulations determining and defining, for the purposes of this Act, and of any certificate of registry granted thereunder, what shall be deemed to be a distinct class of insurance, and the nature of each such class of insurance. 1932, c. 46, s. 2. Regulations.

(3) Any regulations so made shall be published in the succeeding issue of the *Canada Gazette*. 1932, c. 46, s. 2. Publication.

PART I.

APPLICATION.

3. Except as hereinafter otherwise provided, the provisions of Part II of this Act shall apply to every company incorporated by a special Act of the Parliament of Canada after the fourth day of May, one thousand nine hundred and ten. 1936, c. 18, s. 1. Application to companies incorporated after 4th May, 1910.

(2) The provisions of Part II, other than the provisions of section five, shall also apply to every company incorporated by a special Act of the said Parliament on or before the said date, but not licensed by the Minister on or before the said date, and in any respect in which the provisions of said Part II are inconsistent with the provisions of the special Act so passed on or before the said date, the provisions of Part II shall prevail. 1934, c. 27, s. 3. Companies incorporated but not licensed before 4th May, 1910.

(3) Except as hereinafter otherwise provided, the provisions of sections twenty-six, forty-one, forty-two, forty-three, forty-four, and the provisions of Parts III to VII inclusive of this Act shall apply to every company irrespective of the date of incorporation. 1936, c. 18, s. 1. Provisions applicable to all companies.

Form of
Act of
incorporation.

4. Every company incorporated by Act in the form set forth in the first schedule to this Act shall be invested with all the powers, privileges and immunities and shall be subject to all the liabilities and provisions set forth in this Act, applicable thereto.

Charter
expires unless
certificate of
registry
obtained.

(2) Unless otherwise therein provided, every special Act heretofore or hereafter passed by the Parliament of Canada incorporating any company, and all Acts amending it shall expire and cease to be in force, except for the sole purpose of winding-up such company's affairs, at the expiration of two years from the passing thereof, unless within such two years the company thereby incorporated is registered and obtains a certificate of registry under the provisions of this Act.

Substitution
of this Act
for former
general Acts
in charters.

(3) Where in any act of incorporation of a company or in any act amending the same, the provisions of any general Act of the Parliament of Canada relating to insurance companies or of any amendments thereto are in whole or in part rendered applicable to the company, the corresponding or analogous provisions of this Act and of any amendments thereto shall be read in substitution therefor and the said act of incorporation and any amendments thereto shall be construed accordingly. 1932, c. 46, s. 4.

PART II.

COMPANY CLAUSES.

Special
clauses
applicable to
companies
incorporated
after 4th
May, 1910.

5. Every special Act of the Parliament of Canada passed after the fourth day of May, one thousand nine hundred and ten, for the incorporation of a company in the form in the first schedule to this Act, or in that form varied as such special Act shall provide, shall be read as if it contained the provisions hereafter in this section set forth and shall be construed having regard thereto, and this subsection shall be read, construed and given the same effect as if it had been enacted and had come into force on the said fourth day of May, one thousand nine hundred and ten. 1936, c. 18, s. 2.

Retroactive.

Provisional
directors.

(2) The persons named as provisional directors in the special Act shall be the provisional directors of the company, a majority of whom shall be a quorum for the transaction of business. They shall remain in office until replaced by directors duly elected in their stead, and they may forthwith open stock books, procure subscriptions of stock for the undertaking, make calls on stock subscribed and secure payments thereon. They shall deposit in a chartered bank in Canada all moneys received by them on account of stock subscribed or otherwise received on account of the company and may withdraw the same for the purposes of the company only and may do generally what is necessary to organize the company.

Local boards
and agencies.

(3) The directors may establish local advisory boards or agencies either within Canada or elsewhere at such times and in such manner as they deem expedient.

Shares.

(4) The capital stock of the company shall be divided into shares of one hundred dollars each, or if the special Act so provides, into shares of five dollars each or any multiple thereof, but not exceeding one hundred dollars each.

(5) The directors may, after the whole authorized capital stock of the company has been subscribed and fifty per cent paid thereon in cash, increase the capital stock from time to time to an amount not exceeding the sum named for that purpose in the special Act; but the stock shall not be increased until a resolution of the board of directors authorizing such increase has been first submitted to and confirmed by two-thirds in value of the shareholders present or represented by proxy at a special general meeting of the members of the company duly called for that purpose.

Increase of
capital stock.

(6) As soon as the amount for that purpose mentioned in the special Act has been subscribed and ten per cent of the said amount has been paid into some chartered bank in Canada the provisional directors shall call a general meeting of the shareholders at some place to be named in the municipality where the head office of the company is situated; at which meeting the shareholders present or represented by proxy who have paid not less than ten per cent on the amount of shares subscribed for by them shall elect the shareholders' directors in the case of a life company, and the ordinary directors in the case of a company other than a life company, as set forth in the next following section.

First meeting
of share-
holders.

(7) The shares of the capital stock subscribed for shall be paid by such instalments and at such times and places as the directors appoint; the first instalment shall not exceed twenty-five per cent and no subsequent instalment shall exceed ten per cent, and not less than thirty days' notice of any call shall be given.

Calls on
shares.

(8) The company shall not commence business until at least the amount of stock mentioned for that purpose in the special Act has been subscribed for nor until at least the sum named for that purpose in the said special Act has been paid in cash into the funds of the company to be appropriated only for the purposes of the company under the said special Act: Provided that stock upon which less than ten per cent has been paid in cash by the subscriber shall not be reckoned as part of the stock mentioned in the special Act as necessary to be subscribed, nor shall any sum paid by any shareholder upon the shares subscribed for by him which is less than ten per cent of the amount subscribed for by such shareholder be reckoned as part of the sum required to be paid thereon as in such special Act provided.

Commence-
ment of
business.

Proviso.

(9) A general meeting of the company shall be called at its head office once in each year after the organization of the company and the commencement of business, and at such meeting a statement of the affairs of the company shall be submitted, and special general or extraordinary meetings may at any time be called by any three of the directors or by requisition of any twenty-five shareholders, specifying in the notice the object of the meeting.

Annual
meeting.

(10) The company may cause itself to be reinsured against any risk undertaken by it, and may reinsure any other company carrying on the same class of business against any risk undertaken by such other company. 1932, c. 46, s. 5.

Reinsurance.

6. In this section the expression "life company" shall mean a company authorized to transact the business of life insurance.

Two classes
of directors.

(2) (a) There shall be in the case of a life company having a capital stock, whether called by the name of capital stock, guarantee fund or any other name, two classes of directors, namely, directors elected by the shareholders, hereinafter called shareholders' directors, and directors elected by the policyholders, hereinafter called policyholders' directors; but in the case of companies other than life companies having a capital stock, there shall be only one class of directors, namely, directors elected by the shareholders, hereinafter called ordinary directors;

Shareholders'
directors.

(b) No person shall be eligible to become, or shall be elected, a shareholders' director of a life company or an ordinary director of a company other than a life company, unless he is a shareholder holding in his own name and for his own use and absolutely in his own right shares in the capital stock or guarantee capital, as the case may be, of the company to the amount of at least two thousand five hundred dollars and has paid in cash all calls due thereon and all liabilities incurred by him to the company; and the majority of directors so elected shall at all times be persons resident in Canada and subjects of His Majesty by birth or naturalization;

Directors of
other than
life company.

(c) In the case of a company other than a life company there shall be elected at the first annual meeting and at each subsequent annual meeting a board of not less than nine nor more than twenty-one directors, who shall hold office for one year but shall be eligible for re-election;

Directors of
life company.

(d) In the case of a life company there shall be elected at the first and second annual meetings not less than five nor more than nine shareholders' directors, who shall hold office for one year but shall be eligible for re-election;

Number and
composition
of board of
directors.

(e) Every life company shall, by by-law passed not less than three months prior to the holding of its third annual meeting after the granting of a certificate of registry to it under this Act, determine the number of directors to be elected at said annual meeting by the shareholders and participating policyholders respectively, as herein provided, and the number of policyholders' directors so determined shall be at least one-third of the total number to be so elected. The company may, by the said by-law, provide that all the directors, of both classes, shall be elected for one, two or three years. If the by-law provides for a two years' or three years' term of office, it may also provide either, (a) that the term of office shall be continuous for all directors of both classes, or, (b) that a certain proportion, not less than one-third, of each class, shall retire annually. At the said annual meeting and each subsequent annual meeting there shall be elected a

board as determined by by-law as aforesaid, but such board shall consist of not less than nine nor more than twenty-one directors, all of whom shall be eligible for re-election. The shareholders' directors shall be elected by the shareholders and the policyholders' directors by the participating policyholders;

- (f) The manager of a company may be a director, but no agent or paid officer, other than the manager, shall be eligible to be elected as a director. The words "paid officer" in this paragraph shall not include the chairman of the board of directors or the president and vice-president, or the president and first vice-president if there is more than one vice-president elected under the provisions of paragraph (j) of this section; Manager may be a director.
- (g) At all general meetings of a company each shareholder present in person or represented by proxy who has paid in cash all calls due upon his shares and all liability incurred by him to the company shall have one vote for each share held by him; One vote for each share held.
- (h) In the case of a life company every person whose life is insured under a participating policy or participating policies of the company for two thousand dollars or upwards upon which no premiums are due, whether such person is a shareholder of the company or not, herein called a participating policyholder, shall be a member of the company and be entitled to attend and vote at all general meetings of the company; but participating policyholders, as such, shall not be entitled to vote for the election of shareholders' directors: Provided, however, that in case of liquidation of the company, the policyholder as such member shall not be entitled to share in the distribution of the assets or be liable to be placed on the list of contributories. Every holder of a participating policy or policies of the company for four thousand dollars or upwards, exclusive of bonus additions, upon which no premiums are due, who is not a shareholder, and who has paid premiums on such policy or policies for at least three full years shall be eligible for election as a policyholders' director. The policyholders' directors shall meet with the shareholders' directors and shall have a vote on all business matters; Every holder of a participating policy for \$2,000 a member.
Proviso.
- (i) The election of directors shall be by ballot; Elections.
- (j) The directors shall from among themselves elect a president, and one vice-president or more; and may elect a chairman of the board of directors; President.
- (k) At all meetings of directors for the transaction of business a majority of the board shall be a quorum when the number of directors does not exceed thirteen; when the number exceeds thirteen a quorum shall be seven; Quorum.
- (l) The company shall have a fixed time in each year for its annual meeting and due notice of such time shall be given at least fifteen days before in two or more Notice of meetings.

daily newspapers published at or near the head office of the company, and if the company is a life company, such time shall be printed in prominent type on each renewal receipt issued by the company;

- Voting.** (m) At the annual meeting no shareholder of a company other than a life company shall vote for more than the number of ordinary directors to be elected, and in the case of a life company no shareholder shall vote for more than the number of shareholders' directors to be elected, and no participating policyholder shall vote for more than the number of policyholders' directors to be elected;
- Proxies.** (n) Every proxy representing a shareholder must be himself a shareholder and entitled to vote, and an instrument of proxy shall not be valid unless executed within three months of the date of the meeting at which it is to be used, and unless filed with the secretary of the company at least ten days before such meeting, and shall be used only at such meeting or any adjournment thereof, and may be revoked at any time prior to such meetings;
- Instrument of proxy.**
- Vacancies in board of directors.** (o) Vacancies occurring in the board of directors may be filled for the remainder of the term by the directors from among the qualified shareholders or policyholders as the case may be;
- Failure to elect directors.** (p) If at any time an election of directors is not made, or does not take effect at the proper time, the company shall not be held to be thereby dissolved, but such election may take place at any general meeting of the company duly called for that purpose, and the retiring directors shall continue in office until their successors are elected. 1932, c. 46, s. 6.
- Powers of directors.** 7. The directors may, in all things, administer the affairs of the company, and may make or cause to be made for the company any description of contract which the company may, by law, enter into. 1932, c. 46, s. 7.
- By-laws.** 8. The directors may make by-laws not contrary to law, or to the special Act, or to this Act, for
- Stock.** (a) the regulating of the allotment of stock, the making of calls thereon, the payment thereof, the issue and registration of certificates of stock, the forfeiture of stock for non-payment, the disposal of forfeited stock and of the proceeds thereof, and the transfer of stock;
- Dividends.** (b) the declaration and payment of dividends;
- Officers.** (c) the appointment, functions, duties and removal of all agents, officers and servants of the company, the security to be given by them to the company and their remuneration;
- Meetings.** (d) the time and place for the holding of the annual meeting of the company, the calling of meetings, regular and special of the directors and of the company, the requirements as to proxies, and the procedure in all things at such meetings;

- (e) the imposition and recovery of all penalties and forfeitures admitting of regulation by by-law; and Penalties.
- (f) the conduct, in all other particulars, of the affairs of the company. 1932, c. 46, s. 8. Generally.

9. The directors may, from time to time, repeal, amend or re-enact any such by-law: Provided that every such by-law, repeal, amendment or re-enactment unless in the meantime confirmed at a general meeting of the company duly called for that purpose shall only have force until the next annual meeting of the company and in default of confirmation thereof shall from the time of such default cease to have force or effect. 1932, c. 46, s. 9. **Changing by-laws. Proviso. Confirmation necessary.**

10. The stock of the company shall be transferable in such manner only, and subject to such conditions and restrictions as are prescribed by this Part, or by the special Act or the by-laws of the company. 1932, c. 46, s. 10. **Stock transferable.**

11. If the special Act makes no other definite provision, the stock of the company shall be allotted at such times and in such manner as the directors, by by-law or otherwise, prescribe. 1932, c. 46, s. 11. **Allotment of stock.**

12. The directors of the company may call in and demand from the shareholders thereof, respectively, all sums of money by them subscribed at such times and places and in such payments or instalments as the special Act or this Act requires or allows. **Calls on stock.**

(2) Interest shall accrue and fall due at the rate of five per cent per annum, upon the amount of any unpaid call, from the day appointed for payment of such call. 1932, c. 46, s. 12. **Interest on amount unpaid.**

13. If, after such demand or notice as by the special Act or the by-laws of the company is prescribed, any call made upon any share or shares is not paid within such time as by such special Act or by-laws is limited in that behalf, the directors, in their discretion, by resolution to that effect reciting the facts and duly recorded in their minutes, may summarily declare forfeited any shares whereon such payment is not made. **Forfeiture of shares for defaults in paying calls.**

(2) Such shares shall thereupon become the property of the company, and shall be disposed of as the directors by by-law or otherwise prescribe. 1932, c. 46, s. 13. **Forfeited shares go to company.**

14. No share shall be transferable, until all previous calls thereon have been fully paid, or until it is declared forfeited for non-payment of a call or calls thereon. 1932, c. 46, s. 14. **Restriction as to transfer.**

15. The company shall cause a book or books to be kept by the secretary, or by some other officer specially charged with that duty, wherein shall be kept recorded **Stock book to be kept containing:**

- (a) the names, alphabetically arranged, of all persons who are or have been shareholders; **Names of shareholders;**
- (b) the address and calling of every such person, while such shareholder; **Address and calling;**
- (c) the number of shares of stock held by each shareholder; **Number of shares;**

- Amount paid in. (d) the amounts paid in, and remaining unpaid, respectively, on the stock of each shareholder;
- Transfers of stock. (e) all transfers of stock, in their order as presented to the company for entry, with the date and other particulars of each transfer, and the date of the entry thereof; and
- Names, addresses and calling of directors. (f) the names, addresses and calling of all persons who are or have been directors of the company, with the several dates at which each became or ceased to be such director, and distinguishing in the case of a life company between shareholders' directors and policyholders' directors. 1932, c. 46, s. 15.

16. The directors may allow or refuse to allow the entry in any such book or books, of any transfer of stock whereof the whole amount has not been paid. 1932, c. 46, s. 16.

17. No transfer of stock, unless made by sale under execution or under the decree, order or judgment of a court of competent jurisdiction, shall be valid for any purpose whatsoever until entry thereof has been duly made in such book or books, except for the purpose of exhibiting the rights of the parties thereto towards each other, and of rendering the transferee liable, in the meantime, jointly and severally with the transferor to the company and its creditors. 1932, c. 46, s. 17.

18. Such books shall, during reasonable business hours of every day, except Sundays and holidays, be kept open for the inspection of shareholders and creditors of the company, and their personal representatives, and in the case of life companies of the participating policyholders, at the head office or chief place of business of the company, and every shareholder, creditor or personal representative and participating policyholder may make extracts therefrom. 1932, c. 46, s. 18.

19. Every director, officer or servant of the company who knowingly makes or assists in making any untrue entry in any book required by this Part to be kept by such company, or who refuses or wilfully neglects to make any proper entry therein, or to exhibit the same, or to allow the same to be inspected and extracts to be taken therefrom, is guilty of an indictable offence, and liable to imprisonment for any term not exceeding two years. 1932, c. 46, s. 19.

20. Every company which neglects to keep open for inspection, as required by this Part, any book or books required by this Part to be kept by such company shall incur a penalty not exceeding fifty dollars for each day during which such neglect continues. 1932, c. 46, s. 20.

21. Every shareholder shall, until the whole amount of his stock has been paid up, be individually liable to the creditors of the company to an amount equal to that not paid up thereon; but shall not be liable to an action therefor by any creditor until an execution against the company at the suit of such creditor has been returned unsatisfied in whole or in part.

(2) The amount due on such execution, not exceeding the amount unpaid by the shareholder on his stock, shall be the amount recoverable with costs from such shareholder. 1932, c. 46, s. 21. Limit of liability.

22. The shareholders of the company shall not, as such, be held responsible for any act, default or liability whatsoever, of the company, or for any engagement, claim, payment, loss, injury, transaction, matter or thing whatsoever, relating to or connected with the company, beyond the amount of their respective shares in the capital stock thereof. 1932, c. 46, s. 22. Limitation of liability of shareholders.

23. No person holding stock in the company as an executor, administrator, tutor, curator, guardian or trustee shall be personally subject to liability as a shareholder; but the estate and funds in the hands of such person shall be liable in like manner and to the same extent as the testator, or intestate if living, or the minor, ward or interdicted person or the person interested in such trust fund if competent to act and holding such stock in his own name, would be liable. Trustees not personally liable.
Estate liable.

(2) No person holding stock in the company as collateral security shall be personally subject to liability as a shareholder, but the person pledging such stock shall be considered as holding the same and shall be liable as a shareholder accordingly. 1932, c. 46, s. 23. Pledgor only liable.

24. In the absence of other provisions in that behalf in the special Act or in the by-laws of the company or in this Act, notice of the time and place for holding general meetings of the company shall be given at least ten days previously thereto, in some newspaper published at the place in which the head office or chief place of business of the company is situated, or if there is no newspaper there published, then in the newspaper published nearest thereto. 1932, c. 46, s. 24. Notice.

25. No shareholder who is in arrear in respect of any call shall vote at any meeting of the company. Arrears prevent voting.

(2) In the absence of other provisions, in manner aforesaid, every shareholder shall be entitled to as many votes at all general meetings of the company as he owns shares in the company, and may vote by proxy. 1932, c. 46, s. 25. One vote for each share.
Voting by proxy.

26. The provisions of this section shall extend and apply to every mutual company and to every company, other than a company authorized to transact life insurance, having a capital stock, whether called by the name of capital stock, guarantee fund, or any other name, notwithstanding anything to the contrary in any special Act relating to any such company or in any by-law or by-laws thereof. Application.

(2) At all meetings at which holders of shares in the capital stock or guarantee capital, policyholders, or members are entitled to vote, they may respectively vote by proxy and every proxy must be himself a shareholder, policyholder or member and entitled to vote. Voting by proxy.

(3) Any mutual life insurance company may by by-law, provide that all directors shall be elected for one, two or three years. If the by-law provides for a two years' or three years' Tenure of office of directors.

term of office, it may also provide either, (a) that the term of office shall be continuous for all directors, or, (b) that a certain proportion, not less than one-third, shall retire annually. 1934, c. 27, s. 4.

Trustees and
pledgers
may vote as
shareholders

27. Every executor, administrator, tutor, curator, guardian or trustee shall represent the stock in his possession in his fiduciary capacity at all meetings of the company, and may vote as a shareholder; and every person who pledges his stock may, notwithstanding such pledge, represent the said stock at all such meetings, and vote as a shareholder. 1932, c. 46, s. 27.

Special
meetings
may be
called by
shareholders.

28. Shareholders who hold one-fourth part in value of the subscribed stock of the company may at any time by written requisition signed by them call a special general meeting of the company for the transaction of any business specified in such requisition, and in the notice made and given for the purpose of calling such meeting. 1932, c. 46, s. 28.

Contracts by
agents and
officers.

29. Every contract, agreement, engagement or bargain made, and every bill of exchange drawn, accepted or endorsed, and every promissory note and cheque made, drawn or endorsed on behalf of the company, by any agent, officer or servant of the company, in general accordance with his powers as such under the by-laws of the company, shall be binding upon the company.

Affixing seal
unnecessary.

(2) 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 endorsed, as the case may be, in pursuance of any by-law or special vote or order.

Agent or
officer not
liable.

(3) The person so acting as agent, officer or servant of the company, shall not be thereby subjected individually to any liability whatsoever to any third person therefor. 1932, c. 46, s. 29.

Company not
liable as to
execution of
trusts.

30. The company shall not be bound to see to the execution of any trust, whether express, implied or constructive, in respect of any share.

Receipt of
shareholders
& discharge.

(2) The receipt of the shareholder in whose name any share stands in the books of the company, shall be a valid and binding discharge to the company for any dividend or money payable in respect of such share, and whether or not notice of such trust has been given to the company.

Application
of money.

(3) The company shall not be bound to see to the application of the money paid upon such receipt. 1932, c. 46, s. 30.

Liability of
directors
declaring
and paying
dividends
when company
is insolvent.

31. If the directors of the company declare and pay any dividend when the company is insolvent, or any dividend, the payment of which renders the company insolvent, or diminishes the capital stock thereof, they shall be jointly and severally liable, as well to the company as to the individual shareholders and creditors thereof, and in the case of a life company, to the participating policyholders, for all the debts of the company then existing, and for all thereafter contracted during their continuance in office respectively.

(2) If any director present when such dividend is declared does forthwith, or if any director then absent does, within five days after he becomes aware of such dividend being declared and is able so to do, enter on the minutes of the board of directors his protest against the same, and within eight days thereafter publishes such protest in at least one newspaper published at the place in which the head office or chief place of business of the company is situated, or if there is no newspaper there published, in the newspaper published nearest thereto, such director may thereby and not otherwise, exonerate himself from such liability. 1932, c. 46, s. 31.

Exoneration
from liability.

32. Whenever entry is made in the company's book of any transfer of stock not fully paid up, to a person who is not apparently of sufficient means, the directors shall be jointly and severally liable to the shareholders and creditors of the company, and, in the case of a life company, to the participating policyholders thereof, in the same manner and to the same extent as the transferring shareholder, except for such entry, would have been liable.

Liability of
directors
for transfer
of shares.

(2) If any director present when such entry is allowed does forthwith, or if any director then absent does within five days after he becomes aware of such entry, and is able so to do, enter on the minute book of the board of directors, his protest against such transfer, and within eight days thereafter publishes such protest in at least one newspaper published at the place in which the head office or chief place of business of the company is situated, or if there is no newspaper there published, then in the newspaper published nearest thereto, such director may thereby, and not otherwise, exonerate himself from such liability. 1932, c. 46, s. 32.

Exoneration
from
liability.

33. The company shall not loan any of its funds to any director or officer thereof, or to the wife or child of any such director or officer, except that a company authorized to transact life insurance may lend to any director or officer thereof on the security of the company's own policies. 1932, c. 46, s. 33.

No loan to
directors
or officers.

34. If any loan is made by the company to any director or officer of the company in violation of the provisions of this Part, all directors and other officers of the company who make the same or assent thereto shall be jointly and severally liable to the company for the amount of such loan, and also to third persons to the extent of such loan with lawful interest, for all debts of the company contracted from the time of the making of such loan to that of the repayment thereof. 1932, c. 46, s. 34.

Liability in
case of loans
by company
to directors
or officers.

35. The directors of the company shall be jointly and severally liable to the clerks and servants thereof, for all debts, not exceeding one year's wages, due for services performed for the company whilst they are such directors respectively.

Liability of
directors for
wages unpaid.

(2) No director shall be liable to an action therefor, unless the company is sued therefor within one year after the debt became due, nor unless such director is sued therefor within one year from the time when he ceased to be such director, nor

Limitation
as to time.

unless an execution against the company at the suit of such clerk or servant is returned unsatisfied in whole or in part.

Amount recoverable.

(3) The amount unsatisfied on such execution shall be the amount recoverable with costs from the directors. 1932, c. 46, s. 35.

Enforcement of payments of calls.

36. The company may enforce payment of all calls and interest thereon, by action in any court of competent jurisdiction. 1932, c. 46, s. 36.

Winding-up Act to apply.

37. The company shall be subject to the provisions of any general Act for the winding-up of joint stock companies. 1932, c. 46, s. 37.

Evidence of by-laws.

38. A copy of any by-law of the company, under its seal, and purporting to be signed by any officer of the company, shall be received as *prima facie* evidence of such by-law in all courts in Canada. 1932, c. 46, s. 38.

Books of company *prima facie* evidence.

39. All books required by this Part to be kept by the secretary or by any other officer of the company charged with that duty shall, in any suit or proceeding, be, as against the company or against any shareholder, *prima facie* evidence of all facts purporting to be therein stated. 1932, c. 46, s. 39.

Proof of being a shareholder.

40. In any action by any company to enforce payment of any call or interest thereon, a certificate under the seal of the company and purporting to be signed by any officer of the company to the effect that the defendant is a shareholder, that the call or calls have been made, to enforce payment of which or of any interest thereon such action has been brought, and that so much is due by him and unpaid thereon, shall be received in all courts as *prima facie* evidence. 1932, c. 46, s. 40.

Company may;

41. Notwithstanding anything contained in its Act of incorporation, any company may,

By by-law of shareholders;

(a) if the company has no members other than shareholders entitled to vote, by by-law passed and approved of by the votes of shareholders, representing at least two-thirds in value of the subscribed capital of the company, present or represented at a special general meeting duly called for considering the by-law; or

By by-law of members;

(b) if the company has no shareholders, by by-law passed and approved of by the votes of at least two-thirds of the members present or represented at a special general meeting duly called for considering the by-law; or

By by-law of shareholders and members;

(c) if the company has both shareholders and members entitled to vote, by by-law passed and approved of by at least two-thirds of the votes cast by such shareholders and members at a special general meeting duly called for considering the by-law,

Change head office and date of annual meeting.

(i) change the head office of such company from any place in Canada to any other place in Canada, or
(ii) change the date for holding its annual general meeting. 1932, c. 46, s. 41.

(2) The annual general meeting of every company and the meeting of the periodical representative convention, or other legislative body by whatever name called, of every fraternal benefit society, shall be held in Canada either at the head office of the company or society or elsewhere. 1936, c. 18, s. 3. Annual meeting to be in Canada.

42. The directors of any company may, subject to the proviso hereinafter contained, in the event of its paid-up capital being impaired, at any time and from time to time, after being duly authorized and empowered by a resolution approved by the votes of shareholders representing at least two-thirds of all the subscribed stock of the company at a special general meeting duly called for considering such resolution, pass a by-law for writing off the said paid-up capital any amount which they have been so authorized and empowered by the shareholders as aforesaid to write off such paid-up capital, but no part of its assets shall be distributed to its shareholders: Reduction of capital by by-law. Provided, however, that the paid-up capital shall not be reduced Proviso.

- (a) below the minimum amount fixed by the company's Act of incorporation as necessary to be paid up before the company can commence business; or
- (b) in case no such amount is fixed by such Act of incorporation, then below the amount fixed by this Act or by the Treasury Board in pursuance of subsection three of section fifty-three of this Act as the company's deposit on obtaining a certificate of registry.

(2) The capital of a company shall be deemed to be impaired when its assets, exclusive of its paid-up capital, are less than its liabilities calculated according to the requirements of this Act. When capital is deemed impaired.

(3) Such by-laws shall declare the par value of the shares of the stock so reduced and the capital stock of the company shall be reduced by the amount of the reduction in the paid-up portion thereof. Declaration in by-law.

(4) The liability of the shareholders shall remain the same as if no reduction had been made in the paid-up capital stock of the company. 1932, c. 46, s. 42. Liability of shareholders.

43. The directors may,

- (a) from time to time, out of that portion of the profits of the company which belongs to the shareholders, by declaring a stock dividend or bonus or otherwise, increase the paid-up capital thereof to an amount not exceeding the amount or amounts by which the same may have been reduced under the provisions of the last preceding section, and thereafter the paid-up capital and the capital stock and each share shall represent the aggregate of the amount to which it has been reduced and the amount of such increase so declared as aforesaid; or Subsequent increase of capital.
- (b) issue new stock to an amount not exceeding the amount of such reduction, which stock shall be first offered at not less than par to the shareholders in proportion to the existing shares held by them; and such offer shall Issue of new stock.

be made by notice specifying the number of shares of new stock to which each shareholder is entitled and limiting a time within which the offer, if not accepted, will be deemed to be declined, and after the expiration of such time, or on the receipt of an intimation from any shareholder to whom such notice is given that he declines to accept the shares offered, the directors may dispose of the same, at not less than par, in such manner as they think most beneficial to the company. The nominal value of the shares of new stock so issued shall be the same as the nominal value of the shares of the reduced paid-up capital stock. 1932, c. 46, s. 43.

SEPARATE INSURANCE FUNDS.

Approval of
by-laws
by Treasury
Board.

44. Any company may upon being authorized by a by-law made by the directors and confirmed at a general meeting of the company duly called for that purpose and upon making such deposit in excess of the amount otherwise required to be made under the provisions of Part III of this Act, and on complying with such terms and conditions as may be fixed and prescribed by the Treasury Board, upon the report of the Superintendent, transact such class or classes of insurance as may be specified in the certificate of registry to be from time to time granted to the company pursuant to the provisions hereafter in this Act contained: Provided that the company shall maintain such separate and distinct accounts, funds and securities as required by section seventy-seven of this Act. 1936, c. 18, s. 4.

Proviso.

Amount of
separate
fund fixed
by board.

(2) The amount of the said separate and distinct fund to be maintained in respect of any class or classes of insurance business other than life insurance shall be fixed by the Treasury Board and shall depend on the number and nature of the additional class or classes of business so authorized but shall in no case be less than fifty thousand dollars.

How separate
fund may be
created.

(3) In the case of a company registered to transact only the business of life insurance, the company may, for the purpose of creating the said separate and distinct fund by by-law transfer as such fund or as part of such fund the whole or any portion of the balance standing to the credit of the shareholders' surplus account, or if duly authorized by by-law passed by the directors and approved by at least a two-thirds vote of the members present or represented at a special general meeting of the company duly called for that purpose, transfer as the said fund or as any part thereof an amount not exceeding twenty-five per cent of the surplus of the company or the sum of one hundred thousand dollars, whichever be the less.

"Surplus"
defined.

(4) For the purpose of the last preceding subsection the word "surplus" shall mean the excess of assets over the aggregate of the company's liabilities to its policyholders, the amount of the paid or guarantee capital, if any, the contingent apportionment of surplus to deferred dividend policies, the provision for dividends accrued on quinquennial participating policies on the same scale as that used in the apportionment of surplus to deferred dividend policies of the same duration, and all its other liabilities of every kind.

(5) If any portion of the said separate and distinct fund is created by a transfer from the surplus of the life insurance fund of the company, the by-law shall provide that a proportion of the profits of the said fund equal to the proportion which the amount so transferred from the said surplus is of the total amount so transferred or credited to the said fund, shall thereafter be credited to the life insurance fund of the company.

Provisions of by-law when fund is created from surplus.

(6) In the case of a company other than a company registered to transact only the business of life insurance, the company may, for the purpose of creating the said separate and distinct fund, by by-law transfer as such fund the whole or any portion of the surplus of the company which under the provisions of this Act is available for the payment of dividends to its shareholders, and the amount of such separate and distinct fund shall not be less than one hundred thousand dollars.

Transfer of surplus available for dividends.

(7) Any separate and distinct fund referred to in this section may in the case of any company be liquidated and wound up independently of the other business of the company, and the provisions of the *Winding-up Act* shall apply to such funds as fully as if the company transacted only the class or classes of business in respect of which such funds are maintained.

Separate funds may be liquidated separately.

(8) In the winding-up of the company or of any fund thereof, the capital stock, if any, subscribed before the date of the separation of the funds herein referred to shall be liable, both as to the amount paid and the amount unpaid thereon, only for claims or losses arising from the class or classes of business transacted prior to the said date. 1932, c. 46, s. 44.

Liability of capital stock to separate funds.

45. The entire cost of procuring the incorporation and subscriptions for stock shall be charged directly to the account of the shareholders and the amount thereof fixed by percentage on the capital stock or fixed in bulk and shown on the face of the form of the stock subscription contract, and shall not form a charge upon or be paid out of the paid-up capital nor from the insurance funds, nor be in any way chargeable directly or indirectly against the policyholders. 1932, c. 46, s. 45.

Cost of incorporation chargeable to shareholders.

46. At the time application is made for a certificate of registry under this Act by a company there shall be submitted to the Minister a sworn statement setting forth the several sums of money paid in connection with the incorporation and organization of the company, and such statement shall, in addition, include a list of all the unpaid liabilities, if any, in connection with or arising out of such incorporation and organization.

Statement of expenses of organization.

(2) Until the certificate of registry is granted, no payments on account of incorporation and organization expenses shall be made out of the moneys paid in by shareholders, except reasonable sums for the payment of clerical assistance, legal services, office rental, advertising, stationery, postage and expenses of travel, if any.

To what limited.

(3) The Minister shall not grant the certificate of registry until he is satisfied that all the requirements of this Act and of the special Act incorporating the company, as to the subscriptions to the capital stock, the payment of money by

Conditions precedent to the granting of certificate of registry.

shareholders on account of their subscriptions, the election of directors and other preliminaries have been complied with, and unless he is satisfied that the expenses of incorporation and organization, including the commission payable for the sale of the company's stock, are reasonable. 1932, c. 46, s. 46.

If certificate of registry not obtained shareholders to control payments.

47. If the company does not obtain a certificate of registry before the expiry of its Act of incorporation, and if stock books have been opened and subscriptions in whole or in part paid, no part of the money so paid, whether on account of capital or of premium on capital or accrued interest thereon, shall be disbursed for commissions, salaries, charges for services or for other purposes, except a reasonable amount for payment of clerical assistance, legal services, office rental, advertising, stationery, postage and expenses of travel, if any, unless it is so provided by resolution of the subscribers at a meeting convened after notice, at which the greater part of the money so paid is represented by subscribers or by proxies of subscribers; and each subscriber shall be entitled at such meeting to one vote for each ten dollars paid, either as capital or as premium on capital, on account of his subscription.

Meeting and application to court to fix amount of payments.

(2) If the amount allowed by such resolution for commission, salaries or charges for services be deemed insufficient by the provisional directors or directors, as the case may be, or if no resolution for such purpose be passed after a meeting has been duly called, then the provisional directors or directors may apply to a judge of any superior or county court having jurisdiction where the head office of the company is situated, to settle and determine all charges and the reasonableness of the amount of the disbursements already made, to which such money and interest, if any, shall be subject, before distribution of the balance to the subscribers.

Notice of meeting.

(3) Notice of the meeting and notice of the application respectively referred to in the last preceding subsections shall be given by mailing the notice in the post office, registered and post paid, at least twenty-one days prior to the date fixed for such meeting or the hearing of such application, to the several subscribers at their respective post office addresses as shown by the stock books; and each of such notices shall contain a statement, in summary form, of the several amounts for commissions, salaries, charges for services and disbursements which it is proposed shall be provided by resolution for payment, or settled and determined by a judge, as the case may be.

Voting.

(4) Votes of subscribers may be given at such meeting by proxy, but the holder of such proxy must be himself a subscriber, and subscribers may be heard either in person or by counsel on such application.

Payments by subscribers.

(5) In order that the sums paid and payable under the provisions of this section may be equitably borne by the subscribers, the provisional directors or the directors, as the case may be, shall, after the amount of such sums is ascertained as herein provided, fix the proportionate part thereof chargeable to each subscriber in the ratio of the number of shares in respect of which he is a subscriber to the total number of shares *bona fide* subscribed.

(6) The respective amounts so fixed shall, before return to the subscribers of the sums paid in by them, be deducted therefrom, and if the respective sums paid in are less than the amounts so fixed, then the deficiency in each case shall be payable forthwith by the subscriber to the provisional directors or the directors, as the case may be. Making good of deficiency.

(7) The total of the amounts of deficiency mentioned in the last preceding subsection which the provisional directors or the directors are unable to get in or collect in what seems to them a reasonable time, shall, with any legal cost incurred, be deducted by them from the sums then remaining in their hands to the credit of the several subscribers in the ratio hereinbefore mentioned, the shares in respect of which no such collections have been made being eliminated from the basis of calculation. How provided for.

(8) The provisional directors or the directors, after payment by them of the sums payable under this section, shall return to the subscribers, with any interest accretions, the respective balances of the moneys paid in by the subscribers. 1932, c. 46, s. 47. Return to subscribers.

PART III.

Certificates of Registry.

48. There shall be established and maintained in the Department of Insurance a register in which shall be entered the names of all companies registered under this Part and to which certificates of registry are granted. 1932, c. 46, s. 48. Register of companies.

49. The powers of any company to transact the business of insurance shall not be exercised unless the company is registered and holds a certificate of registry from the Minister. 1934, c. 27, s. 5. Registration and certificate of registry required.

50. Every company shall, as a condition of being registered, file in the Department,— Filing of documents.

- (a) a copy of the charter, Act of incorporation, or articles of association of the company, certified by the proper officer in charge of the original thereof; and Copy of charter.
- (b) a statement, in such form as may be required by the Minister, of the condition and affairs of the company on the thirty-first day of December next preceding, or up to the usual balancing day of the company, if such day is not more than twelve months before the filing of the statement, and such additional statements or information as the Minister may require as to its solvency and as to its ability to meet all its obligations. 1934, c. 27, s. 6. Statement of condition and affairs.

51. Every company shall, as a further condition of being registered, make a deposit with the Minister in any of the securities hereinafter specified in that behalf. Deposit with the Minister.

(2) The deposit in the case of a fraternal benefit society shall be the sum of ten thousand dollars.

(3) The deposit in the case of a company other than a fraternal benefit society shall be,—

- (a) for a certificate of registry to transact life insurance, or fire insurance, the sum of fifty thousand dollars, and
- (b) for a certificate of registry to transact any other class of insurance, such sum as the Treasury Board may determine. 1932, c. 46, s. 53; 1934, c. 27, s. 8.

Companies licensed under Insurance Act deemed registered.

52. Every company which on the date of the coming into force of this Act holds a licence from the Minister, shall be deemed to have complied with the provisions of this Act precedent to the granting of a certificate of registry and to be registered hereunder, and the company shall be subject to the provisions hereof. 1932, c. 46, s. 54; 1934, c. 27, s. 8.

Form of certificate of registry.

53. The certificate of registry shall be in such form or forms, as may be from time to time determined by the Minister, and shall specify the business to be carried on by the company.

Contents of certificate.

(2) The certificate of registry and any renewal thereof shall certify that the company has complied with the provisions and conditions of its Act of incorporation or other constating instrument and with the provisions and conditions of this Act precedent to the granting of a certificate of registry.

Duration.

(3) The certificate of registry shall expire on the thirty-first day of March in each year, but may be renewed from year to year or for any term less than a year.

Limitations.

(4) Any certificate of registry or renewal thereof may contain any limitations or conditions which the Minister may deem necessary to give effect to the provisions of this Act. 1932, c. 46, s. 55; 1934, c. 27, s. 8.

Notice of having obtained a certificate of registry.

54. Every company on first obtaining such certificate shall forthwith give due notice thereof in the *Canada Gazette* and in at least one newspaper in the county, city or place where the head office is established, and shall continue the publication thereof for the space of four weeks.

Publication of list of registered companies.

(2) The Minister shall cause to be published quarterly in the *Canada Gazette* a list of the companies registered under this Act, with the amount of deposit made by each company.

New companies.

(3) Upon any company being first registered, or upon the certificate of registry of any company being withdrawn, in the interval between the publication of two such quarterly lists, the Minister shall cause to be published a notice thereof in the *Canada Gazette* for the space of four weeks. 1932, c. 46, s. 57; 1934, c. 27, s. 10.

Securities permissible.

55. All deposits with the Minister required under this Act may be made by any company, in securities of or guaranteed by the Dominion of Canada, or in securities of or guaranteed by any province of Canada; or in securities of or guaranteed by the United Kingdom of Great Britain and Northern Ireland or any British Dominion or colony.

(2) The value of such securities shall be computed at their market value at the time when they are deposited. Valuation.

(3) If any other than the aforesaid securities are offered as a deposit, they may be accepted at such valuation and on such conditions as the Treasury Board may direct. 1932, c. 46, s. 58; 1934, c. 27, s. 10. Accepting other securities.

56. If the market value of any of the securities deposited by any company declines below that at which they were deposited, the Minister may notify the company to make such further deposit as will ensure the accepted value of all the securities deposited by the company being equal to the sum which it is required by this Act to deposit. Further deposit if value declines.

(2) On failure by the company to make such further deposit within sixty days after being called upon so to do, the Minister may withdraw its certificate of registry. 1932, c. 46, s. 59; 1934, c. 27, s. 10. Failure to make.

57. Any company registered under this Act may, at any time, deposit with the Minister, any further securities beyond the sum herein required to be deposited. Further deposit at option of company.

(2) Any securities so deposited with the Minister shall be held by him and dealt with as if the same had been part of the sum required to be deposited with the Minister. 1932, c. 46, s. 60; 1934, c. 27, s. 10. How dealt with.

58. If at any time the deposit of any company with the Minister exceeds the sum required under the provisions of this Act, the Treasury Board may, upon being satisfied that the interests of the company's policyholders will not be prejudiced thereby, authorize the withdrawal of the amount of such excess or any portion thereof. 1932, c. 46, s. 61; 1934, c. 27, s. 10. Withdrawal of excess deposit.

59. So long as the requirements of this Act are complied with by any company, and no notice of any final judgment against the company or order made by the proper court in that behalf for the winding-up of the company or the distribution of its assets, is served upon the Minister, the interest upon the securities forming the deposit shall be handed over to the company as it falls due. 1932, c. 46, s. 62; 1934, c. 27, s. 10. Handing over interest on securities.

Investments.

60. Save as hereinafter provided, any company registered under this Act may invest its funds, or any portion thereof, in the purchase of Investment of company's funds.

- (a) the debentures, bonds, stocks or other securities of or guaranteed by the Government of the Dominion of Canada or of or guaranteed by the Government of any province of Canada; or of or guaranteed by the Government of the United Kingdom of Great Britain and Northern Ireland, or of any Dominion, colony or dependency thereof; or of or guaranteed by the Government of any foreign country, or state forming a portion of such foreign country; or of any municipal or school corporation in Canada, or elsewhere where the com- In government securities.

pany is carrying on business; or guaranteed by any municipal corporation in Canada; or secured by rates or taxes, levied under the authority of the Government of any province of Canada on property situate in such province and collectible by the municipalities in which such property is situate; or

Bonds
secured by
by mortgage.

- (b) (i) the bonds of any corporation which bonds are fully secured by a mortgage or hypothec to a trustee upon real estate or upon the plant and equipment of such corporation used in the transaction of its business; or upon bonds, debentures or other evidences of indebtedness or stocks owned by such corporation of a class or classes authorized by this section as investments of any company, and the inclusion as additional security in such mortgage or hypothec of any other assets not of a class authorized by this Act as investments of any company shall not be deemed to render ineligible such bonds as an investment, or 1932, c. 46, s. 63.

Bonds
secured by
Dominion
payment.

(i-a) the bonds or debentures of any corporation which are secured by the assignment to a trust corporation in Canada of an annual payment which the Government of Canada has agreed to make, when such annual payment is in amounts sufficient to meet the interest falling due on the bonds or debentures outstanding and the principal amount of the said bonds or debentures maturing for payment in the year in which the annual payment is made; or 1933, c. 32, s. 1.

Bonds
secured by
Provincial
subsidy.

(i-b) the bonds or debentures issued by any incorporated charitable, educational or philanthropic institution in respect of which bonds and debentures annual subsidies equal to the interest and sinking fund accruing on such bonds or debentures are, by virtue of any general or private Act of any province of Canada heretofore passed, payable by or under the authority of such province to a trust company as trustee for the holders of such bonds or debentures; or 1933, c. 32, s. 1.

Debentures
secured by
statutory
charge upon
real estate,
plant and
equipment.

(i-c) The debentures, debenture stock or other evidences of indebtedness of any corporation which are fully secured by statutory charge upon real estate or upon plant and equipment of such corporation used in the transaction of its business, provided interest in full shall have been paid regularly for a period of at least ten years immediately preceding the date of investment in such debentures, debenture stock or other evidences of indebtedness upon the securities of that class of the corporation then outstanding; or the bonds or other evidences of indebtedness of such corporation which are fully secured by mortgage or hypothec to a trustee of securities of the class hereinbefore in this sub-paragraph first mentioned. 1934, c. 45, s. 1.

(i-d) equipment trust obligations or certificates issued to finance the purchase of transportation equipment for a railway company incorporated by or under the authority of an Act of the Parliament of Canada or of the Legislature of any province, or for a railway company owned or controlled by a railway company so incorporated which obligations or certificates are fully secured by an assignment of the transportation equipment to, or by the ownership thereof by, a trustee, and by a lease, or conditional sale, thereof to the railway company so incorporated. 1938, c. 21, s. 1.

Equipment trust certificates of Canadian railways.

(i-e) the bonds, debentures or other evidences of indebtedness issued by an authority constituted by Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland or of any British Dominion or Dominion or to any Minister of such Government, or to a body so responsible, with power to administer or regulate the administration of any port or harbour or system of transport or to distribute or regulate the distribution of electricity, water or gas, and to levy, impose or make taxes, rates, fees or other charges fixed or authorized by the said Parliament or Minister or of a body responsible to the said Government or Minister. 1938, c. 21, s. 1.

Bonds, etc., of certain public bodies of the U.K. and of the Dominions.

(ii) the debentures or other evidences of indebtedness of any corporation which has paid regular dividends on its preferred or on its common stocks for a term of at least five years immediately preceding the date of investment in such debentures or other evidences of indebtedness, or

Debentures.

(iii) the preferred stocks of any corporation which has paid regular dividends upon such stocks, or upon its other preferred stocks ranking equally therewith or upon its common stocks, for not less than five years preceding the purchase of such preferred stocks, or

Preferred stocks.

(iv) the stocks of any corporation which are guaranteed by a corporation which has paid regular dividends upon its preferred or common stocks for not less than five years preceding the purchase of such guaranteed stocks: Provided that the amount of stocks so guaranteed is not in excess of fifty per cent of the amount of the preferred or common stocks, as the case may be, of the guaranteeing corporation, or

Guaranteed stocks.

Proviso.

(v) the common stocks of any corporation upon which regular dividends of at least four per cent per annum or, in the case of stocks of no par value, of at least four dollars per share per annum have been paid for the seven years next preceding the purchase of such stocks: Provided that not more than thirty per cent of the common stocks and not more than thirty per cent of the total issue of the stocks of any corporation shall be purchased by any company, and that no company shall be permitted to invest in its own shares nor shall

Common stocks.

Proviso.

any company registered to transact the business of life insurance be permitted to invest its life insurance funds in the shares of any company which transacts the business of life insurance:

Proviso.

Provided further that if any such corporation has, pursuant to a voluntary reorganization of its capital account and without affecting the status or diminishing the value of its outstanding securities including the capital stock, substituted common shares of no par value for shares of par value, then dividends declared on the said no par value stock shall be deemed to be dividends of at least four dollars per share per annum if the sum thereof is equivalent to at least four per cent of the said common stock of par value and the proceeds of any additional issue of common stock made at the time of, or subsequent to, the aforesaid substitution of shares; and in such circumstances dividends of at least four per cent per annum on the common stock of par value immediately preceding the substitution shall be regarded as dividends on the no par value stock; or

Real estate mortgages.

(c) (i) ground rents, mortgages or hypothecs on real estate in Canada, or elsewhere where such company is carrying on its business, provided that the amount paid for any such mortgage or hypothec shall in no case exceed sixty per cent of the value of the real estate covered thereby; or

Mortgages insured by U.S. Federal Housing Administrator.

(i-a) bonds or notes secured by mortgages or hypothecs on real estate or leaseholds which mortgages or hypothecs are insured by the Federal Housing Administrator of the United States of America. 1944, c. 32, s. 1.

Life policies.

(d) life insurance policies issued by the company or by any other company registered to transact the business of life insurance in Canada subject to the provisions of subsection nine of this section. 1932, c. 46, s. 63.

Lending funds.

(2) Any such company may lend its funds or any portion thereof on the security of

(a) any of the bonds, debentures, stocks or other securities in which any company may invest its funds under the provisions of the next preceding subsection: Provided, however, that the amount loaned on the security thereof together with the amount invested therein shall not exceed in the aggregate the amount which might be invested therein under the provisions of this section; or 1936, c. 18, s. 5.

Proviso.

(b) (i) real estate or leaseholds for a term or terms of years or other estate or interest therein in Canada or elsewhere where the company is carrying on business: Provided, however, that no such loan shall exceed sixty per cent of the value of the real estate or interest therein which forms the security for such loan, but this proviso shall not be deemed to prohibit a company from accepting as part payment for real estate

Proviso.

sold by it, a mortgage or hypothec thereon for more than sixty per cent of the sale price of such real estate.

(i-a) real estate or leaseholds if the mortgage or hypothec thereon securing the loan is insured by the Federal Housing Administrator of the United States of America. 1944, c. 32, s. 1.

Idem.

(3) The Treasury Board may authorize the acceptance by any company of bonds, stocks or debentures, not fulfilling the foregoing requirements of this section.

Other securities authorized by Treasury Board.

(a) in payment or part payment for securities sold by the company; or

(b) obtained under a *bona fide* arrangement for the reorganization of a corporation whose securities were previously owned by the company, or for the amalgamation with another corporation of the corporation whose securities were so owned;

but the bonds, stocks or debentures whose acceptance is so authorized shall be absolutely sold and disposed of within five years after the acquisition thereof, or within such further time as the Governor in Council shall on report of the Minister fix and determine, unless it can be shown to the satisfaction of the Minister that the bonds, stocks or debentures whose acceptance is so authorized are not inferior in status or value to the securities for which they have been substituted.

(4) For the purpose of determining the eligibility as investments under this section of the preferred or common stocks of any corporation, the capital account of which has been voluntarily reorganized without impairment of the status or value of its outstanding securities, including the capital stock, dividends paid on the preferred and common stocks of the corporation before such reorganization may be counted as dividends paid on such stocks respectively of the corporation. 1932, c. 46, s. 63.

Dividend record in case of reorganization of capital account.

(5) No such company shall loan any of its funds to any director or officer thereof or to the wife or any child of such director or officer except on the security of the company's own policies; nor shall any such company loan any of its funds to any corporation if more than one-half of the shares of the capital stock of the said corporation are owned by any director or officer or the wife or any child of any such director or officer of such company, or by any combination of such persons; 1934, c. 27, s. 11.

No loan to director or officer.

(5a) No such company shall invest any of its funds in bonds, debentures or other evidences of indebtedness on which payment of principal or interest is in default. 1934, c. 27, s. 11.

No investment in securities in default.

(6) Except as hereinafter provided, the total book value of the investments of any such company in common stock shall not exceed fifteen per centum of the book value of the total ledger assets of the company.

Limitation on investment in common stocks.

(7) If any such company has on hand, at the date of the coming into force of this subsection, investments in common stocks of a total book value in excess of fifteen per centum of the book value of the total ledger assets of such company at the said date, the provisions of the last preceding subsection shall not apply to such company until the first day of January

Exception.

following the year in which the amount of the said investments is first reduced to fifteen per centum or less of the total ledger assets of such company, and on and after the said date the said provisions shall apply, but until the said date no investment in common stocks shall be made by such company.

Shares
acquired as
dividends
or rights
not deemed
an investment.

(8) The amount or value of shares of common stock acquired after the coming into force of this and the two next preceding subsections of this section by any such company as bonuses or dividends on preferred or common stocks or acquired in the exercise of rights or privileges arising from investments of such company in preferred or common stocks shall not be deemed to be an investment in common stocks for the purposes of the two next preceding subsections.

Restriction of
investments
by companies
other than
life
companies.

(9) Notwithstanding the foregoing provisions of this section, no company other than a company registered to transact the business of life insurance, may invest or lend its funds or any portion thereof in the purchase of, or on the security of policies of life insurance. 1932, c. 46, s. 63; 1934, c. 27, s. 11.

Power to
invest in
stock of other
insurance
companies.

61. (1) Notwithstanding anything contained in subsection one of the next preceding section any company, other than a company registered to transact the business of life insurance, may invest its funds in the fully paid shares of any other company transacting the business of insurance or of any corporation incorporated outside of Canada and registered under the laws of the Dominion of Canada to transact such business in Canada, but the sum total of money invested in such shares shall not exceed fifteen per centum of the value of the assets of such company; and except as provided in this section no such company shall invest in shares of any other company or corporation transacting the business of insurance.

Certain
investments
excepted.

(2) The amount of any investment made after the thirteenth day of April, 1927, and before the first day of January, 1936, under the provisions of this section or under the provisions of subsection two of section fifty-eight of the *Insurance Act*, chapter one hundred and one of the Revised Statutes of Canada, 1927, or under the provisions of subsection (1A) section sixty-four of the *Insurance Act, 1917*, as enacted by section nine of chapter fifty-nine of the statutes of 1926-27, shall not be deemed to be an investment in common stocks within the meaning of subsections six and seven of section sixty of this Act. 1936, c. 18, s. 6.

Additional
security may
be taken.

62. Any company may take any additional securities of any nature further to secure the repayment to the company of any loan or investment, or further to secure the sufficiency of any of the securities in or upon which such company is by this Act authorized to invest or lend any of its funds. 1932, c. 46, s. 65; 1934, c. 27, s. 13.

Investments
in corporate
name only.

63. All investments and deposits of the funds of any company shall be made in its corporate name, and no director or other officer thereof, and no member of a committee having any authority in the investment or disposition of its funds shall accept or be the beneficiary of, either directly or indirectly, any fee, brokerage, commission, gift or other considerations for or on account of any loan, deposit, purchase, sale, payment or exchange made by or in behalf of the company, or be pecuniarily

interested in any such purchase, sale or loan, either as borrower, principal, co-principal, agent or beneficiary, except that if he is a policyholder he shall be entitled to all the benefits accruing under the terms of his contract.

(2) If the laws of any state or country in which any company transacts, or is about to transact, business, require that the deposits made or to be made by such company in such state or country shall be made in the name of, or transferred or assigned to, any person or corporation other than the company, this section shall not prohibit such company from making in the name of, or transferring or assigning to, such other person or corporation, the investments and deposits necessary to comply with the said laws. 1932, c. 46, s. 66; 1934, c. 27, s. 13. Exception.

64. Notwithstanding anything contained in its Act of incorporation, or in any Act amending it, every company shall have power to hold such real estate as is required for its actual use or occupation, or as may reasonably be required for the natural expansion of its business (including such, as having been lawfully acquired, is vested in it at the time of the passing of this Act) or such as is *bona fide* mortgaged or hypothecated to it by way of security or conveyed to it in satisfaction of debts or judgments, recovered. Power to hold real estate.

(2) No parcel of land, or interest therein, acquired by any company and not required for its actual use and occupation, present or prospective, as hereinbefore in this section provided, and not held by way of security, or acquired to protect the company's security, or acquired in payment or in part payment of an indebtedness to the company, shall be held by the company, or any trustee on its behalf, for a longer period than twelve years after the acquisition thereof, unless the Treasury Board extends the period during which such parcel of land may be so held, but shall, at or before the expiration of such period, or extended period, be absolutely sold and disposed of, so that the company shall no longer retain any interest therein except by way of security. Period of holding.

(3) Nothing herein contained shall be deemed to exempt any company from its obligation to comply with the laws of the province in which any such real estate is situate with respect to mortmain. 1932, c. 46, s. 68; 1934, c. 27, s. 15. Saving of Provincial mortmain laws.

Statements and Returns.

65. The president, vice-president or managing director or other director appointed for the purpose by by-law or by the board of directors, and the secretary, actuary or manager of every company registered under this Act, shall prepare annually under their oaths, a statement of the condition and affairs of the company on the thirty-first day of December in each year, which shall exhibit the assets and liabilities of the company, and its income and expenditure during the year then ended, and such other information as is deemed necessary by the Minister from time to time. 1932, c. 46, s. 69; 1934, c. 27, s. 16. Annual statement.

(2) Every company shall, at the time of making its annual statement of Canadian business, declare any change which has been made, since the date of deposit of its next preceding Declaration in annual statement.

annual statement, in the charter, Act of incorporation or articles of association of the company, and any change which has been made in the head office of the company.

Forms of
annual
statements.

(3) The annual statement shall be in such form or forms as may, from time to time, be determined by the Minister for the purposes of this Act, and shall be deposited in the Department within two months after the first day of January in each year. 1934, c. 27, s. 16.

Half-yearly
statement.

66. In respect of the life insurance business of every company, there shall also be prepared half yearly, as of the last days of June and December in each year, by the same officers, under their oaths, and deposited in the Department within fifteen days after the said last days of June and December in each year respectively, a statement in such form as the Minister may determine for the purposes of this Act, showing in detail all bonds, stocks, debentures and other securities bought and all loans made, except on mortgages and policies, during the half year terminating on the date as of which such statement is made, specifying the amounts, dates of issue and maturity and par value thereof, the rate of interest payable thereon and the price paid therefor, and in the case of loans made, except on mortgages of real estate or insurance policies, particulars in detail of the security therefor, and showing also in detail all such securities sold or disposed of during the said half year, specifying similarly the amounts, dates of issue and maturity and par value thereof, the value in account thereof, the rate of interest payable thereon and the price or consideration received therefor.

To be
included in
Superintendent's
report.

(2) The half yearly statement mentioned in the preceding subsection, shall be embodied by the Superintendent by way of appendix or otherwise in the annual report prepared by him for the Minister.

Affidavits
accompanying
statements.

(3) With each annual statement and with each half-yearly statement there shall be deposited in the Department an affidavit of the officers by whom the statement is prepared as aforesaid in such form or forms as the Minister may determine. 1934, c. 27, s. 17.

Valuation
of securities
for annual
statement.

67. In every annual statement required to be deposited by this Act, the bonds, debentures, stocks and other securities shall be taken into account at the market values applicable to the said securities at the date of the statement or, in the discretion of the Superintendent, at a date not more than sixty days before the date of the statement. 1934, c. 27, s. 18.

Variation
when values
unduly
depressed.

(2) When the said market values are, in the opinion of the Minister unduly depressed, the Minister may, on the report of the Superintendent, authorize the use of values in excess of the said market values, not, however, exceeding the values at which the said securities were shown in the next preceding annual statement, or, if acquired since the date of the next preceding annual statement, then not exceeding the book values at the date of the annual statement to be filed. 1932, c. 46, s. 71:

INSPECTION AND REPORT BY SUPERINTENDENT.

68. The Superintendent shall

- (a) enter in a book, under the heading of each company, the securities deposited on its account with the Minister naming in detail the several securities, their par value, their date of maturity, and value at which they are received as deposit; and such book shall be open to public inspection;
- (b) in each case, before the granting of any certificate of registry, or the renewal of any such certificate, make a report to the Minister that the requirements of this Act have been complied with, and that from the statement of the affairs of the company it is in a condition to meet its liabilities;
- (c) keep a record of the certificates of registry as they are granted;
- (d) visit personally, or cause a duly qualified member of his staff to visit, the head office of each company in Canada, at least once in every year, and examine the statements of the condition and affairs of each company, and report thereon to the Minister as to all matters requiring his attention and decision;
- (e) prepare for the Minister, from the said statements, an annual report, giving full particulars of the condition and affairs of each company. 1932, c. 46, s. 72; 1934, c. 27, s. 19.

Duties of
superintendent.
Securities.

Report as to
being eligible
for
registration.

Record of
certificates.

Visit head
office.

Annual
report.

69. If the Superintendent, after an examination into the condition and affairs of any company registered to transact business in Canada, as disclosed by the annual or other statements furnished by the company to the Minister or for any other reason, deems it necessary or expedient to make a further examination into the affairs of the company and so reports to the Minister, the Minister may, in his discretion, instruct the Superintendent to visit the head office of the company, thoroughly to inspect and examine into all its affairs and to make all such further inquiries as are necessary to ascertain its condition and ability to meet its obligations, and whether it has complied with the provisions of this Act.

Inspection of
companies.

(2) The officers or agents of such company shall cause the books of the company to be open for the inspection of the Superintendent, and shall otherwise facilitate such examination so far as it is in their power.

Officers to
open books
for
inspection.

(3) For the purpose of such inquiry, the Superintendent may examine under oath the officers or agents of the company. 1932, c. 46, s. 73; 1934, c. 27, s. 19.

Examination
under oath.

70. A report of all companies so visited by the Superintendent shall be entered in a book kept for that purpose, with notes and memoranda showing the condition of each company.

Report on
inspections.

(2) The Superintendent shall make a special report in writing to the Minister, stating his opinion as to the standing and financial position of every company so visited, and any other matters which he thinks desirable to be made known to the Minister. 1932, c. 46, s. 74; 1934, c. 27, s. 19.

Special
report to
Minister.

Appraisalment
of real
estate held.

71. If upon an examination of the assets of any company, it appears to the Superintendent that the value placed by the company upon the real estate owned by it or any parcel thereof is too great, he may either request the company to procure an appraisalment of such real estate by one or more competent valuers, or may himself procure an appraisalment at the company's expense, and the appraised value, if it is materially less than that shown in the return made by the company, may be substituted for the latter in the annual report prepared for the Minister by the Superintendent.

Appraisalment
of real estate
securing
mortgage.

(2) If it appears to the Superintendent that the amount of any loan secured by mortgage or hypothec upon any parcel of real estate, together with the interest due and accrued thereon, is greater than the value of the parcel, or that the parcel is not sufficient security for the loan and interest, he may in like manner request the company to procure an appraisalment thereof, or may himself at the company's expense procure an appraisalment, and if from the appraised value it appears that the parcel of real estate is not adequate security for the loan and interest, he may write off from the loan and interest a sum sufficient to reduce the same to such an amount as may fairly be realizable from such real estate, in no case to exceed the appraised value thereof, and may insert the reduced amount in his said annual report.

Special
audit
of company.

(3) If it appears to the Superintendent that a complete and thorough audit of the books of the company should be made or if a company makes a written request for such audit, the Superintendent may nominate a competent accountant who shall, under the direction of the Superintendent, make a special audit of the company's books, accounts and securities and report thereon to the Superintendent in writing verified by the oath of such accountant.

Expense
borne by
company.

(4) The expenses of such special audit shall be borne by the company and the auditor's account therefor when approved in writing by the Superintendent shall be payable by the company forthwith. 1932, c. 46, s. 75; 1934, c. 27, s. 19.

Inquiries to
companies
and replies.

72. The Superintendent may address any inquiries to any company registered under this Act, or to the president, manager, actuary or secretary thereof, for the purpose of ascertaining its condition and ability to meet its obligations, and it shall be the duty of any company so addressed promptly to reply in writing to any such inquiries.

May be
printed
in report.

(2) The Superintendent may, in his discretion, embody in his annual report to the Minister the inquiries made by him under this section and the answers thereto. 1932, c. 46, s. 76; 1934, c. 27, s. 19.

Permissible
investments
only to be
allowed as
assets.

73. In the annual report prepared for the Minister, the Superintendent shall allow as assets only such of the investments of the several companies as are authorized by this Act, or as were authorized by law at the time of their acquisition.

(2) In the said report the Superintendent shall make all necessary corrections in the annual statements made by the companies as herein provided and may increase or diminish the liabilities of such companies to the true and correct amounts as ascertained by him in the examination of their affairs at the head office thereof in Canada, or otherwise. 1932, c. 46, s. 77; 1934, c. 27, s. 19.

Correction
of annual
statements.

74. An appeal shall lie in a summary manner from the ruling of the Superintendent as to the admissibility of any asset not allowed by him, or as to any item or amount so added to liabilities, or as to any correction or alteration made in any statement, or as to any other matter arising in the carrying out of the provisions of this Act, to the Exchequer Court of Canada, which court shall have power to make all necessary rules for the conduct of appeals under this section.

Appeal to
Exchequer
Court.

(2) For the purposes of any appeal the Superintendent shall at the request of the company concerned give a certificate in writing setting forth the ruling appealed from and the reasons therefor, which ruling shall, however, be binding upon the company unless the company shall within fifteen days after notice of the ruling serve upon the Superintendent notice of its intention to appeal therefrom, setting forth the grounds of appeal, and within fifteen days thereafter file its appeal with the registrar of the said court and with due diligence prosecute the same, in which case action on such ruling shall be suspended until the court has rendered judgment thereon. 1932, c. 46, s. 78; 1934, c. 27, s. 19.

Procedure
on appeal.

PART IV.

COMPANIES TRANSACTING LIFE INSURANCE.

75. This Part applies to companies registered under this Act to transact only the business of life insurance and to companies so registered to transact the business of life and other insurance, in respect of the life insurance business of such companies. 1932, c. 46, s. 79; 1934, c. 27, s. 19.

Life insurance
companies.

76. The provisions of section six of this Act, in so far as they are applicable to a company authorized to transact the business of life insurance, shall apply to every company registered under this Act to transact such business. 1932, c. 46, s. 80; 1934, c. 27, s. 19.

Section six
applies.

77. If any company, in the exercise of its powers, combines such business with other classes of insurance business, it shall maintain separate and distinct accounts, funds and securities in respect of its life insurance business, and such funds and securities shall be available only for the protection of the holders of its policies of life insurance, and shall not be liable for the payment of claims arising from the other class or classes of business which the company transacts: Provided that the maintenance of separate and distinct accounts, funds and securities in

Maintenance
of separate
funds.

Proviso.

respect of any such company's life insurance business shall not be required by reason only that it combines with its life insurance business any of the following classes of insurance, namely:—

Insurance
against
disability.

(a) insurance against disability caused by accident or sickness, if included in a policy of life insurance and if the disability benefits do not exceed the following namely, the waiver of premiums falling due during the continuance of such disability and a disability indemnity payable for a period or periods not exceeding one hundred weeks at a weekly rate not exceeding one-half of one per centum of the sum assured on the date of the occurrence of such disability payable in event of death, and thereafter an indemnity not exceeding one-half of the said rate, ceasing upon the termination of the life insurance risks insured against under the policy, or a lump sum disability indemnity in respect of total and permanent disability which, together with any other disability indemnity otherwise at any time paid under the policy, shall not exceed the said sum assured, and in a deferred annuity contract a disability indemnity not exceeding the rate of annuity provided by the contract;

Insurance
against
accidental
death.

(b) insurance against death as a result of accident, if included in a policy of life insurance and if the additional benefit payable in event of accidental death does not exceed the sum assured on the date of death payable in event of death from any cause;

Annuities.
Sinking fund
and other
insurance.

(c) annuities of all kinds;
(d) insurance providing for the establishment, accumulation and payment of sinking, redemption, accumulation, renewal or endowment funds.

"Sum
assured"
defined.

(2) In this section the words "sum assured" wherever they appear, shall mean the principal sum which is payable in event of death where the life insurance money is payable in one sum, or the commuted value of the income or instalments provided upon death where the life insurance money is payable otherwise than in one sum, but not including any additional sum payable under the policy on death as a result of accident.

Charter
powers
deemed
amended.

(3) The Act of incorporation of any such company incorporated by the Parliament of Canada or by the Legislature of the late Province of Canada is hereby amended to empower the company to transact, in addition to the business of life insurance, the classes of insurance in this section enumerated within the limitations therein prescribed. 1932, c. 46, s. 81; 1934, c. 27, s. 20.

Authority to
transact
enumerated
classes of
insurance.

(4) Any company holding a certificate of registry to transact the business of life insurance may, subject to the provisions of this section, transact under the said certificate the classes of insurance enumerated in paragraphs (a), (b), (c), and (d) of subsection one of this section. 1934, c. 27, s. 20.

Annual
statement
to show
reserve.

78. The liabilities in the annual statement, required to be filed under this Act, of every company shall include a reserve for all unmatured obligations guaranteed under the terms of its

policies dependent on life, disability, sickness, accident, or on any other contingency, or on a term certain, and shall also include a reserve for profits ascertained and apportioned for future distribution.

(2) In computing the reserve for all unmatured obligations guaranteed under the terms of the policies dependent on life contingencies only, the valuation shall be made in accordance with the following prescriptions, namely:—

- (a) The rate of interest assumed shall not exceed the rate prescribed in the third schedule to this Act; Method of computation.
Rate of interest.
- (b) The tables of mortality used shall be the tables prescribed in said schedule: Provided that if it appears to any company that the reserves for any particular class of policies cannot be appropriately computed by any table of mortality prescribed in the said schedule for the computation, then the company shall apply to the Superintendent for approval of the table the company deems most appropriate for the computation; Tables of mortality.
Proviso.
- (c) The method of valuation shall be that specified in the said schedule or any adaptation thereof approved by the Superintendent, or any other method the company deems appropriate: Provided that the method used shall be such that the reserve calculated in accordance therewith shall not be less at any duration than the reserve computed in accordance with the valuation provisions in the said schedule, and that the method used shall make adequate provision for the guaranteed values at the subsequent durations of the policy according to the rate of interest and the table of mortality used in the valuation; Method of valuation.
Proviso.
- (d) The reserve in the first policy year need not in any event exceed the reserve computed in accordance with the rate of interest and table of mortality used in the valuation and the method of valuation described in the said schedule. First year reserve.

(3) In computing the reserve for all unmatured obligations, guaranteed under the terms of or arising out of policies, dependent on contingencies other than life contingencies only, the bases and methods of valuation employed by the company shall be such as to place an adequate value on the liabilities thereunder, and shall be such that the value of the benefits under each and every policy shall in no case be less than the value placed upon the future premiums. Valuation by company.

(4) There shall be included in the annual statement a certificate by the actuary of the company, or by the actuary responsible for the valuation if the company has no actuary, to the effect that the reserves shown in the valuation summary are not less than the reserves required by the provisions of this section, and in addition that in his opinion the reserves make a good and sufficient provision for all unmatured obligations of the company guaranteed under the terms of its policies. Actuary to certify to sufficiency of reserves.

(5) If it appears to the Superintendent that the reserve included in the liabilities in the annual statement of any com- Computation by Superintendent.

pany has not been computed in accordance with the provisions of the preceding subsections in this section, he shall make known to the company in what respects in his opinion the valuation does not comply with the said provisions with a view to having such alterations made in the valuation as may be necessary to secure compliance with those provisions, and on failure of the company to have such alterations made the company shall furnish to the Superintendent, on request, the full particulars of its policies necessary for computation of the reserve required in accordance with the provisions of the preceding subsections of this section, and the reserve so computed by the Superintendent shall be substituted in the liabilities in the annual statement for the reserve computed by the company.

Valuation every five years.

(6) Once in every five years or oftener at the discretion of the Minister, the Superintendent shall himself value or cause to be valued under his supervision all the policies of every company, and any such valuation shall be made on the bases and in accordance with the methods the company purports to use in computing the reserve included in the liabilities in the annual statement of the company made as of the valuation date, or if the valuation is made as of a date other than the annual statement date, then in the annual statement of the company last made preceding the date of valuation, subject to such alterations as may be made in the reserve under the provisions of subsection five of this section.

Examination of valuation.

(7) Instead of making a valuation as provided under subsection six of this section, the Superintendent may satisfy himself by an examination of the valuation made by the company whether the company is maintaining the reserve it purports to maintain and whether the reserve maintained complies with the provisions of this Act.

Company may require valuation to be made by Superintendent.

(8) Any company, instead of itself computing the reserve to be included in the liabilities in its annual statement, may require the valuation to be made by the Superintendent, in accordance with the provisions of this section, on payment to him of three cents for each policy or bonus addition so valued, which amount the Superintendent shall pay over to the Minister: Provided that the company in preparing the data for valuation may group any number of policies in a manner satisfactory to the Superintendent so that they may be valued as one policy and the charge for the valuation of each group shall be three cents; and a like charge shall be made and paid over to the Minister in respect of any valuations made by the Superintendent under the provisions of subsection five of this section.

Proviso.

Tables of mortality approved to be described in Superintendent's report.

(9) In any case where the Superintendent approves of a table of mortality under the provisions of this section he shall include in his annual report to the Minister such information concerning the origin and characteristics of the table and the circumstances in which it may be used as the Superintendent deems necessary and appropriate; and approval of any such table may in like manner be withdrawn by the Superintendent.

Surplus under deferred dividend policies and quinquennial apportionment of profits.

(10) In computing the reserve to be included in the said annual statement for profits ascertained and apportioned for future distribution in respect of policies providing for distribution of surplus or profits at intervals less frequent than quin-

quennial, and known as deferred dividend policies, the profits or surplus to which each class of such policyholders may be equitably entitled shall be ascertained and apportioned at least once in every five years, reckoning from the date of the policies, and the total sum of the shares so ascertained and apportioned shall be a liability of the company and shall be so shown in its accounts until actually distributed and paid to the policyholders entitled thereto: Provided that in respect of deferred dividend policies issued before January 1, 1911, the amount of profits or surplus so ascertained and apportioned may be shown in the accounts as a contingent apportionment and not as a liability. 1932, c. 46, s. 82; 1934, c. 27, s. 21.

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79. Every company, notwithstanding anything to the contrary in any special Act or elsewhere, shall keep separate and distinct accounts of participating and non-participating business. 1932, c. 46, s. 83; 1934, c. 27, s. 21.

Separate accounts of participating and non-participating business.

80. In the case of companies which have a capital stock, the directors may, from time to time, set apart such portion of the net profits as they deem safe and proper for distribution as dividends or bonuses to shareholders and holders of participating policies, ascertaining the part thereof which has been derived from participating policies and distinguishing such part from the profits derived from other sources; and the holders of participating policies shall be entitled to share in that portion of the profits so set apart which have been distinguished as having been derived from participating policies (including a share of the profits arising from the sale of securities in the proportion of the mean participating fund to the mean total funds), to the extent of not less than ninety per cent thereof; and before fixing or arriving at the amount of divisible profits, interest on the amount of unimpaired paid-up capital stock, but not including any premiums or bonuses paid thereon or in respect thereof, which have been expended in the establishment, prosecution or extension of the company's business or applied to making good any impairment of capital, and on any other sum or sums from time to time standing at the credit of the shareholders may be allowed or credited to such shareholders at the average net rate of interest earned in the preceding year, or other period under consideration, upon the mean invested funds of the company; such shareholders to be, however, charged with a fair proportion of all losses incurred upon investments or other losses of a similar character in proportion of the mean shareholders' fund to the mean total funds.

Ascertainment of profit from participating policies.

(2) The provisions of subsection one of this section shall not interfere with the right of the participating policyholders of any such company to share in the profits realized from the non-participating branch of its business in any case in which such policyholders are so entitled under the Acts relating to such company in force on the fourth day of May, one thousand nine hundred and ten. 1932, c. 46, s. 84; 1934, c. 27, s. 21.

Right of participating policyholders to profit.

81. Every company shall at all times retain in Canada and under its own control assets of a value at least equal to the amount of its total liabilities to its policyholders in Canada and

Securities to be held in Canada.

Proviso.

of such assets an amount at least equal to two-thirds of its said total liabilities in Canada shall consist of investments in or loans upon Canadian securities: Provided, however, that in the event of its being necessary to remove from Canada any portion of the securities held in Canada for the purpose of exchanging the same for other securities authorized under this Act, or for any similar purpose, they may be entrusted for the purpose intended to a responsible bank, trust corporation or other corporation carrying on business outside of Canada.

Deposit outside Canada.

(2) Any company may deposit in any country outside of Canada such portion of its funds and securities as may be necessary or desirable for the protection of the reserves on, or for the purpose of paying claims under, the company's policies issued in such country, but the amount so deposited in any such country shall not exceed the reserves on the company's policies in such country or the amount required to be so deposited by the laws of such country whichever is the greater, together with a proportion of the combined paid capital, contingency reserves and unappropriated surplus of the company equal to the proportion which the reserves in such country are of the company's reserve on all its policies.

Funds in foreign country.

(3) Funds and securities for the protection of, or for the purpose of paying claims under policies issued in one country outside of Canada and payable in the currency of another such country, may be deposited in the country in the currency of which the policies are payable, and the securities so deposited shall not be deemed to be funds and securities deposited in such country within the meaning of subsection two of this section; and funds and securities held in Canada in trust for policyholders outside of Canada in pursuance of a reinsurance agreement between such company and any other company shall not be deemed to be funds and securities retained in Canada.

Saving.

(4) Save as in this section provided all the securities of every company shall be held at the head office of the company or elsewhere in Canada. 1932, c. 46, s. 85; 1934, c. 27, s. 21.

No power to form other companies.

82. Except for the *bona fide* purpose of protecting investments previously made by it, no such company shall, nor shall its directors or officers or any of them on its behalf, under colour of an investment of the company's funds or otherwise, directly or indirectly be employed, concerned or interested in the formation or promotion of any other corporation: Provided that nothing in this Act shall be deemed to prohibit any company from investing funds in securities of a newly formed corporation under and subject to the provisions of section sixty of this Act. 1936, c. 18, s. 7.

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No power to underwrite securities, etc.

83. No such company shall subscribe to or participate in or employ the funds of the company in any underwriting for the purchase or sale of securities or property of any kind, nor shall any director or officer, except for the *bona fide* purpose of protecting investments already made by the company enter into any transaction for such purchase or sale on account of such company, jointly with any other person, firm or corporation: Provided that this section shall not be deemed to prohibit

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the subscription in manner aforesaid for bonds or securities permitted by this Act as a *bona fide* permanent investment on behalf of any such company. 1934, c. 27, s. 22.

84. No salary, compensation or emolument shall be paid to any director of any company for his services as director unless authorized by a vote of the members in the case of a mutual company, and by a vote of the shareholders and other members, if any, in the case of a company having capital stock.

Salaries of officers and agents.

(2) No salary, compensation or emolument shall be paid to any officer or trustee of any company unless authorized by a vote of the directors, nor shall any salary, compensation or emolument amounting in any year to more than five thousand dollars be paid to any agent or employee unless the contract under which such amount becomes payable, if made after the fourth day of May, one thousand nine hundred and ten, has been approved by the board of directors. 1932, c. 46, s. 87; 1934, c. 27, s. 23.

Approval of Board of Directors required.

85. The company shall have power by by-law of the directors to provide for the creation of a staff pension and insurance fund, but such by-law shall before becoming effective be submitted to and be approved of at an annual meeting of the company or at a special general meeting of the members thereof, notice of the intention to consider such by-law having been in either case duly given. 1932, c. 46, s. 88; 1934, c. 27, s. 23.

Staff Pension and Insurance Fund.

86. Every company registered to transact the business of life insurance shall have power, with the permission of the Minister, to make an agreement to amalgamate its property and business with the property and business of any other such company, which has power to make such an agreement or to transfer all or any portion of its policies to or reinsure the same in any other such company, or to transfer its property and business or any part thereof to any other such company, or to reinsure the policies or any portion thereof of any other such company, or to purchase and take over the business and property or any portion thereof of any other such company, and to enter into all contracts and agreements necessary to such amalgamation, transfer or reinsurance upon compliance with the conditions hereinafter in this section set forth.

Amalgamation, transfer and reinsurance.

(2) When an agreement for any such amalgamation, transfer or reinsurance has been entered into, the directors of the companies which are parties to such agreement may apply to the Treasury Board to sanction and confirm the same, and the Treasury Board, after hearing the directors and other persons whom it considers entitled to be heard upon the petition, or giving them an opportunity to be so heard, may confirm the same.

Sanction of Treasury Board.

(3) Before any such application is made to the Treasury Board notice thereof together with

Notice of application to Board.

(a) a statement of the nature and terms of the amalgamation, transfer or reinsurance as the case may be; and

- (b) an abstract containing the material facts embodied in the agreement under which such amalgamation, transfer or reinsurance is proposed to be effected; and
- (c) copies of the actuarial or other reports upon which such agreement is founded, including a report by an independent actuary;

shall be served on the shareholders and on the holders of all policies in Canada other than industrial policies of each company: Provided, however, that the Superintendent may dispense with the services of such documents on the policyholders of the reinsuring company and on the policyholders of the reinsured company not included in the reinsurance.

Proviso.

Service on policyholder.

(4) Such notice and documents shall be served by being transmitted through the post office directed to the registered or other known address of each such shareholder and policyholder, and within such period that they may be delivered in due course of delivery thirty days at least before the day appointed for the hearing of the application.

Agreement open to inspection.

(5) The agreement under which such amalgamation, transfer or reinsurance is proposed to be effected shall be open to the inspection of the policyholders and shareholders at the principal office of the company or companies for a period of thirty days after the issue of the abstract herein provided for.

Publication of notice.

(6) A copy of such notice shall also be published in the *Canada Gazette* at least thirty days before the application is made; but this subsection shall not apply to any company which issues industrial insurance.

Opposition by policyholders.

(7) The Treasury Board shall not sanction any amalgamation, transfer or reinsurance in any case in which it appears to the Board that the policyholders representing one-fifth or more of the total amount assured in any company which it is proposed to amalgamate, or in any company the business of which it is proposed to transfer or reinsure, dissent from such amalgamation, transfer or reinsurance.

Capital to be unimpaired after amalgamation.

(8) No company shall be permitted to amalgamate its business with, transfer its business to, or reinsure its business in any other company, if the capital of the combined company after such amalgamation, or of the continuing company after such transfer or reinsurance, shall be impaired, the policy and annuity liabilities of the combined or continuing company being calculated in accordance with the provisions of this Act.

Deposit of documents.

(9) When an amalgamation takes place between any companies, or when the business of one company is transferred to or reinsured in another company, the combined company, or the continuing company, as the case may be, shall, within ten days from the date of the completion of the amalgamation, transfer or reinsurance, deposit with the Superintendent the following documents, that is to say:—

- (a) certified copies of the statement of the assets and liabilities of the companies concerned in such amalgamation, transfer or reinsurance; and

- (b) a statement of the nature and terms of the amalgamation, transfer or reinsurance; and
- (c) a certified copy of the agreement under which such amalgamation, transfer or reinsurance is effected; and
- (d) certified copies of the actuarial or other reports upon which such agreement is founded; and
- (e) a declaration under the hands of the president and manager of each company that to the best of their knowledge and belief every payment made or to be made to any person whatsoever on account of the said amalgamation, transfer or reinsurance is therein fully set forth, and that no other payments beyond those set forth have been made or are to be made either in money, policies, bonds, valuable securities or other property, by or with the knowledge of any of the parties to the amalgamation, transfer or reinsurance.

(10) No company shall amalgamate with another company, transfer its business to or reinsure its business in another company, unless such amalgamation, transfer or reinsurance is sanctioned by the Treasury Board in accordance with this section: Provided, however, that this section shall not apply to the contracts of reinsurance made by companies in the ordinary course of their business.

Sanction of
Treasury
Board
essential.

Proviso.

(11) Subsections three to seven, both inclusive, of this section shall not apply to the reinsurance by any company of the business of a company which is not registered and never has been registered or licensed to transact business in Canada.

Exemption.

(12) Subsections two to seven, both inclusive, and subsection ten of this section shall not apply to the reinsurance by a company of any of the policies other than policies in Canada of any company incorporated outside of Canada.

Exemption.

(13) The word "company", when used in this section with reference to another party with which a company is authorized to make an agreement, shall extend to and include any corporation transacting the business of life insurance and incorporated under the laws of any country other than Canada or under the laws of any province of Canada. 1932, c. 46, s. 89; 1934, c. 27, s. 23.

Definition of
"Company"
extended.

PART V.

FRATERNAL BENEFIT SOCIETIES.

87. This Part applies only to fraternal benefit societies registered under this Act. 1932, c. 46, s. 90; 1934, c. 27, s. 23.

Fraternal
benefit
societies.

(2) Every society registered under the provisions of this Act, shall, when so registered, be exempt from the provisions of Part II of this Act with the exception of sections twenty-six, forty-one and forty-four thereof and from the provisions of sections seventy-eight, seventy-nine and eighty. 1936, c. 18, s. 8.

Exemptions.

88. No fraternal benefit society shall be registered under this Act if it is in effect the property of its officers or collectors

When
certificate

is not to
be granted.

or belongs to any private proprietary, or if it is conducted as a trading or mercantile venture, or for purposes of commercial gain. 1932, c. 46, s. 91; 1934, c. 27, s. 23.

Majority of
directors to
reside in
Canada.

(2) A majority of the board of directors, executive council, grand council or other governing body, by whatever name called, of every fraternal benefit society shall at all times be persons resident in Canada. 1936, c. 18, s. 9.

Granting of
sickness
benefits by
subordinate
branch.

89. It shall be a condition of the granting of a certificate of registry or any renewal thereof to a fraternal benefit society that no by-law of the society shall empower or purport to empower any subordinate branch of the society to grant sickness benefits to any member of the branch unless the by-law makes adequate provision to secure upon an actuarial basis the solvency of the sick benefit fund of the branch.

Repeal of
charter
prohibitions.

(2) Any provision of the charter, act of incorporation or articles or memorandum of association of any such society, which prohibits branches of the society from so granting sickness benefits, is hereby repealed. 1932, c. 46, s. 92; 1934, c. 27, s. 23.

Actuarial
valuation
before
certificate
granted.

90. Every fraternal benefit society shall before a certificate of registry is granted to it under this Act, file with the Superintendent, in addition to the other statements and documents required by this Act to be filed, a report made by an actuary, appointed by the society, including therein, in such detail as the Superintendent may require, the results of an actuarial valuation made by the said actuary as at the next preceding thirty-first day of December or such later date as the Superintendent may specify, of each of the benefit funds maintained by the society having regard to the prospective liabilities of, and contributions to, each fund.

Declaration
of actuary.

(2) Such report shall include a declaration by the said actuary that in his opinion the assets of the society applicable to each fund, taken at the value accepted by the Superintendent, together with the premiums, dues and other contributions to be thereafter received from the members according to the scale in force at the date of the said valuation, are sufficient to provide for the payment at maturity of all the obligations of the fund without deduction or abatement.

Statement
of condition
and affairs.

(3) The society shall also file with the Superintendent a statement of its condition and affairs in such detail as the Superintendent may require, as at the date of the said valuation. 1932, c. 46, s. 93; 1934, c. 27, s. 23.

Form of
annual
statements.

91. The annual statements deposited in the Department under the provisions of this Act, by every fraternal benefit society registered under this Act, shall be in such form as the Minister may from time to time deem necessary to exhibit the condition and affairs of the society and the state of its various funds. 1934, c. 27, s. 24.

Computation
of reserve—
mortality
fund.

(2) There shall be included in the said annual statement a report made by an actuary appointed by the society, including therein, in such detail as the Superintendent may from time to time require, the results of an actuarial valuation, as at the date

of the statement, of each of the benefit funds maintained by the society, having regard to the prospective liabilities of, and contributions to each fund, and the actuary shall certify as to each fund that, in his opinion, the reserve shown by such valuation, together with the premiums, dues and other contributions to be thereafter received from the members according to the scale in force at the date of valuation, is sufficient to provide for the payment at maturity of all the obligations of the fund without deduction or abatement.

(3) The reserve shown by such valuation, in respect of each fund, or at the option of the society any higher reserve, shall be entered as liabilities of the fund, but the reserve so entered shall not be less than the reserve, if any, which the society is required to maintain by its act of incorporation or by the general laws to which it is subject. 1932, c. 46, s. 94; 1934, c. 27, s. 23.

Other fund.

92. If it appears to the Superintendent, from the annual statement filed with him or from any examination or valuation made in pursuance of this Act, that the assets of any fraternal benefit society registered under this Act, or of any benefit fund thereof, are insufficient to provide for the maturity of its policies without deduction or abatement or without increase of premiums or additional premiums, he shall make a special report to the Minister on the condition of the society and shall in such report state the amount of the deficiency in the society's assets, shown by the annual statement or by any examination or valuation made as aforesaid; provided that, before so reporting to the Minister, the Superintendent may make a special valuation of the liabilities of the society under the said policies.

Special valuation if assets deficient.

(2) If the Minister after consideration of the said report concurs in the opinion of the Superintendent, he shall request the society within such time, not exceeding four years, as he may prescribe, to make good the deficiency.

Minister to request that deficiency be made good.

(3) If the society does not within the time so prescribed comply with the request of the Minister, the certificate of registry of the society may be withdrawn. 1932, c. 46, s. 95; 1934, c. 27, s. 25.

Certificate withdrawn for non-compliance.

93. Every fraternal benefit society registered under this Act shall, not later than the first day of June in each year, mail to each policyholder a copy of the valuation balance sheet on the basis used for the purpose of the annual statement mentioned in subsection two of section ninety-one of this Act, and an explanation of the facts concerning the condition of the society thereby disclosed; or in lieu thereof, shall publish in its official paper such balance sheet and explanation and mail a copy of the issue of said paper containing the same to each of the society's policyholders. 1936, c. 18, s. 10.

Valuation balance sheet to be sent to policyholders.

94. Every fraternal benefit society which on the thirty-first day of December one thousand nine hundred and nineteen held a licence from the Minister, shall continue to maintain such separate funds as it was required by its charter or by its constitution and laws to maintain at the said date. 1932, c. 46, s. 97; 1934, c. 27, s. 25.

Separate funds.

- Society may insure.** **95.** Any fraternal benefit society registered under this Act, if duly authorized by by-law of the society passed on the recommendations of its actuary, shall have power to,—
- Dependent children.** (a) insure the dependent children of the members of the society;
- Endowment contracts.** (b) issue to its members endowment assurance contracts maturing at the age of sixty-five years, or at any higher age, or at the end of a term of not less than twenty years;
- Maximum policy \$10,000.** (c) issue life or endowment assurance policies in any amount not exceeding ten thousand dollars on the life of any one member;
- Paid-up policies and other equities.** (d) grant loans to its members on the security of their policies, grant paid-up policies or other equities in lieu thereof to members desiring to be relieved of payment of future premiums or any part thereof, or pay cash surrender values for policies and purchase the interest of members in the said policies;
- Maintain separate funds.** (e) maintain such separate funds as may from time to time be authorized by by-law, validly enacted by the society and approved by the Superintendent.
- Additional separate fund.** (2) A by-law authorizing the insurance of dependent children shall establish a separate fund to which the receipts and payments in respect of any contracts issued under the by-law shall be credited and charged respectively.
- Corporate powers amended.** (3) The powers enumerated in this section may be exercised by any such society as if conferred upon the said society by its Act of incorporation and the said Act of incorporation of every such society is hereby amended accordingly. 1932, c. 46, s. 98; 1934, c. 27, s. 25.

- " Actuary " defined.** **96.** The term "Actuary" in this Part means a Fellow by examination of the Institute of Actuaries of Great Britain, the Faculty of Actuaries in Scotland, the Actuarial Society of America, or of the American Institute of Actuaries: Provided that anyone admitted to fellowship otherwise than by examination and who prior to the fourteenth day of April, one thousand nine hundred and twenty-seven, had made an actuarial report in accordance with the provisions of subsection two of section one hundred and twelve of the *Insurance Act, 1917*, as enacted by chapter fifty-seven of the statutes of 1919, shall for the purposes of this section be deemed to be a Fellow by examination. 1932, c. 46, s. 99; 1934, c. 27, s. 25.
- Proviso.**

PART VI.

COMPANIES OTHER THAN FRATERNAL BENEFIT SOCIETIES TRANSACTING INSURANCE OTHER THAN LIFE INSURANCE.

- Insurance companies other than life.** **97.** This Part applies to all companies, other than fraternal benefit societies, registered under this Act to transact the business of insurance, in respect of any class of such business other than life insurance, marine, or inland marine insurance.

(2) No company shall be required to be registered under this Act in respect of the business of marine or inland marine insurance. 1932, c. 46, s. 100; 1934, c. 27, s. 25.

Marine and inland marine insurance exempted.

98. For the purposes of the annual statement required to be deposited in the Department under the provisions of this Act, the liability of every company in respect of all its outstanding unmatured policies shall, except as hereinafter in this section provided, be eighty per cent of the unearned premiums computed *pro rata* as at the date of such statement.

Computation of reserve liability.

(2) Where any company which transacts a non-hazardous three year business on the premium note system or partly on the cash system and partly on the premium note system, the liability of such company, for the purposes of such statement, in respect of its premium note business shall be eighty per cent of the unearned portion of the assessments which have been levied in respect of all outstanding premium notes held by the company computed *pro rata* as at the date of such statement and the unassessed portion of such premium notes shall be treated as a contingent asset.

Premium note business.

(3) Every company which transacts the business of non-cancellable sickness and accident insurance shall compute the liability in respect of its outstanding unmatured non-cancellable sickness and accident policies in accordance with such bases and methods as the Superintendent may prescribe in respect of each such company.

Non-cancellable sickness and accident business.

(4) The provisions of this section shall not apply to the business of title insurance. 1932, c. 46, s. 101; 1934, c. 27, s. 25.

Title insurance.

99. Every company shall at all times maintain assets, allowable as such under the provisions of this Act or which were authorized by law at the time of their acquisition, to a value at least fifteen per centum in excess of the total of the unearned premiums upon all its outstanding unmatured policies, calculated *pro rata* for the time unexpired, together with the amount of matured claims and all its other liabilities of every kind, and in computing such excess there shall be deducted from the assets of the company the amount of any investment in the shares of any other company transacting the business of insurance made under the authority of section sixty-one of this Act: Provided that in respect of any outstanding unmatured non-cancellable sickness and accident policies, the company shall maintain assets at least equal to the liability therefor included in the annual statement of the company in accordance with the provisions of the last preceding section. 1936, c. 18, s. 11.

Assets minimum amount of.

Proviso.

(2) Every company registered to transact the business of hail insurance shall, in each year, set aside as a hail insurance surplus fund at least fifty per cent of the profit realized from such business during the said year, until or so that the said surplus fund shall in any year be not less than fifty per cent of the net premiums received by it in respect of its business of hail insurance during the preceding calendar year.

Hail surplus fund.

Dividend
not to
impair
capital.

(3) Subject to the provisions of subsection four of this section, no dividend shall be paid by any company while its capital is impaired or while its assets are less than the amount required by subsections one and two of this section nor shall any dividend be paid which would reduce its assets below the said amount or impair its capital.

Preferential
dividends.

(4) Where any company has, prior to the fourth day of May, one thousand nine hundred and ten, under the provisions of its Act of incorporation or any amendments thereto, created and issued part of its capital stock as preference stock, giving such preference stock the right to a fixed preferential dividend, the word "capital" in subsection three of this section shall be read and construed as meaning as to such company its preferred capital exclusively in so far as regards the payment of such preferential dividends.

Contravention.

(5) If it appears to the Superintendent that the assets of any company fall below the requirements of subsections one and two of this section, he shall report the fact to the Treasury Board and shall in said report state whether or not the company appears to him to have failed to comply with the requirements of subsection three, and if the Treasury Board after a full consideration of the matter and after a reasonable time has been given to the company to be heard by them, so directs the Minister shall,

Penalty.

- (a) forthwith withdraw the company's certificate of registry; or
- (b) upon such terms and conditions as the Board deems proper, limit a time within which the company shall make good the deficiency (the company's certificate of registry being continued in the meantime) and upon the company's failure to make good such deficiency within the time so limited, its certificate of registry shall be withdrawn:

Proviso.

Provided, however, that if the company's assets are less than the total liabilities including the unearned premiums calculated as provided in subsection one of this section, and the liability in respect of non-cancellable sickness and accident policies, or if the company has violated the requirements of subsection three of this section, its certificate of registry shall be withdrawn. 1932, c. 46, s. 102; 1934, c. 27, s. 25.

To retain
assets in
Canada.

100. Every company shall at all times retain in Canada and under its own control assets of a value at least equal to its total liabilities to its policyholders in Canada including among such liabilities the full unearned premiums computed *pro rata* in respect of the unexpired periods of the policies except in respect of outstanding unmatured non-cancellable sickness and accident policies, for which policies the liability computed in accordance with section ninety-eight of this Act shall be so included in the said liabilities: Provided, however, that in the event of it being necessary to remove from Canada any portion of the securities held in Canada for the purpose of exchanging the same for other securities authorized under this Act or for

Proviso.

any similar purpose, they may be entrusted to a responsible bank, trust corporation or other corporation carrying on business outside of Canada. 1936, c. 18, s. 12.

(2) Any such company may deposit outside of Canada such portion of its funds and securities as is necessary to the maintenance of any foreign branch or branches, but all other securities of such company shall be held at the head office of the company or elsewhere in Canada. 1932, c. 46, s. 103; 1934, c. 27, s. 25. Deposit outside of Canada.

101. In this section the word "surplus" means the excess of assets over the paid-up capital of the company and all the liabilities of the company, including the liability in respect of outstanding unmatured policies required to be included in the annual statement in accordance with section ninety-eight of this Act. 1936, c. 18, s. 13. "Surplus" defined.

(2) Subject to the payment of preferential dividends in accordance with subsection four of section ninety-nine of this Act, until the surplus of the company shall equal or exceed the said liabilities in respect of all outstanding unmatured policies not reinsured, the company shall at the end of each year appropriate towards the surplus of such company at least twenty-five per centum of the profits of the company for the year last past. 1936, c. 18, s. 13. Appropriation of profits or surplus.

(3) This section shall not apply to any company which has a paid capital of not less than one million dollars, a surplus of not less than five hundred thousand dollars and a combined paid capital and surplus of not less than the amount of the reserve of unearned premiums computed as provided in the last preceding subsection. 1932, c. 46, s. 105; 1934, c. 27, s. 27. Exemption.

102. Notwithstanding anything contained in its Act of incorporation or in this Act any company having a capital stock may by by-law passed by the directors and approved by votes of the shareholders, representing at least two-thirds in value of the subscribed capital of the company, present or represented at a special general meeting duly called to consider such by-law, decrease the par value of the shares of the capital stock of the company unissued at the date of the passing of such by-law to the amount of five dollars per share or any multiple thereof and the number of unissued shares shall be increased so that the par value of the total unissued capital after the date of the passing of the by-law shall be the same as before the said date. Par value of shares reduced by by-law.

(2) The said by-law may also provide that any part of the said unissued capital stock shall be issued as shares without voting rights or with such limitations or restrictions as respects voting rights and control over the affairs of the company as may be deemed desirable, in which event the by-law shall provide that any such limitation or restriction shall be fully set out or clearly indicated in the certificates of such shares, and in the event of such limitations or restrictions not being so set out or clearly indicated they shall not be deemed to qualify the rights of the holders of such shares. Non-voting shares created by by-law.

(3) Subject to the provisions of the last preceding subsection any by-law passed under the provisions of this section by which the par value of the shares of the unissued capital is Voting rights of reduced shares.

decreased shall provide that any holder of the shares of decreased par value shall have as a shareholder of the company a number of votes determined by dividing the total par value of his shares in the capital stock of the company by the par value of each share before the date of the passing of the said by-law. 1932, c. 46, s. 106; 1934, c. 27, s. 27.

Classes of hazards covered by fire certificate.

103. Any company registered under this Act to transact the business of fire insurance shall, subject to the provisions of its Act of incorporation and upon compliance with the conditions of this Act other than in respect of an increase in deposit with the Minister, be entitled to receive a certificate of registry for any one or more of the following classes of insurance limited to the insurance of the same property as is insured under a policy of fire insurance of such company, namely: falling aircraft, earthquake, tornado, hail, sprinkler leakage, limited or inherent explosion and civil commotion. 1932, c. 46, s. 107; 1934, c. 27, s. 27.

PART VII.

RELEASE OF DEPOSITS, WITHDRAWAL OF CERTIFICATES OF REGISTRY AND PENALTIES.

Release of Deposits. 1933, c. 32, s. 2.

Delivery of securities.

104. When any company has ceased to transact business, and has given written notice to that effect to the Minister, the securities of such company in the hands of the Minister shall not be delivered to the company until all its outstanding risks are insured or until surrenders thereof are obtained to the satisfaction of the Minister.

Application for securities.

(2) Upon making application for its securities the company shall file with the Minister a list of all policyholders who have not been so reinsured, or who have not surrendered their policies; and it shall at the same time publish, and continue the publication for three calendar months, in the *Canada Gazette* and in at least one newspaper in the county, city or place in which the head office is established, a notice that it will apply to the Minister for the release of its securities on a certain day not less than three months after the date of the notice, and calling upon its policyholders opposing such release to file their opposition with the Minister on or before the day so named.

Partial release.

(3) After the day so named in the said notice, if the Minister be satisfied that the deposit of the company with him is substantially in excess of the requirements of this Act in respect of the continuing policyholders, he may with the concurrence of the Treasury Board from time to time release to the company such portion of the excess as he deems proper in the circumstances, and shall continue to hold the remainder of the deposit for the protection of the continuing policyholders as by this Act provided.

Further releases.

(4) Thereafter from time to time as such policies lapse, or proof is adduced that they have been satisfied, further amounts may be released on the authority aforesaid.

(5) Notwithstanding the provisions of this and the last preceding section, if the company is in liquidation the securities of the company may, on the order of any court having jurisdiction under the *Winding-up Act*, be released by the Minister to the liquidator. 1932, c. 46, s. 108; 1934, c. 27, s. 27.

Release to liquidator.

Withdrawal of certificates of registry.

105. If it appears from the annual statements or from an examination made of the condition and affairs of any company registered to transact the business of life insurance, or of any fraternal benefit society registered to transact any class or classes of insurance, that its liabilities to its policyholders in Canada, in respect of the class or classes of insurance business for which the company or society is so registered, including matured claims and the reserve for outstanding policies in Canada required under this Act to be included in the liabilities in the annual statement, after deducting any claim the company has against such policies, together with its other liabilities in Canada exceed its assets in Canada, including the deposit with the Minister, the Minister shall notify the company or society and request it to make good the deficiency, and in the event of its failure to make the same good within sixty days after being so requested, he may withdraw its certificate of registry. 1932, c. 46, s. 109; 1934, c. 27, s. 27.

Life companies and fraternal benefit societies.

106. If it appears from the annual statements or from an examination of the condition and affairs of any company, other than a fraternal benefit society, registered to transact any class of business other than life insurance, that its liabilities in respect of all its outstanding policies in Canada, issued in the transaction of any such class of business, computed in accordance with the provisions of section ninety-eight of this Act, together with other liabilities in Canada, exceed its assets in Canada, including the deposit with the Minister, or if in the case of a company registered to transact the business of hail insurance its hail insurance surplus fund in respect of the business of hail insurance in Canada falls below the amount required by subsection two of section ninety-nine of this Act, the Minister shall notify the company and request it to make good the deficiency; and, on its failure to make the same good within sixty days after being so requested, he may withdraw its certificate of registry. 1936, c. 18, s. 14.

Companies other than life.

107. If any company fails to pay any undisputed claim arising under any policy of the company, or a disputed claim after final judgment, in regular course of law, for the space of ninety days after tender of a legally valid discharge, and after notice of failure to pay has been given to the Minister, such company shall be deemed to be insolvent, and be subject to be wound up under the provisions of the *Winding-up Act*, and the Minister shall withdraw the certificate of registry of the company. 1934, c. 27, s. 28.

Insolvency in case of non-payment of claim after ninety days.

108. If it appears to the Superintendent that the liabilities of any company registered to transact the business of life insurance, including matured claims and the reserve for out-

Report to Treasury Board.

standing policies computed in accordance with the provisions of section seventy-eight of this Act, exceed its assets, he shall report the fact to the Treasury Board; and if the Treasury Board, after full consideration of the matter and after a reasonable time has been given to the company to be heard by the Board so directs, the Minister shall

- (a) forthwith withdraw the company's certificate of registry; or
- (b) upon such terms and conditions as the Board deems proper, limit a time, not exceeding three years, within which such company shall make good the deficiency, during which term the company's certificate of registry shall be continued. 1936, c. 18, s. 15.

Failure to comply with terms. Proviso.

(2) Upon the company's failure to make good such deficiency within the time so limited, its certificate of registry shall be withdrawn: Provided that if the company's liabilities exceed its assets by twenty per cent or upwards, its certificate of registry shall be forthwith withdrawn.

Valuators may be appointed.

(3) For the purpose of carrying out the provisions of this section, the Treasury Board may, upon the recommendation of the Minister, appoint such actuaries, valuers, or other persons as the Board deems proper, to value and appraise the company's liabilities and assets, and report upon its condition and its ability, or otherwise, to meet its engagements. 1932, c. 46, s. 113; 1934, c. 27, s. 29.

Withdrawal of certificate for non-compliance with Act.

109. If any company registered under this Act fails to deposit in the Department statements pursuant to the provisions of sections sixty-five and sixty-six of this Act or declines to permit the examination authorized by paragraph (d) of section sixty-eight or by section sixty-nine of this Act, or refuses to give any information desired for such purpose in its possession or control, its certificate of registry may be withdrawn by the Minister. 1934, c. 27, s. 30.

Removal from register.

110. Every company shall cease to be registered and its name shall be removed from the register if the certificate of registry granted to it has been withdrawn or if on expiry such certificate has not been renewed. 1932, c. 46, s. 115; 1934, c. 27, s. 31.

Renewal of certificate of registry.

(2) When the certificate of registry of any company has been withdrawn by the Minister under any of the provisions of this Act, except section one hundred and seven, such certificate may be renewed if, within thirty days after withdrawal, the company complies with the requirements of this Act to the satisfaction of the Minister, and thereupon its name shall be restored to the register. 1934, c. 27, s. 31.

Company deemed insolvent when certificate withdrawn and not renewed.

(3) If the certificate of registry of any company has not been renewed on the expiry thereof by reason of the Superintendent having made a report to the Minister that, from the statement of affairs of the company, the company is not in a condition to meet its liabilities, or if the certificate of registry of any company has been withdrawn under section one hundred and five, section one hundred and six, section one hundred and

eight or section one hundred and nine of this Act, and has not been renewed within thirty days after such expiry or withdrawal, the company shall be deemed to be insolvent, and be subject to be wound up under the provisions of the *Winding-up Act*. 1934, c. 27, s. 31.

PENALTIES.

111. Any company, or any other corporation incorporated under the laws of the Dominion of Canada or of the late Province of Canada, or any fraternal society so incorporated, which, or any person who, acting on behalf of a company or such a corporation or society, transacts any class of insurance business in respect of which the company or such corporation or society is not registered under this Act, or does or performs any one or more of the acts constituting the business of insurance in relation to any such class of insurance, shall be guilty of an offence and liable upon indictment or upon summary conviction, to a penalty for each and every such offence, not exceeding five thousand dollars in the case of a company or such a corporation or society and not exceeding one thousand dollars in the case of a person acting on behalf of any company or any such corporation or society; and, in addition, in the case of a natural person, to imprisonment for any term not exceeding six months. 1936, c. 18, s. 16.

Penalty for transacting business without registration.

112. Every company which makes default in depositing in the Department the annual or other statements herein required to be deposited, shall incur a penalty of ten dollars for each day during which such default continues. 1932, c. 46, s. 117; 1934, c. 27, s. 33.

Default in filing annual or other statements.

113. Any company which, or any person who, fails to comply with any provision of this Act, or of the regulations made thereunder, or with any requirement of the Minister or the Superintendent made under the authority of this Act, shall, if no other pecuniary penalty for such non-compliance is provided in this Act, be liable for each such non-compliance to a penalty of not less than twenty dollars, and not more than five thousand dollars, in the discretion of the Court before which such penalty is recoverable. 1934, c. 27, s. 34.

Penalty for non-compliance with Act, etc., not otherwise provided for.

114. All penalties payable under this Act shall be recoverable and enforceable, with costs, at the suit of His Majesty, instituted by the Attorney-General of Canada in the Exchequer Court of Canada, and shall, when recovered, be applied towards the payment of the expenses of the Department. 1934, c. 27, s. 34.

Recovery and application of penalties.

PART VIII.

BRITISH COMPANIES.

115. In this Part, unless the context otherwise requires,—
(a) “annual statement” includes both the statement of the Canadian business and of the general business of the British company required by this Act to be made;

Annual statement.

- Assets in Canada. (b) "assets in Canada" means all deposits which a British company has made with the Minister and all assets which have been vested in trust for the British company under, and for the purposes of, this Act;
- Chief agency. (c) "chief agency" means the principal office or place of business of the British company in Canada;
- Chief agent. (d) "chief agent" means the chief agent of the British company in Canada, named as such in the power of attorney hereinafter referred to by whatever name he may be designated;
- President. (e) "president" includes the chairman, governor, manager or other principal officer of the British company. 1932, c. 46, s. 119; 1934, c. 27, s. 35.

CERTIFICATES OF REGISTRY AND DEPOSITS.

116. There shall be established and maintained in the Department of Insurance a register in which shall be entered the names of all British companies registered under this Part and to which certificates of registry are granted. 1932, c. 46, s. 120; 1934, c. 27, s. 35.

117. No British company shall transact the business of insurance in Canada, save as hereinafter expressly provided, unless it is registered and holds a certificate of registry from the Minister. 1932, c. 46, s. 121; 1934, c. 27, s. 35.

118. Every British company shall, as a condition of being registered,—

- (a) file in the Department
 - (i) A copy of the charter, act of incorporation or articles of association of the British company, certified by the proper officer in charge of the original thereof;
 - (ii) a power of attorney from the British company to its chief agent or attorney in Canada, in such form as may be required by the Minister;
 - (iii) a statement in such form as may be required by the Minister of the condition and affairs of the British company on the thirty-first day of December next preceding, or up to the usual balancing day of the British company, if such day is not more than twelve months before the filing of the statement, and such additional statements or information as the Minister may require as to its solvency and as to its ability to meet all its obligations; and
 - (iv) evidence satisfactory to the Minister that the British company is authorized under the laws of the country in which its head office is situate to transact in such country the class of insurance business for which the British company desires to be registered in Canada;
- (b) make a deposit with the Minister in any of the securities specified in section fifty-five of this Act, in the following sum or sums, namely:—

Evidence of authorization in home jurisdiction.

Deposit of securities with the Minister.

- (i) for a certificate of registry to transact the business of life insurance or fire insurance, the sum of one hundred thousand dollars, and For life or fire insurance. 22
- (ii) for a certificate of registry to transact any other class of insurance business, such sum as the Treasury Board may determine. 1934, c. 27, s. 36. For other classes.

119. The power of attorney shall:—

- (a) declare at what place in Canada the chief agency of the British company is or is to be established; and Contents of power of attorney.
- (b) expressly authorize such attorney to receive from the Minister and the Superintendent all notices which, under the laws of the Dominion of Canada are required to be given, or which it is thought advisable to give.

(2) Whenever any British company registered under this Act changes its chief agent or chief agency in Canada the British company shall file a further power of attorney appointing the new chief agent or designating the new chief agency, as the case may be. 1934, c. 27, s. 36. Name of chief agent or chief agency.

120. If the name of any British company applying to be registered is in the opinion of the Superintendent objectionable on the grounds that the name of the company is either,— Name of company.

- (a) that of any company, British company, or provincial company registered under this Act or of any corporation registered under the *Foreign Insurance Companies Act, 1932*, or a name liable to be confounded with the name of any such company, British company, provincial company or corporation, or
- (b) otherwise on public grounds objectionable, the Superintendent shall so report to the Minister.

(2) Before so reporting to the Minister the Superintendent shall, by notice in writing in that behalf, afford the British company applying to be registered and any other interested party an opportunity to be heard, and at any such hearing any of the interested parties may adduce evidence, documentary or oral, in support of his contention; and, for the purpose of conducting such hearing, the Superintendent shall have all the powers of a Commissioner under Part I of the *Inquiries Act*. Hearing before Superintendent.

(3) The Minister, after consideration of the report of the Superintendent and of the evidence, if any, adduced before him, may refuse to register the company. Power to refuse registry.

(4) If the refusal of the Minister to register the company is based upon any of the grounds of objection set forth in subparagraph (a) of subsection one of this section, an appeal shall, in such case but in no other, lie in a summary manner to the Exchequer Court of Canada which shall have power to make all necessary rules for the conduct of appeals under this subsection; and the provisions of subsection two of section seventy-four of this Act shall be applicable in respect of every such appeal, save that wherever the word "Superintendent" appears in the said subsection, there shall, for the purposes of every such appeal, be substituted the word "Minister" Appeal from Minister's refusal.

Appeal to the Supreme Court of Canada.

(5) From any final judgment given by the Exchequer Court of Canada upon any appeal brought before the said Court under the provisions of this section, any of the interested parties, including the Crown, may, within fifteen days from the day on which such judgment has been given, appeal to the Supreme Court of Canada, and the judgment of the Supreme Court of Canada upon any such appeal, shall, in all cases, be final and conclusive, and notwithstanding any Royal prerogative or anything contained in the *Interpretation Act* or in the *Supreme Court Act* or any other statute or law, no further appeal shall lie or be brought from any judgment so pronounced by the Supreme Court of Canada. 1934, c. 27, s. 37.

Form of certificate of registry.

121. The certificate of registry shall be in such form or forms as may be from time to time determined by the Minister, and shall specify the business to be carried on by the British company.

Duration.

(2) The certificate of registry shall expire on the thirty-first day of March in each year, but may be renewed from year to year, or for any term less than a year.

Limitations.

(3) Any certificate of registry or renewal thereof may contain any limitation or condition which the Minister may deem necessary to give effect to the provisions of this Act. 1932, c. 46, s. 124; 1934, c. 27, s. 38.

Assets to be maintained in Canada by life companies.

122. Every British company registered under this Act to transact the business of life insurance shall, in respect of its life insurance business, at all times maintain assets in Canada of an amount at least equal to its liabilities to policyholders in Canada, including matured claims and the reserve for outstanding policies in Canada required under this Act to be included in the annual statement after deducting any claim such company has against such policies, together with its other liabilities in Canada. 1932, c. 46, s. 125; 1934, c. 27, s. 39.

Assets to be maintained in Canada.

123. Every British company registered under this Act to transact any class of insurance business, other than life insurance, shall at all times maintain assets in Canada in respect of any such class of business of an amount at least equal to the liabilities of the company in Canada including the liabilities of the company in respect of its outstanding unmatured policies in Canada computed in accordance with the provisions of section one hundred and thirty-seven of this Act:

Special position of assets in Canada of a mutual fire insurance company.

Provided, however, that the assets in Canada of a British company which is a purely mutual fire insurance company shall continue to form part of the general assets of such company, available *pari passu* to all its policyholders in or out of Canada in the same manner as its other funds; but no such company shall, except with the consent of the Treasury Board, and upon such terms and conditions as the Treasury Board may determine, reduce the amount of its assets in Canada below the amount otherwise required by this Act to be maintained in Canada.

Exemption from proviso.

(2) The proviso to subsection one of this section shall not apply to any such company which files with the Minister in a form approved by him, a declaration that the assets in

Canada of such company are held for the protection of the policyholders in Canada, exclusively, of such company. 1934, c. 27, s. 39.

124. Any British company may vest in Canada assets in trust for the company for the purposes of this Act in a trust corporation incorporated by or under the authority of an Act of the Parliament of Canada or of the Legislature of one of the provinces of Canada appointed by the company and approved by the Minister. Assets vested in trustees.

(2) The assets which may be so vested in trust for the purposes of this Act shall be bonds, debentures, stocks and secured loans of the classes authorized in that behalf in the Second Schedule to this Act, having regard to the class or classes of insurance business in respect of which the assets are so vested in trust. Nature thereof.

(3) The trust deed shall first be approved by the Minister, who with the approval of the Treasury Board shall determine from time to time the value at which such assets shall be accepted for the purposes of this Act, and the trustees may deal with such assets in any manner provided by the deed of trust appointing them, but so that the accepted value of the assets held by them shall not fall below the value required by this Act. 1932, c. 46, s. 127; 1934, c. 27, s. 40. Trust deed.

(4) The trust corporation in which assets are so vested in trust for any British company registered under this Act to transact the business of life insurance shall prepare a half-yearly statement as of the last days of June and December in each year, showing the details required under section sixty-six of this Act to be included in the like statement to be made by any company registered under this Act to transact the business of life insurance. 1934, c. 27, s. 40. Half-yearly statement by trust corporation.

STATEMENTS AND RETURNS.

125. Every British company registered under this Part shall make annual statements of its condition and affairs, at the balancing day of the company in each year, and the form and manner of making such statements shall, as to the Canadian business of the British company be such as the Minister may, from time to time, determine for the purposes of this Act; and, as to its general business, shall be in the same form as the British company is required by law to furnish to the government of the country in which its head office is situate. 1934, c. 27, s. 41. Annual statements.

(2) Where such British company is not required by law to furnish a statement to the government of the country in which its head office is situate, then the statement, as to its general business, shall be in the same form as such company usually submits to its members or shareholders. Form thereof.

(3) In the event of no statement of its general business being submitted to its members or shareholders, then the company shall file a statement showing in concise form the assets and liabilities of the company at such balancing day, and the income and expenditure of such company for the year ending on such balancing day. Form in certain cases.

Date of filing.

(4) The annual statements of Canadian business required to be made under the provisions of this section, shall be deposited in the Department on the first day of January next following the date at which the condition and affairs of such company are thereby shown, or within two months thereafter. 1932, c. 46, s. 128; 1934, c. 27, s. 41.

Declaration in annual statement.

(5) Every such British company shall, at the time of making its annual statement of Canadian business, declare any change which has been made since the date of deposit of its next preceding annual statement in the charter, Act of incorporation or articles of association of the company, and any change that has been made in the chief agency or chief agent, or the attorney of such British company, as the case may be. 1934, c. 27, s. 41.

Time for filing general statements.

126. The statement of general business required to be made under the provisions of the next preceding section shall be deposited in the Department within thirty days after it is required by law to be made to the government of the country in which the head office of the British company is situate, or within thirty days after the submission of the same at the annual meeting of the shareholders or members of the company, whichever date first occurs: Provided that no such statement of general business need be so deposited earlier than the first day of June, nor shall it be so deposited later than the thirtieth day of June next following the date at which the condition and affairs of the company are thereby shown.

Proviso.

Statements to be verified by oath.

(2) The statements of Canadian business shall be verified by the oath of the company's chief agent in Canada and the statement of general business shall be verified by the oath of the president, vice-president or managing director, and the secretary, manager or actuary of the company. 1932, c. 46, s. 129; 1934, c. 27, s. 42.

Records to be kept by chief agent.

127. Every British company registered under this Part shall keep at its chief agency in Canada records and documents sufficient to enable the chief agent to prepare and furnish the required statement of Canadian business, and such that the said statement may be readily verified therefrom: Provided that in the case of any such company which does not issue policies signed or countersigned by a resident agent or an official of a branch office in Canada, such records and documents shall be sufficient if they exhibit, in respect of its Canadian business: (a) insurance written and in force, including cancellations, and gross premium deposits thereon; (b) dividends or refunds of unabsorbed premium deposits paid or credited to policyholders in Canada; (c) losses incurred and losses paid to policyholders in Canada; and (d) all assets in Canada.

Proviso.

Additional records required in some cases.

(2) It shall be sufficient for any such company having in Canada, in addition to a chief agent, one or more general agents reporting to the head office, and not to the chief agent, to keep on file at the chief agency, in addition to the necessary records and documents relating to the business transacted by or through the chief agent, annual statements of the business transacted by each general agent, duly verified by his oath, and such additional

records and documents, transmitted through the company's head office as shall, taken together, show the company's entire Canadian business.

(3) The said annual statements of the business of such general agents shall, when kept on file as aforesaid, be made up to the thirty-first day of December in each year, and blank forms for such statements shall, on application, be furnished by the Superintendent.

Date of statements.

(4) The Superintendent may examine the books, records, vouchers, receipts and other documents of such company relating to its business in Canada, for the purpose of checking and verifying the said statement of such business and the schedules or other documents relating to or forming part thereof, and shall have power to make all necessary corrections in said statement, in accordance with the information obtained from the said books, records and documents. 1932, c. 46, s. 130; 1934, c. 27, s. 42.

Examination of books and records by Superintendent

128. The trust corporation in which assets are vested in trust, for the purposes of this Act, for any British company registered under this Part to transact the business of life insurance, shall prepare a half-yearly statement, as of the last days of June and December in each year, showing in detail,

Half-yearly statements by life companies' trustees.

- (a) all bonds, stocks, debentures and other securities bought and all loans made, except on mortgages and policies, during the half year terminating on the date as of which such statement is made, specifying the amounts, dates of issue and maturity and par value thereof, the rate of interest payable thereon and the price paid therefor, and in the case of loans made, except on mortgages of real estate or insurance policies, particulars in detail of securities therefor; and
- (b) all such securities sold or disposed of during the said half year, specifying similarly the amounts, dates of issue and maturity and par value thereof, the value in account thereof, the rate of interest payable thereon and the price or consideration received therefor.

(2) Such statement, on a form to be supplied by the Superintendent, shall be deposited in the Department within fifteen days after each of the said dates, and shall be verified by the manager and secretary or other principal officers of such trust corporation.

Deposit and verification of statement.

(3) The statements so deposited shall be embodied by the Superintendent by way of appendix or otherwise in the annual report prepared by him for the Minister. 1932, c. 46, s. 131; 1934, c. 27, s. 42.

To be included in Superintendent's report.

129. In his annual report prepared for the Minister, the Superintendent shall include a list of the assets in Canada of each British company registered under this Act.

Report to include list of assets.

(2) In his said report the Superintendent shall make all necessary corrections in the annual statements made by the British companies as herein provided and may increase or diminish the liabilities of such companies to the true and correct amounts as ascertained by him in the examination of their affairs at the chief agencies thereof in Canada, or otherwise. 1932, c. 46, s. 132; 1934, c. 27, s. 42.

Correction of annual statements.

Examination at
head office of
British
company.

130. The Minister may, from time to time, instruct the Superintendent to examine at the head office into the general condition and affairs of any British company registered under this Act. 1934, c. 27, s. 43.

RELEASE OF ASSETS IN CANADA.

Release of
assets on dis-
continuance of
business.

131. Any British company registered under this Part which desires to obtain the release of its assets in Canada by reason of having decided to discontinue business in Canada may make application in writing to the Minister for the release of its assets in Canada. 1932, c. 46, s. 134; 1934, c. 27, s. 44.

Condition
of release.

(2) The assets in Canada of any such company shall not, except as herein otherwise provided, be released, unless,—

(a) the company has obtained the surrender of its outstanding policies in Canada, or has transferred such policies to some company, British company or provincial company, registered under this Act or some corporation registered under the *Foreign Insurance Companies Act, 1932*; and 1934, c. 27, s. 44.

(b) the company files with the Minister a list of all policyholders in Canada, if any, whose policies have not been so surrendered or transferred together with a financial statement of the condition and affairs of the company, and if the company is registered to transact the business of life insurance, a list of all policyholders in Canada whose policies have been so surrendered or transferred; and

(c) the company furnishes proof of the publication, for three calendar months in the *Canada Gazette*, and in at least one newspaper in the county, city or place in which the chief agency is established, of a notice that it will apply to the Minister for the release of its assets in Canada on a certain day, which shall be not less than three months after the date of the notice, and calling upon its policyholders in Canada opposing such release to file their opposition with the Minister on or before the day so named.

Minister
may release.

(3) After the day so named in the said notice, if the Minister be satisfied that the company is not liable under any policies of insurance, and has discharged all its obligations in Canada, he may, with the concurrence of the Treasury Board, release to the company its assets in Canada.

Employment
of assets for
surrender or
release.

(4) The Minister, with the concurrence of the Treasury Board, may authorize the trustee in which assets are vested in trust for any such company, to employ any portion of such assets for the purpose of effecting the surrender or transfer of outstanding policies in Canada as aforesaid, but not so as to reduce the assets in Canada of such company below the requirements of this Act in respect of continuing policyholders.

Partial
release.

(5) If it appears that any such company has not obtained the surrender of, or transfer as aforesaid, of its outstanding policies in Canada, but that the deposit of the company with the Minister is substantially in excess of the requirements of this Act

in respect of the continuing policyholders, the Minister, after the day so named in the notice aforesaid, may, from time to time, release to the company such portion of the excess as he deems proper in the circumstances, and shall continue to hold the remainder of the deposit for the protection of the continuing policyholders as by this Act provided.

(6) Notwithstanding the provisions of this section, if such company is in liquidation the securities of the company may, on the order of any court having jurisdiction under the *Winding-up Act*, be released by the Minister to the liquidator. 1932, c. 46, s. 134; 1934, c. 27, s. 44. Release to liquidator.

132. In the case of any British company which gave written notice to the Minister before the thirty-first day of March, one thousand eight hundred and seventy-eight, of its intention to avail itself of the proviso contained in section seven of the *Consolidated Insurance Act, 1877*, the deposit which was in the hands of the Minister on the twenty-eighth day of April, one thousand eight hundred and seventy-seven, shall be dealt with in regard to policies, issued prior to the thirty-first day of March, one thousand eight hundred and seventy-eight, in conformity with sections four and five of chapter nine of the statutes of 1871, intituled: "*An Act to amend the Act respecting Insurance Companies*"; and whenever the full liability under such policies falls below the amount so held by the Minister, he may, with the concurrence of the Treasury Board, direct that the whole or any portion of the difference as he deems advisable shall be released and handed over to the company, and so on, from time to time, until the total deposit with the Minister is reduced to the amount of fifty thousand dollars. 1932, c. 46, s. 135; 1934, c. 27, s. 45. Retired companies.

133. The provisions of sections fifty-two, fifty-four to fifty-nine, inclusive, sixty-seven to seventy, inclusive, subsections one and two of section seventy-one and sections seventy-two and seventy-four of this Act shall apply *mutatis mutandis*, to or in respect of every British company registered to transact any class or classes of insurance business under this Part to the same extent as the said provisions are applicable to or in respect of a company registered to transact the same class or classes of insurance business under Part III of this Act. 1934, c. 27, s. 46. Application of sections of this Act.

(2) In any provision so made applicable to a British company registered under this Part, the words "head office" wherever they appear, shall in respect of the application of any such provision to a British company, be read as if the words "chief agency" were substituted therefor. 1932, c. 46, s. 136; 1934, c. 27, s. 46. Chief Agency.

LIFE INSURANCE COMPANIES.

134. The provisions of subsections one, two and four of section seventy-seven and section seventy-eight of this Act shall apply, *mutatis mutandis*, to every British company registered under this Part to transact only the business of life insurance and to every British company so registered to transact the business of life and other insurance, in respect only of the life insur- Application of sections in Part IV to British companies.

Proviso. ance business of the British company: Provided that the said subsections of section seventy-seven shall apply only to the life insurance business of such company in Canada and that the said section seventy-eight shall apply to every such company only in respect of the annual statement of its Canadian business required to be deposited under section one hundred and twenty-five of this Act. 1934, c. 27, s. 47.

BRITISH COMPANIES TRANSACTING INSURANCE OTHER
THAN LIFE INSURANCE.

Special application of sections of this Part.

135. The provisions of sections one hundred and thirty-six to one hundred and thirty-eight inclusive of this Act shall apply to all British companies registered under this Act to transact the business of insurance in respect of any class of such business other than life insurance. 1934, c. 27, s. 48.

Reserve liability for annual statement.

136. For the purposes of the annual statement required to be deposited in the Department under this Act, the liability of every British company in respect of its outstanding unmatured policies in Canada, shall except as hereinafter in this section provided be eighty per cent of the unearned premiums computed *pro rata* as at the date of such statement.

Premium note business.

(2) Where any British company transacts a non-hazardous three year business on the premium note system or partly on the cash system and partly on the premium note system, the liability of the company in respect of its premium note business shall be eighty per cent of the unearned portion of the assessments which have been levied in respect of all outstanding premium notes held by the company computed *pro rata* as at the date of such statement, and the unassessed portion of such premium notes shall be treated as a contingent asset.

Non-cancellable sickness and accident insurance.

(3) Every British company which transacts the business of non-cancellable sickness and accident insurance in Canada shall enter in the liabilities in the said annual statement in respect of its outstanding unmatured non-cancellable sickness and accident policies in Canada a reserve computed in accordance with the bases and methods used by the company in computing the reserve for such policies of the several classes thereof in its statement of general business or such higher reserve as the Superintendent may deem necessary to make adequate provision for the obligations of the company under such policies. 1932, c. 46, s. 139; 1934, c. 27, s. 49.

Reserve liability for determining assets in Canada.

137. For the purposes of determining the amount of assets in Canada required to be maintained by every British company in accordance with the provisions of section one hundred and twenty-three of this Act the liability of every company in respect of its outstanding policies in Canada shall be,

- (a) the full unearned premiums computed *pro rata* in respect of the unexpired periods of the policies; or
- (b) twice the net annual cost to the insured of insurance in force in Canada on the date of the annual statement ascertained by deducting from the annual premiums charged to such insured a credit allowance computed at the rate of the weighted average dividend or refund paid or credited by the British company to its policyholders during the preceding five years:

whichever be the less: Provided that the liability in respect of outstanding non-cancellable sickness and accident policies in Canada shall be computed in accordance with the provisions of the last preceding section of this Act. 1936, c. 18, s. 17. Proviso.

(2) An addition shall be made to the said liability so computed in respect of every British company which transacts the business of hail insurance in Canada in an amount at least equal to fifty per cent of the total net premiums received by the company in respect of its business of hail insurance in Canada during the preceding calendar year. 1932, c. 46, s. 140; 1936, c. 18, s. 17. Addition to reserve for hail insurance.

138. Any British company registered under this Act to transact the business of fire insurance shall, upon compliance with the conditions of this Act other than in respect of an increase in deposit with the Minister, be entitled to receive a certificate of registry for any one or more of the following classes of insurance limited to the insurance of the same property as is insured under a policy of fire insurance of such company, namely,—falling aircraft, earthquake, tornado, hail, sprinkler leakage, limited or inherent explosion and civil commotion: Provided that such class or classes of insurance are authorized by its Act of incorporation or charter. 1936, c. 18, s. 18. Classes of hazards covered by certificate.

(2) Any such company, if a purely mutual company, shall be entitled to the benefit of the proviso of subsection one of section one hundred and twenty-three of this Act in respect of the transaction of such additional classes of insurance as well as its fire insurance business. 1934, c. 27, s. 50. Proviso.

139. The provisions of sections one hundred and thirty-six and one hundred and thirty-seven of this Act shall not apply to the business of title insurance transacted in Canada by any British company registered under this Act. 1934, c. 27, s. 51. Saving.

WITHDRAWAL OF CERTIFICATES.

140. The provisions of sections one hundred and five, one hundred and six, one hundred and seven, and one hundred and ten of this Act shall apply, *mutatis mutandis*, to every British company registered under this Act to the same extent as such provisions are applicable to a company registered to transact the same class or classes of insurance business under Part III of this Act. 1934, c. 27, s. 52. Title insurance.

141. If any British company registered under this Act fails to deposit in the Department annual statements pursuant to the provisions of sections one hundred and twenty-five and one hundred and twenty-six of this Act, or declines to permit the examination authorized by section one hundred and twenty-seven or by section one hundred and thirty of this Act, or refuses to give any information desired for such purpose in its possession or control, its certificate of registry may be withdrawn by the Minister. 1934, c. 27, s. 53. Special application of sections of this Act.

PENALTIES.

142. Any British company which, or any person who, acting on behalf of any such British company, transacts in Canada, any class of insurance in respect of which the British Withdrawal of certificate for non-compliance.

Penalty for transacting insurance without registration.

company is not registered under this Act, or does or performs in Canada any one or more of the acts constituting the business of insurance in relation to any such class of insurance (save as provided in section one hundred and forty-four of this Act) shall be guilty of an offence and liable, upon indictment or upon summary conviction, to a penalty, for each and every such offence, not exceeding five thousand dollars in the case of a British company, and not exceeding one thousand dollars in the case of a person acting on behalf of any such British company; and, in addition, in the case of a natural person to imprisonment for any term not exceeding six months. 1934, c. 27, s. 54.

Other penalty provisions applicable.

143. The provisions of sections one hundred and twelve, one hundred and thirteen and one hundred and fourteen of this Act shall apply, *mutatis mutandis*, to any British company registered under this Act. 1934, c. 27, s. 55.

EXEMPTIONS.

Application of Act. Marine and inland marine insurance.

144. The provisions of this Part shall not apply

Fire insurance.

(a) to any British company in respect of its business of marine or inland marine insurance carried on in Canada nor,

(b) to any British company in respect of fire insurance on property situate in Canada, if such insurance is effected outside of Canada and without any solicitation whatsoever directly or indirectly on the part of such company, and further if such company does not within Canada advertise its business in any newspaper or other publication or by circular mailed in Canada or elsewhere, and does not maintain an office or agency therein for the receipt of applications or the transaction of any act, matter or thing relating in any way to its said business; and, subject to the foregoing provisions, such company may inspect the property insured or to be insured under this section and may adjust any loss incurred in respect thereof, nor

Retired British life insurance companies in respect of collection of premiums and payment of claims.

(c) to any British company which, previously to the twenty-eighth day of April one thousand eight hundred and seventy-seven, was licensed to transact the business of life insurance in Canada, and which ceased to transact such business before the thirty-first day of March, one thousand eight hundred and seventy-eight, having before that date given written notice to that effect to the Minister in respect of the collection and receipt of premiums due or to become due on policies in Canada issued before the last mentioned date or in respect of the payment of claims arising thereon or the transaction of any business appertaining thereto, nor

Policies prior to 22nd May, 1868.

(d) except as hereinbefore provided, shall its provisions apply

(i) to any British company which has not, on or since the twenty-second day of May one thousand eight

hundred and sixty-eight, been licensed to carry on business in Canada, in respect of any life insurance policy in Canada issued before the said date;

(ii) to any British company not registered under this Act, in respect of the collection or receipt of premiums on, or other business relating to any life insurance policy issued to a person not resident in Canada at the time of the issue of such policy. 1932, c. 46, s. 148; 1934, c. 27, s. 56.

Policies issued by unregistered British companies to non-residents of Canada.

PART IX.

PROVINCIAL COMPANIES.

145. There shall be established and maintained in the Department of Insurance a register in which shall be entered the names of all provincial companies registered under this Part and to which certificates of registry are granted. 1932, c. 46, s. 149; 1934, c. 27, s. 57.

Register of provincial companies.

146. Every provincial company shall, as a condition of being registered, file in the Department with its application for registration under the provisions of this Part the documents required to be filed by a company under the provisions of section fifty of this Act, and an undertaking in such form as may be required by the Minister that it will, if granted registration, and so long as registered, submit to and comply with all the provisions of this Act applicable to it in respect of the class or classes of insurance specified in the certificate of registry granted to it and the terms of such certificate. 1932, c. 46, s. 150; 1934, c. 27, s. 57.

Conditions of registration.

(2) The Minister may also require of every provincial company, as a condition of registration as aforesaid, or of renewal thereof, that the undertaking mentioned in subsection one of this section shall stipulate for submission and compliance by the provincial company to and with the provisions of section eighty of this Act as if it were a company, as defined by section two of this Act.

Additional requirement.

(3) If any provincial company registered under this Part after stipulation as to submission and compliance as provided by subsection two of this section commits any breach of that stipulation the Superintendent shall report, and the Minister may act, in all respects as if the provincial company had violated a provision of this Act applicable thereto. 1936, c. 18, s. 19.

Non-compliance.

147. If the name of any provincial company applying to be registered is in the opinion of the Superintendent objectionable on the grounds that the name of the provincial company is either,

Name of company.

- (a) that of any company, British company, or provincial company registered under this Act, or of any corporation registered under the *Foreign Insurance Companies Act, 1932*, or a name liable to be confounded with the name of any such company, British company, provincial company or corporation, or

(b) otherwise on public grounds objectionable, the Superintendent shall so report to the Minister.

Hearing before Superintendent.

(2) Before so reporting to the Minister the Superintendent shall, by notice in writing in that behalf, afford the company applying to be registered and any other interested party an opportunity to be heard, and at any such hearing any of the interested parties may adduce evidence, documentary or oral, in support of his contention and, for the purpose of conducting such hearing, the Superintendent shall have all the powers of a Commissioner under Part I of the *Inquiries Act*.

Power to refuse registry.

(3) The Minister, after consideration of the report of the Superintendent and of the evidence, if any, adduced before him, may refuse to register the company.

Appeal from Minister's refusal.

(4) If the refusal of the Minister to register the company is based upon any of the grounds of objection set forth in subparagraph (a) of subsection one of this section, an appeal shall, in such case but in no other, lie in a summary manner to the Exchequer Court of Canada which shall have power to make all necessary rules for the conduct of appeals under this subsection; and the provisions of subsection two of section seventy-four of this Act shall be applicable in respect of every such appeal, save that wherever the word 'Superintendent' appears in the said subsection there shall, for the purposes of every such appeal, be substituted the word 'Minister'.

Appeal to the Supreme Court of Canada.

(5) From any final judgment given by the Exchequer Court of Canada upon any appeal brought before the said Court under the provisions of this section, any of the interested parties, including the Crown, may within fifteen days from the day on which such judgment has been given, appeal to the Supreme Court of Canada, and the judgment of the Supreme Court of Canada upon any such appeal, shall, in all cases, be final and conclusive, and notwithstanding any Royal prerogative or anything contained in the *Interpretation Act* or in the *Supreme Court Act* or any other statute or law, no further appeal shall lie or be brought from any judgment so pronounced by the Supreme Court of Canada. 1934, c. 27, s. 58.

Registration of provincial companies.

148. The Minister may, on the application of any provincial company and as soon as it has filed in the Department the documents hereinbefore provided for and has made the deposit which would be required of a company applying to be registered in respect of the same class or classes of insurance, register such provincial company under the provisions of this Part and grant it a certificate of registry: Provided however that if the certificate of registry of a provincial company is limited to one or more of the provinces of Canada, and if the laws of the Province by which it is incorporated provide that a provincial company may transact its business within that province only if it holds a licence or certificate of registry under this Act, the deposit required to be made by such provincial company may be of such an amount, less than the amount which would otherwise be required under this Act, as the Treasury Board on the report of the Superintendent may specify, but at no time less than the amount of the reserve on the business in

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force in such provincial company on the thirty-first day of December next preceding computed as hereinbefore in this Act provided. 1937, c. 5, s. 1.

149. If any provincial company registered under this Part violates any of the provisions of this Act applicable thereto it shall be the duty of the Superintendent to report the same to the Minister and thereupon the Minister may in his discretion, after a reasonable time has been given to the company to be heard, withdraw the company's certificate of registry. 1932, c. 46, s. 153; 1934, c. 27, s. 59.

Withdrawal of certificate of registry.

150. The provisions of sections fifty to fifty-two inclusive, subsections one, three and four of section fifty-three, sections fifty-four to sixty-one inclusive, sections sixty-five to seventy-four inclusive, subsections one, two and four of section seventy-seven and sections seventy-eight, eighty-one, ninety-seven and ninety-eight, subsections one, two and five of section ninety-nine, section one hundred and sections one hundred and three to one hundred and ten, inclusive of this Act, shall apply *mutatis mutandis* to every provincial company registered under this Part to transact any class or classes of insurance business to the same extent as the said provisions are applicable to or in respect of a company registered to transact the same class or classes of insurance business under Part III of this Act: Provided that to the extent to which any provision of the said sections would have effect to enlarge in any respect the corporate powers or rights of any provincial company under its constating instrument such provision shall not be applicable to a provincial company. 1934, c. 27, s. 60.

Application of provisions of Act.

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PART X.

DECLARATION.

151. It is hereby declared that this Act has been passed with the object and intent of prescribing the status and powers of insurance companies incorporated by the Parliament of Canada or by the Legislature of the late Province of Canada, limitations thereof and the conditions on which such companies and British insurance companies and associations may be registered for the purpose of transacting the business of insurance in Canada; of providing for the voluntary registration of provincial companies; of determining the conditions upon which all such companies shall be deemed to be insolvent, and of preventing any such companies which are insolvent, from commencing or continuing to transact the business of insurance in Canada; and if any provision of this Act should hereafter be determined to have any operation or effect beyond the legislative competence of the Parliament of Canada to authorize and sanction, and to be in that respect void and inoperative, it shall, in such respect, be treated as severable from the other provisions of this Act, and such other provisions shall continue to have full force and effect according to their tenor. 1932, c. 46, s. 155; 1934, c. 27, s. 61.

Declaration of intent.

152. The *Insurance Act*, chapter one hundred and one of the *Revised Statutes, 1927*, is hereby repealed. 1932, c. 46, s. 157; 1934, c. 27, s. 62.

c. 101, R.S., 1927, repealed.

FIRST SCHEDULE.

MODEL BILL.

FOR INCORPORATION OF INSURANCE COMPANY.

An Act to incorporate the (*state the name of the Company*).

Whereas the persons hereinafter named have by their petition prayed that it be enacted as hereinafter set forth, and it is expedient to grant the prayer of the said petition: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. (*Insert names of the persons applying for incorporation*) together with such persons as become shareholders in the company, are incorporated under the name of (*state name of company*), hereinafter called “the Company”.

2. The persons named in section one of this Act (*or as the case may be*) shall be the provisional directors of the Company. (*The name, address and addition of each director must be given.*)

3. The capital stock of the Company shall be..... dollars, which may be increased to.....dollars.

4. The amount to be subscribed before the general meeting for the election of directors is called shall be..... dollars.

5. The Company shall not commence business until.... dollars of the capital stock have been subscribed and.....dollars paid thereon.

6. The head office of the Company shall be in the..... of....., in the province of.....

7. The Company may make contracts of insurance (*state particulars of the kinds of insurance intended to be carried on*).

8. *The Canadian and British Insurance Companies Act, 1932*, shall apply to the Company. 1932, c. 46, First Schedule.

SECOND SCHEDULE.

ASSETS WHICH MAY BE VESTED IN TRUST BY ANY BRITISH COMPANY FOR THE PURPOSES OF THIS ACT.

Assets in
which the
company has
invested
its funds.

I. Assets of the following classes in which the company has invested its funds,—

- (a) the debentures, bonds, stocks or other securities of or guaranteed by the Government of the Dominion of Canada or of or guaranteed by the Government of any province of Canada; or of or guaranteed by the Government of the United Kingdom of Great Britain and Northern Ireland, or of any Dominion, colony or dependency, thereof; or of or guaranteed by the Government of any foreign country, or state forming a portion of such foreign country; or of any municipal or school corporation in Canada, or elsewhere where the company is carrying on business; or guaranteed by any municipal corporation in Canada; or secured by rates or taxes, levied under the authority of the Government of any province of Canada on property situate in such province and collectible by the municipalities in which such property is situate; or Government securities.
- (b) (i) the bonds of any corporation which bonds are fully secured by a mortgage or hypothec to a trustee upon real estate or upon the plant and equipment of such corporation used in the transaction of its business, or upon bonds, debentures or other evidences of indebtedness or stocks owned by such corporation of a class or classes specified in this schedule as assets which may be vested in trust by any company, and the inclusion as additional security in such mortgage or hypothec of any other assets not of a class so specified shall not be deemed to render such bonds ineligible as assets which may be so vested in trust, or Bonds secured by mortgage.
- (ii) the debentures or other evidences of indebtedness of any corporation which has paid regular dividends on its preferred or on its common stocks for a term of at least five years immediately preceding the vesting thereof in trust, or Debentures.
- (iii) the preferred stocks of any corporation which has paid regular dividends upon such stocks or upon its common stocks for not less than five years preceding the vesting thereof in trust, or the stocks of any corporation which are guaranteed by a corporation which has paid regular dividends upon its preferred or common stocks for not less than five years preceding the vesting thereof in trust: Provided that the amount of stocks so guaranteed is not in excess of fifty per cent of the amount of the preferred or common stocks, as the case may be, of the guaranteeing corporation, or Preferred stocks.
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Common
stocks.

(iv) the common stocks of any corporation upon which regular dividends of at least four per cent per annum or, in the case of stocks of no par value, of at least four dollars per share per annum have been paid for the seven years next preceding the vesting thereof in trust: Provided that not more than thirty per cent of the common stocks and not more than thirty per cent of the total issue of the stocks of any corporation shall be so vested in trust by any company, and that no company shall vest in trust its own shares and no company registered under this Act to transact the business of life insurance shall vest in trust, in respect of its life insurance funds, shares of any other company which transacts the business of life insurance:

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Provided further that if any such corporation has, pursuant to a voluntary reorganization of its capital account and without affecting the status or diminishing the value of its outstanding securities including the capital stock, substituted common shares of no par value for shares of par value, then dividends declared on the said no par value stock shall be deemed to be dividends of at least four dollars per share per annum if the sum thereof is equivalent to at least four per cent of the said common stock of par value and the proceeds of any additional issue of common stock made at the time of, or subsequent to, the aforesaid substitution of shares; and in such circumstances dividends of at least four per cent per annum on the common stock of par value immediately preceding the substitution shall be regarded as dividends on the no par value stock; or

Equipment
trust
obligations
or
certificates.

(v) equipment trust obligations or certificates issued to finance the purchase of transportation equipment for a railway company incorporated by or under the authority of an Act of the Parliament of Canada or of the Legislature of any province, or for a railway company owned or controlled by a railway company so incorporated, which obligations or certificates are fully secured by an assignment of the transportation equipment to, or by the ownership thereof by, a trustee, and by a lease, or conditional sale, thereof to the railway company so incorporated, or 1939, c. 10, s. 1.

Securities
of certain
public
bodies in
Great
Britain,
and the
Dominions.

(vi) the bonds, debentures or other evidences of indebtedness issued by an authority constituted by Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland or of any British Dominion and responsible to the Government of such Kingdom or Dominion or to any Minister of such Government, or to a body so responsible, with power to administer or regulate the administration of any port or harbour or system of transport or to distribute or regulate the distribution of electricity, water or gas, and to levy, impose or make taxes, rates, fees or other charges fixed or authorized by the said Parliament or subject to the approval of the said Government or Minister or of a body responsible to the said Government or Minister; or 1939, c. 10, s. 1.

(vii) the debentures, debenture stock or other evidences of indebtedness of any corporation which are fully secured by statutory charge upon real estate or upon plant and equipment of such corporation used in the transaction of its business, provided interest in full shall have been paid regularly for a period of at least ten years immediately preceding the date of investment in such debentures, debenture stock or other evidences of indebtedness upon the securities of that class of the corporation then outstanding; or the bonds or other evidences of indebtedness of such corporation which are fully secured by mortgage or hypothec to a trustee of securities of the class hereinbefore in this subparagraph first mentioned; or 1945, c. 13, s. 1.

Debentures, etc., of a corporation, fully secured by charge upon real estate, etc. Proviso.

Bonds, etc.

(c) ground rents, mortgages or hypothecs on real estate in Canada, provided that no such mortgage or hypothec may be vested in trust for any amount in excess of sixty per cent of the value of the real estate upon which it is secured.

Real estate mortgages.

2. Mortgages and other titles for repayment of loans secured by,—

Mortgages and other securities.

(a) any of the bonds, debentures, stocks or other securities which may be vested in trust by the company under the provisions of paragraph one of this Schedule: Provided, however, that the amount at which any mortgages or other title so secured may be vested in trust shall not exceed the amount at which such bonds, debentures, stocks and other securities might be vested in trust under the provisions of the said paragraph; or

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(b) real estate or leaseholds for a term or terms of years or other estate or interest therein in Canada:

Provided, however, that no such mortgage or other title shall be vested in trust for any amount in excess of sixty per cent of the value of the real estate or interest therein upon which such mortgage or other title is secured, but notwithstanding the foregoing terms of this proviso, any company may vest in trust a mortgage or hypothec, accepted as part payment for real estate sold by it and secured thereon, for more than sixty per cent of the sale price of such real estate.

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3. Bonds, stocks and debentures not fulfilling the requirements of paragraph one of this Schedule,—

Other investments.

(a) if received in payment or part payment for securities sold by such company; or

(b) if obtained under a *bona fide* arrangement for the reorganization of a corporation whose securities were previously owned by the company, or for the amalgamation with another corporation of the corporation whose securities were so owned;

and if the inclusion of such bonds, stocks and debentures in the assets vested in trust be approved by the Treasury Board, but such bonds, stocks and debentures shall not be included in such

Limitation.

assets for a longer period than five years after the acquisition thereof, or such further time as the Governor in Council may, on report of the Minister, fix and determine, unless it can be shown to the satisfaction of the Minister that the bonds, stocks or debentures are not inferior in status or value to the securities for which they have been substituted.

Dividend record in case of reorganization of capital account.

4. For the purpose of determining the eligibility, as assets vested in trust for the purposes of this Act, of the preferred or common stocks of any corporation, the capital account of which has been voluntarily reorganized without impairment of the status or value of its outstanding securities, including its capital stock, dividends paid on the preferred and common stocks of the corporation before such reorganization may be counted as dividends paid on such stocks, respectively, of the corporation.

Limitation on common stocks.

5. The total book value of the assets vested in trust of any company in common stocks shall not exceed fifteen per centum of the book value of the assets of the company vested in trust, but notwithstanding the foregoing provision of this paragraph any shares of preferred or common stocks acquired after the coming into force of this Act by any such company as bonuses or dividends on preferred or common stocks or acquired in the exercise of rights or privileges arising from investments of such company in preferred or common stocks may be included in the assets of the company vested in trust for the purposes of this Act.

Stock of other insurance companies.

6. Notwithstanding anything contained in this Schedule, any company may include in its assets vested in trust, except in respect of the life insurance funds of the company, if the company is registered to transact life insurance, the fully paid shares of any other company or corporation transacting the business of insurance and registered under the laws of the Dominion of Canada to transact such business in Canada but the value of such shares vested in trust shall not exceed fifteen per cent of the value of the assets of the company so vested in trust; and except as provided in this paragraph no company shall vest in trust shares of any other company or corporation transacting the business of insurance. 1932, c. 46, Second Schedule.

THIRD SCHEDULE.

BASES AND METHODS TO BE USED IN COMPUTING THE MINIMUM RESERVE WHICH MAY BE INCLUDED IN THE LIABILITIES IN THE ANNUAL STATEMENT, APART FROM THE BENEFITS GUARANTEED ON DISCONTINUANCE OF PREMIUM PAYMENT WITHOUT SURRENDER.

(A)—*As respects benefits depending upon life contingencies only in or arising out of life insurance policies (other than industrial policies) and excluding life annuity settlements.*

1. Policies at uniform annual premiums for a uniform amount of insurance throughout.

The bases of valuation for any particular class or group of policies shall be an assumed rate of interest not exceeding three and a half per cent per annum and one of the tables of mortality specified below or any other table which may be approved by the Superintendent.

Tables of Mortality.

- (a) Canadian Men Table, C^M (5)
- (b) British Offices Life Tables, 1893, O^m (5)
- (c) British Offices Life Tables, 1893 O^m
- (d) British Offices Life Tables, 1893, O^[m]
- (e) Institute of Actuaries of Great Britain, H^m
- (f) American Men Table, AM (5)
- (g) American Experience Table, Am Exp.

The value of the policy as of any date after issue shall be the difference between the then value of the sum assured thereunder (including the then value of any bonus or addition thereto, or reduction in future premiums, made after the date of issue of the policy and subsisting as at the date of valuation), and the then value of the valuation premium (as hereinafter defined) assumed to be payable on each anniversary of the policy following the date of valuation during the term for which premiums are required to be paid in accordance with the terms of the policy to be valued. 1932, c. 46, Third Schedule.

If the net level premium for the life insurance risks incurred by the company in issuing the policy does not exceed the whole life net level premium for a like amount of whole life insurance, the valuation premium shall be the net level premium for a like policy as of an age one year greater than the age at entry assumed to be payable at the beginning of the second and each subsequent policy year for which premiums are payable under the terms of the policy to be valued. 1934, c. 27, s. 63.

If the net level premium for the life insurance risks incurred by the company in issuing the policy exceeds the net level premium payable throughout life for a like amount of whole

life insurance, the valuation premium shall be obtained by adding to each net level annual premium, excluding the first, such an amount, assumed to be payable at the beginning of the second and each subsequent policy year for which premiums are payable under the terms of the policy to be valued, as is equal in value as of the date of issue of the policy to the difference between the net level premiums payable throughout life for a whole life policy and the one year term premium for, in each case, a policy of like amount and of the same age at entry as the policy to be valued.

2. Policies other than those at uniform annual premiums for a uniform amount of insurance throughout shall be valued on bases determined in accordance with the foregoing provisions of this Schedule with such adaptations to the valuation methods as seem to the Superintendent appropriate in the circumstances.

(B)—As respects benefits depending upon life contingencies only in or arising out of industrial life insurance policies, excluding life annuity settlements.

The bases of valuation for any particular class or group of policies shall be an assumed rate of interest not exceeding $3\frac{1}{2}$ per cent per annum and one of the tables of mortality specified below or any other table which may be approved by the Superintendent.

Tables of Mortality.

- (a) Any of the tables named under (A) (1) above.
- (b) The Standard Industrial Table.

No reserve shall be held at any valuation within the first year after issue of any policy. In valuations thereafter the insurance risks of the first policy year shall be ignored, and, for valuation purposes, the date of issue of the policy shall be assumed to be one year after the actual date of issue, the age at issue shall be assumed to be one year greater than the actual age at issue and the premium term shall be assumed to commence as of the assumed date of issue and to be contemporaneous with the premium term stated in the policy to be valued.

The valuation premium shall be such a level premium as of the assumed age at issue, payable for the assumed premium term, as is equal in then present value to the insurance risks incurred by the company as from the attainment of the assumed age at issue.

In valuations made as of any date after the attainment of the assumed age at issue the value of the policy shall be the difference between the then value of the sums assured (including the then value of any bonus or addition thereto, or reduction in future premiums, made after the date of issue of the policy and subsisting as of the date of valuation), and the then value of the valuation premium assumed to be payable following the date of valuation during the term for which premiums are required to be paid in accordance with the terms of the policy.

If the terms of any particular class or group of policies are such that the above method of valuation appears to be inapplicable or inappropriate, adaptations in the above method may be made subject to the approval of the Superintendent.

(C)—As respects Life Annuities (Immediate or Deferred) including life annuity settlements (other than disability annuities), arising out of life insurance contracts.

The bases of valuation shall be tables of mortality approved by the Superintendent, deduced from the actual mortality experience covering the period 1900-1920, published on behalf of the Institute of Actuaries and the Faculty of Actuaries in Scotland, male or female, according to the sex of the nominee, with a rate of interest not exceeding four per cent per annum.

In the valuation of Deferred Annuities the method of valuation shall be the net level premium method subject to such adaptations as the Superintendent may deem appropriate in any case where the premium for the policy may not be uniform throughout the premium paying period.

(D)—As respects future payments dependent on a term certain only, including term certain annuities arising out of life insurance contracts.

The valuation shall be made at a rate of interest not exceeding four per cent per annum, and the method of valuation shall be the net level premium method subject to such adaptations as the Superintendent may deem appropriate in any case where the premium for the policy may not be uniform throughout the premium paying period. 1932, c. 46, Third Schedule.

REGULATIONS UNDER SECTION 2 (2).

Under section 2 (2) of the Act, which provides that regulations may be made by the Governor in Council for determining and defining what shall be deemed to be distinct classes of insurance, an Order in Council was passed on February 22, 1941, cancelling previous relevant Orders and making regulations under which the following classes of insurance were defined.

SCHEDULE TO REGULATIONS UNDER SEC. 2 (2).

CLASSES OF INSURANCE AND DEFINITIONS THEREOF.

Accident.—" Accident Insurance " means and includes

- (a) " Personal Accident Insurance," which means insurance against loss or damage caused by bodily injury to or death of the person or persons insured arising out of an accident, or the agreement to pay a certain sum or sums upon the happening of such contingencies,
- (b) " Public Liability Insurance," which means insurance against liability for loss or damage to persons or property, and not being insurance included in or incidental to some other class of insurance defined by or under this Act, and
- (c) " Employers' Liability Insurance," which means insurance against liability for loss or damage to employees caused by bodily injury, disability or death arising out of or in the course of employment.

Aircraft.—" Aircraft Insurance " means insurance against liability for loss or damage to persons or property caused by an aircraft or the use or operation thereof and against loss of, or damage to, an aircraft.

Automobile.—" 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.

Boiler.—" Boiler Insurance " means and includes

- (a) " Boiler Insurance," which means insurance against liability for loss or damage to persons or property and against damage to property or loss caused by explosion of, rupture of, or accident to steam boilers and pipes, engines and machinery connected therewith or operated thereby, and
- (b) " Machinery Insurance," which means insurance against liability for loss or damage to persons or property and against damage to property or loss caused by breakdown of machinery.

Credit.—" Credit Insurance " means insurance against loss caused by the insolvency or default of a person to whom credit is given, not being insurance included in or incidental to some other class of insurance defined by or under this Act.

Earthquake.—" Earthquake Insurance " means insurance against loss of, or damage to, property caused by an earthquake.

Explosion.—"Explosion Insurance" means insurance against loss of, or damage to, the property insured caused by explosion, other than explosion of steam boilers and pipes and engines and machinery connected therewith, and includes

- (a) "Limited or inherent Explosion Insurance," which means insurance against loss of or damage to the property insured caused by the explosion of dust, gas, or any substance, where such explosion arises out of hazards inherent in the business conducted on the premises, and
- (b) "Civil Commotion Insurance," which means insurance against loss of or damage to the property insured caused by bombardment, invasion, insurrection, mutiny, civil war or commotion, riot, act of foreign enemy, hostilities or war-like operations (whether war is declared or not), revolution, rebellion, conspiracy, usurped power or military, naval or air force operations, vandalism or malicious mischief.

Falling Aircraft.—"Falling Aircraft Insurance" means insurance against loss of, or damage to, the property insured caused by aircraft or objects falling therefrom.

Fire.—"Fire Insurance" means insurance against loss of, or damage to, the property insured caused by fire, lightning or explosion due to ignition.

Forgery.—"Forgery Insurance" means insurance against loss caused by forgery.

Guarantee.—"Guarantee Insurance" means and includes

- (a) "Fidelity Insurance," which means insurance against loss caused by the unfaithful performance of duties by a person in a position of trust or the guaranteeing of the proper fulfilment of the duties of any office, and
- (b) "Surety Insurance," which means the guaranteeing of the due performance of any contract or undertaking, or the payment of a penalty or indemnity for any default.

Hail.—"Hail Insurance" means insurance against loss of, or damage to, property caused by hail.

Limited Hail.—"Limited Hail Insurance" means insurance against loss of, or damage to, property other than crops caused by hail.

Impact by Vehicles.—"Impact by Vehicles Insurance" means insurance against loss of, or damage to, the property insured caused by vehicles or objects falling therefrom.

Inland Transportation.—"Inland Transportation Insurance" means insurance, other than marine insurance, against loss of or damage to property while in transit or during delay incidental to transit.

Live Stock.—"Live Stock Insurance" means insurance against loss of or damage to animals caused by injury, sickness or death.

Marine.—"Marine Insurance" means insurance against liability for loss of or damage to persons or property and against loss of or damage to the property insured during a voyage or marine adventure on sea or inland waterways, or during incidental delay or transit otherwise than by water.

Personal Property.—“Personal Property Insurance” means insurance against loss of or damage to movable or personal property.

Plate Glass.—“Plate Glass Insurance” means insurance against loss of or damage to plate or other glass.

Real Property.—“Real Property Insurance” means insurance against loss of or damage to real or immovable property and not falling within the definitions of other classes covering property.

Sickness.—“Sickness Insurance” means insurance against loss caused by illness or disability of the person or persons insured, other than that arising from accident, old age or death.

Sprinkler Leakage.—“Sprinkler Leakage Insurance” means insurance against loss or damage to the property insured from water or other substance, caused by the breakage of or leakage from sprinkler equipment or other fire protection system or pumps, water pipes or plumbing and its fixtures.

Theft.—“Theft Insurance” means insurance against loss of or damage to property caused by theft, wrongful conversion, burglary, housebreaking or robbery.

Weather.—“Weather Insurance” means insurance, other than hail insurance or windstorm insurance, against loss or damage caused by rain, tempest, flood or other climatic conditions.

Windstorm.—“Windstorm Insurance” means insurance against loss of or damage to property caused by windstorm, cyclone or tornado.

EXTRACT FROM THE CRIMINAL CODE

R.S. 1927—Chap. 36, Section 508

508. Any insurance company, or any officer, agent or representative thereof, who

- (a) makes or permits any distinction or discrimination in favour of individuals between the insured of the same class and equal expectation of life in the amount of premiums charged or in the dividends payable upon any policy of life insurance issued by or on behalf of the company; or
- (b) makes or assumes to make any stipulation or agreement which is intended to operate as a part of any insurance contract to which the company is or is to become a party, whether in respect of the amount, terms or conditions of the insurance, the premium to be paid or otherwise, except such as is plainly expressed in the policy issued in the case; or
- (c) pays, allows or gives, or offers to pay, allow or give, directly or indirectly, as inducement to insure, any rebate of the premium stipulated by the policy to be payable, or any special favour or advantage in the dividends or other benefits to accrue thereon, or any advantage by way of local or advisory directorship unless for actual service *bona fide* performed, or any paid employment or contract for service of any kind or any inducement whatever intended to be in the nature of a rebate of premium; or
- (d) gives, sells or purchases as such inducement or in connection with such insurance any stock, bonds or other securities of any insurance company, or other corporation, association or partnership; and any person who knowingly receives as an inducement to insure, any rebate of premium or any such special favour, advantage or inducement as aforesaid;

shall for a first offence be liable to a penalty of double the amount of the annual premium chargeable upon the application or policy in respect of which the offence is committed, such penalty not to be less than one hundred dollars, and for a second or subsequent offence to a penalty of double the amount of such annual premium, the latter penalty not to be less than two hundred and fifty dollars.

2. Moreover every director, manager or other officer of any insurance company who knowingly consents to or permits the violation of any of the provisions of this section by any agent, officer, employee or servant of the company shall be liable to a penalty of five hundred dollars.

3. The penalties provided for in this section may be recovered either upon summary conviction under Part XV of this Act, or in any court of competent civil jurisdiction at the suit of any person suing therefor as well for His Majesty as for himself; one-half of any such penalty when recovered to be paid into the Consolidated Revenue Fund and the other half to belong to the informer or person at whose suit the same is recovered.

4. No director, manager, agent, officer or servant of any insurance company shall be indemnified either in whole or in part, from the funds of the company for any penalty or costs which he may be adjudged to pay on account of any offence committed against this section. 1917, c. 26, s. 1.

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THE CANADIAN AND BRITISH INSURANCE COMPANIES ACT, 1932

(As amended)

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TRUST COMPANIES ACT

CHAPTER 29, R.S.C. 1927

AS AMENDED BY

21-22 Geo. V, Cap. 57 (1931)

3 Geo. VI, Cap. 9 (1939)

9-10 Geo. VI, Cap. 33 (1945) (Second Session)

11 Geo. VI, Cap. 75 (1947)

AND

THE DEPARTMENT OF INSURANCE ACT

22-23 Geo. V, Cap. 45 (1932)

OFFICE CONSOLIDATION

(with index)

1947

**COMPILED BY THE DEPARTMENT OF INSURANCE
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NOTE:—The following is an office consolidation of the Trust Companies Act, R.S. 1927, with amendments thereto to date. It is not to be regarded as an official compilation of the law.

1947.

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CHAPTER 29

An Act respecting Trust Companies

SHORT TITLE

1. This Act may be cited as the Trust Companies Act. 1914, Short title. c. 55, s. 1.

INTERPRETATION

2. In this Act, unless the context otherwise requires, Definitions.
- (a) "a corporation incorporated in Canada" means a corporation "corporation that has been incorporated in Canada either before or after Confederation;"
- (aa) "annual general meeting" includes the general meeting of "annual shareholders at which the directors of the company are general meeting. elected;"
- (ab) "guaranteed investment certificate" means a certificate "guaranteed issued by a trust company in evidence of the deposit of investment trust money and the guarantee thereof by the certificate." company;
- (ac) "guaranteed trust money" means money received by a trust "guaranteed company in trust for investment subject to a guarantee by trust the company in respect of the payment of interest or the money." repayment of principal;
- (b) "Minister" means the Minister of Finance and Receiver "Minister." General;
- (c) "real estate" or "land" includes messuages, lands, tenements "Real estate." and hereditaments of any tenure and all immovable property "Land." of any kind;
- (d) "shareholder" means every subscriber to or holder of stock "Shareholder." in the company and includes the personal representatives of the shareholder;
- (e) "Superintendent" means the Superintendent of Insurance; "Superintendent."
- (f) "the company" or "trust company" means a company incor- "Company." porated for the purpose of "Trust company." (i) exercising the powers set forth in section sixty-two of this Act; or (ii) executing the office of executor, administrator or trustee, either with or without other objects or powers;
- (g) "unguaranteed trust money" means trust money other than "unguaranteed trust money." guaranteed trust money received by a trust company. 1914, c. 55, s. 2; 1920, c. 21, s. 1; 1947, c. 75, s. 1.

APPLICATION OF ACT

3. The provisions of this Act apply to every trust company Application incorporated by of Act.
- (a) a special Act of the Parliament of Canada, or
- (b) letters patent issued under authority of an Act of the Parliament of Canada.

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1934, c. 33.

2. Part III of *The Companies Act, 1934*, which relates to "companies clauses," shall not, on or after the first day of July, nineteen hundred and forty-seven, apply to a trust company incorporated by a special Act of the Parliament of Canada.

Company
incorporated
by letters
patent.

3. Where a trust company has been incorporated by letters patent under authority of an Act of the Parliament of Canada, none of the provisions of that Act inconsistent with this Act are applicable to the company on or after the first day of July, nineteen hundred and forty-seven. 1947, c. 75, s. 2.

INCORPORATION AND ORGANIZATION

No letters
patent to be
issued.

4. No trust company shall, after the twelfth day of June, nineteen hundred and fourteen, be incorporated by letters patent under the provisions of that part of *The Companies Act* relating to "joint stock companies." 1914, c. 55, s. 4.

Declarations
in Act.

5. The capital stock of every trust company incorporated after the twelfth day of June, nineteen hundred and fourteen, the name of the trust company, the place where its head office is to be situated, the names, place of residence and calling of the provisional directors, shall be declared in the Act of incorporation of every such trust company. 1914, c. 55, s. 5.

Model
Bill.

6. Every trust company incorporated by Act in the form set forth in schedule A to this Act shall be a body corporate by the name contained in its Act of incorporation, capable forthwith of exercising all the functions of an incorporated company.

Subject to
provisions
of this Act.

2. Every such trust company shall be invested with all the powers, privileges and immunities and shall be subject to all the liabilities and provisions set forth in this Act. 1914, c. 55, s. 6.

Provisional
directors.

7. The number of provisional directors shall be not less than five, a majority of whom shall be a quorum. 1914, c. 55, s. 7.

Organiza-
tion.

8. The provisional directors may, after giving notice thereof by advertisement in one or more newspapers published at the place where the head office of the company is situate and in the *Canada Gazette*, open stock books, procure subscriptions of stock, make calls on stock subscribed and do generally what is necessary to organize the company.

Calls.

2. The first of such calls shall not exceed twenty-five per cent of the amount subscribed and no subsequent call shall exceed ten per cent thereof, and such calls shall be made at intervals of not less than thirty days.

Notice.

3. Not less than thirty days' notice shall be given of any call, and any notice of call may be effectually given by sending the notice by registered letter to the last known address of each shareholder as contained in the books of the company.

Advances.

4. The provisional directors may if they think fit receive from any shareholder willing to advance the same all or any part of the money due upon the shares held by him beyond the sums actually called for.

5. Upon the money so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then due upon the shares in respect of which such advance has been made, the company may pay interest at such rate as the shareholder paying such sum in advance and the directors may agree upon. Interest on advances.

6. The provisional directors shall deposit to the credit of the company in a chartered bank all moneys received by them on account of stock subscribed or otherwise on account of the company, and may withdraw the moneys so deposited for the purposes of the company only. 1914, c. 55, s. 8. Deposit.

9. The provisional directors shall hold office until directors are elected by the shareholders qualified as hereinafter provided. 1914, c. 55, s. 9. Tenure of office.

10. As soon as not less than one hundred and fifty thousand dollars of the capital stock have been *bona fide* subscribed and not less than fifty thousand dollars have been paid thereon in cash the provisional directors may call a general meeting of the shareholders to be held at the place named in the Act of incorporation as the head office of the company. General meeting.

2. The stock upon which less than ten per cent has been paid in cash by the shareholder shall not be reckoned as part of the one hundred and fifty thousand dollars of stock necessary to be subscribed, nor shall any sum paid by any shareholder upon the shares subscribed for by him which is less than ten per cent of the amount subscribed for by such shareholder be reckoned as part of the sum of fifty thousand dollars required to be paid as hereinbefore mentioned. 1914, c. 55, s. 10. Certain stock not to be reckoned.

11. At such meeting only the shareholders who have paid in cash at least ten per cent of the amount of the shares subscribed for by them shall be qualified to vote. 1914, c. 55, s. 11. Voting.

12. The shareholders so qualified shall at such meeting Proceedings.
- (a) determine the day upon which the annual general meeting of the company is to be held;
 - (b) elect such number of directors duly qualified under this Act as they think necessary, not less than five nor more than thirty, a majority of whom shall be a quorum, except that when the number exceeds thirteen the quorum shall be seven; and Election of directors.
 - (c) appoint an auditor or auditors to hold office until the first annual general meeting. Auditors.

2. Upon the election of directors the functions of the provisional directors shall cease. 1914, c. 55, s. 12; 1947, c. 75, s. 3. Functions of provisional directors to cease.

13. The company shall not commence business by exercising any of the powers set forth in section sixty-two of this Act until it has obtained from the Minister a certificate permitting it to do so. Certificate for commencement of business.

2. No application for such certificate shall be made and no certificate shall be given until it has been shown to the satisfaction of the Minister by affidavit or otherwise that Application.

- (a) the board of directors has been duly elected;

- (b) not less than two hundred and fifty thousand dollars of capital stock has been *bona fide* subscribed;
- (c) the company has at its credit in a chartered bank a sum not less than one hundred thousand dollars paid in by shareholders on account of their subscriptions in excess of any and all liabilities of the company in connection with or arising out of the incorporation, procuring of subscriptions, organization or otherwise howsoever;
- (d) all other requirements of this Act antecedent to the granting of a certificate have been complied with; and
- (e) the expenses of incorporation and organization are reasonable.

Particulars of liabilities.

3. The particulars of all liabilities of the company shall be disclosed to the Minister at the time the application is made.

Time limit for application.

4. No certificate under this section shall be given unless application therefor is made within two years after the passing of the company's Act of incorporation, or within such extended period not exceeding one year as the Governor in Council before the expiration of such two years allows.

Cessation of Act of incorporation.

5. If a certificate has not been obtained as in this section provided, the company's Act of incorporation shall thereupon cease to be in force, except for the purpose of winding up the affairs of the company and returning to the subscribers the amount paid by them upon the subscribed stock or so much thereof as they may be entitled to. 1914, c. 55, s. 13.

Publication.

14. Notice of the issue of a certificate of the Minister permitting the company to commence business shall be published by the company in the *Canada Gazette* and in at least one newspaper in the city or place where the head office of the company is situate, and such publication shall be continued for the period of four weeks. 1914, c. 55, s. 14.

INTERNAL REGULATIONS

Regulations.

15. The shareholders of the company may, at any annual general meeting or at any special general meeting duly called for the purpose, fix and regulate by by-law the following matters incident to the management and administration of the affairs of the company, that is to say:—

- (a) The day on which the annual general meeting shall be held;
- (b) The notice to be given to shareholders of special general meetings;
- (c) The requirements as to proxies, the record to be kept of them, and the time not exceeding ten days within which proxies must be produced and recorded prior to a meeting in order to entitle the holder to vote thereon;
- (d) The number of directors: Provided that the number thereof shall not be less than five nor more than thirty and that a majority shall be a quorum, except that when the number exceeds thirteen the quorum shall be seven;
- (e) Subject to the provisions hereinafter contained, the qualifications of directors;

- (f) The remuneration of the president, vice-presidents and other directors;
- (g) The exercise of the borrowing powers of the company. 1914, c. 55, s. 15; 1947, c. 75, s. 4.

16. The election of directors shall take place each year, at the annual general meeting of the company. Election of directors.

2. The persons to the number authorized to be elected who have the greatest number of votes at any election shall be directors. Majority.

3. If it happens at any election that two or more persons have an equal number of votes and the election or non-election of one or more persons as a director or directors depends on such equality, then the directors who have a greater number of votes or a majority of them shall, in order to complete the full number of directors, determine which of the said persons having an equal number of votes shall be a director or directors. Equal number of votes.

4. If, at any time, an election of directors is not made or does not take effect at the proper time, the company shall not be held to be thereby dissolved, but such election may take place at any general meeting of the company, duly called for that purpose, and the retiring directors shall continue in office until their successors are elected. 1914, c. 55, s. 16. Failure to elect directors.

17. Directors shall hold office until the annual general meeting in the year succeeding their election, and shall if otherwise qualified be eligible for re-election. 1914, c. 55, s. 17. Re-election.

18. No shareholder shall be eligible for election as a director unless he holds in his own name and for his own use shares of the capital stock of the company of an aggregate par value of at least two thousand five hundred dollars and has paid in cash all calls due thereon and all liabilities incurred by him to the company; and, if any director makes an assignment for the benefit of creditors or comes within the operation of any insolvency law or ceases to hold shares of at least two thousand five hundred dollars par value as aforesaid, he shall thereupon cease to be a director. 1947, c. 75, s. 5. Qualification of directors.

19. The majority of the directors of the company shall at all times be persons resident in Canada and subjects of His Majesty by birth or naturalization. 1914, c. 55, s. 19. Residence and nationality.

20. Vacancies occurring in the board of directors may be filled for the remainder of the term by the directors from among the qualified shareholders of the company, but if the vacancy is not filled the acts of a quorum of the remaining directors shall not be thereby invalidated. 1914, c. 55, s. 20. Vacancies in board.

21. The directors, as soon as may be after their election, shall proceed to elect by ballot from their number a president, and one or more than one vice-president. President and vice-presidents.

2. If the number of directors is more than six, the directors may, by by-law duly passed by the directors and confirmed by at least two-thirds of the votes cast at a special general meeting of the company duly called for considering the by-law, provide for the election from their number of an executive committee of not less than three members. Executive committee.

- Quorum.** 3. The executive committee may fix its quorum at not less than a majority of its members and may, subject to any restriction in its constituting by-law or in regulations made by the directors, exercise such of the powers of the directors as are delegated to it by that by-law.
- Powers not to be delegated.** 4. None of the powers conferred on the directors by paragraphs (a), (b), (c), (e) and (f) of section twenty-six and sections twenty-nine, thirty, thirty-two, thirty-three, forty-seven and sixty-nine of this Act shall be delegated to an executive committee under this section. 1914, c. 55, s. 21; 1947, c. 75, s. 6.
- Chairman.** 22. The president, or in his absence a vice-president, shall preside at all meetings of the directors and of the shareholders.
- In absence of president and vice-president.** 2. In the absence of the president and vice-presidents at any meeting, a chairman shall be selected by the directors or shareholders present at such meeting.
- Voting.** 3. The presiding chairman may vote as a director at all meetings of directors, and as a shareholder at all general meetings of the company, and in case of an equality of votes at any meeting he shall have a second or casting vote. 1914, c. 55, s. 22.
- Vacancies among officers.** 23. If a vacancy occurs in the office of president or vice-president, the directors shall from among themselves elect a president or vice-president, who shall continue in office until the next election of directors.
- Non-election of directors.** 2. If at any time an election of directors is not made or does not take effect at the proper time, the company shall not be held to be thereby dissolved, but such election may take place at any general meeting of the company duly called for that purpose and the retiring directors shall continue in office until their successors are elected. 1914, c. 55, s. 23.
- Branch offices.** 24. The directors may establish branch offices and local advisory boards either within Canada or elsewhere, at such times and in such manner as they deem expedient. 1914, c. 55, s. 24.
- Powers.** 25. The directors may in all things administer the affairs of the company and may make or cause to be made for the company any description of contract which the company may by law enter into. 1914, c. 55, s. 25.

BY-LAWS

- By-laws.** 26. The directors may make by-laws not contrary to law or to this Act or to any by-law duly passed by the shareholders for
- (a) regulating the allotment of stock, the making of calls thereon, the payment thereof, the issue and registration of certificates of stock, the issue of share warrants, the forfeiture of stock for non-payment, the disposal of forfeited stock and of the proceeds thereof, and the transfer of stock;
 - (b) the declaration and payment of dividends;
 - (c) setting aside out of premium on shares or of profits a reserve fund hereinafter called "reserve";

- (d) the appointment, functions, duties and removal of all agents, officers, and servants of the company, the security to be given by them to the company and their remuneration;
- (e) the time and place for the holding of meetings of the board of directors and the procedure in all things at such meetings;
- (f) the imposition and recovery of all penalties and forfeitures admitting of regulation by by-law; and
- (g) the conduct in all other particulars of the affairs of the company.

2. By-laws made under the authority of this section shall, unless confirmed at the next annual general meeting, only have force until such meeting, and in default of confirmation thereat shall from the time of such default cease to have force or effect. 1914, c. 55, s. 26. Confirmation.

CAPITAL STOCK AND CALLS THEREON

27. The capital stock of a trust company shall be not less than two hundred and fifty thousand dollars and shall be divided into shares of one hundred dollars each. Capital stock.

2. Notwithstanding subsection one of this section, a company may, if authorized by by-law duly passed by the directors and confirmed by at least two-thirds of the votes cast at a special general meeting of shareholders duly called for considering the by-law, provide that the capital stock shall be divided into shares of ten dollars, or any multiple thereof not exceeding one hundred dollars, each. 1947, c. 75, s. 7. Shares.

28. The stock of the company shall be personal estate, and shall be transferable in the manner, and subject to the conditions and restrictions, prescribed by this Act or the by-laws of the company. 1914, c. 55, s. 28. Personal estate.

29. The directors may make calls upon the several shareholders in respect of the amount of capital subscribed by them respectively at such times and places and in such payments as this Act and the by-laws, if any, made under its provisions require or allow. Calls.

2. The first of such calls shall not in respect of shares subscribed after the organization of the company exceed twenty-five per cent, and no subsequent call in respect of shares subscribed before or after organization shall exceed ten per cent. Percentage.

3. Not less than thirty days' notice shall be given of any call, and any notice of call may be effectually given by sending the notice by registered letter to the last known address of each shareholder as contained in the books of the company. Notice.

4. There shall be an interval of not less than thirty days between the times at which successive calls are payable. Interval.

5. Interest shall accrue and fall due, at the rate of five per cent per annum, upon the amount of any unpaid call, from the day appointed for payment of such call. Interest.

6. The directors may if they think fit receive from any shareholder willing to advance the same all or any part of the money due upon the shares held by him beyond the sums actually called for. Advances.

Interest on
advances.

7. Upon the money so paid in advance or so much thereof as from time to time exceeds the amount of the calls then due upon the shares in respect of which such advance has been made, the company may pay interest at such rate as the shareholder paying such sum in advance and the directors may agree upon. 1914, c. 55, s. 29.

Forfeiture.

30. If any shareholder fail to pay any call or instalment on or before the day appointed for the payment of the same, the directors may at any time thereafter during such time as the call or instalment remains unpaid, send a notice to such shareholder by registered post to his last-known post office address as shown by the books of the company, requesting him to pay the same together with any interest that may have accrued.

Notice.

2. The notice shall name a day not less than thirty days from the date of mailing the notice and a place or places on and at which such call or instalment and such interest are to be paid, and shall also state that in the event of non-payment at or before the time and at the place appointed the shares in respect of which the call was made or instalment is payable will be liable to be forfeited.

Forfeiture
on
resolution.

3. If the requisitions of any such notice are not complied with, any shares in respect of which such notice has been given may at any time thereafter, before payment of all calls or instalments and interest due in respect thereof, be forfeited by resolution of the directors to that effect, and such forfeiture shall include all dividends declared in respect of the forfeited shares and not actually paid before the forfeiture.

Liability
to continue.

4. Notwithstanding such forfeiture, the holder of such shares at the time of forfeiture shall continue liable to the creditors of the company at such time for the full amount unpaid on such shares at the time of forfeiture, less any sums which are subsequently received by the company in respect thereof.

Notice to
prior holder.

5. When any share shall have been so forfeited, notice by registered post as aforesaid of the resolution shall be given to the shareholder in whose name it stood immediately prior to the forfeiture, and an entry of the forfeiture with the date thereof shall forthwith be made in the proper books of the company.

Disposal.

6. Any share so forfeited shall be deemed to be the property of the company, and the directors may sell, allot and otherwise dispose of the same in such manner as they think fit.

Annul
forfeiture.

7. The directors may at any time before any share so forfeited shall have been sold, allotted or otherwise disposed of, annul the forfeiture thereof upon such conditions as they think fit. 1914, c. 55, s. 30.

Transfer.

31. No share shall be transferable until all calls due thereon up to the date of transfer have been fully paid, or until it is declared forfeited for non-payment of a call or calls thereon.

Consent of
directors.

2. No transfer of shares in respect of which the whole amount subscribed has not been paid in shall be made without the consent of the directors. 1914, c. 55, s. 31.

PREFERENCE STOCK

32. The directors may make by-laws for creating and issuing any part of the capital stock of the company as preference stock, which preference stock may be preferred in any respect and deferred in any other respect; and without limiting the generality of the foregoing, such preference stock may be either preferred or deferred in matters of the division of profits, payment of dividends and bonuses, election of directors, voting at meetings, rank as regards capital, and in winding-up proceedings and in such other matters and respects as may be deemed advisable and as any such by-law may provide. Preference stock.

2. No such by-law shall have any force or effect whatever until after it has been unanimously sanctioned by a vote of the shareholders present in person or represented by proxy at a general meeting of the company duly called for considering the same, and representing two-thirds of the subscribed and issued stock of the company, or unanimously sanctioned in writing by the shareholders of the company. Sanction of shareholders.

3. If the by-law be sanctioned by not less than three-fourths in value of the shareholders of the company, the company may through the Minister petition the Governor in Council for an order approving the said by-law, and the Governor in Council may, if he sees fit, approve thereof, and from the date of such approval the by-law shall be valid and may be acted upon. 1914, c. 55, s. 32. Petition to Governor in Council.

INCREASE OF CAPITAL STOCK

33. The directors may, after the whole authorized capital stock of the company has been subscribed and fifty per cent paid thereon in cash, increase the capital stock from time to time to an amount not exceeding the sum named for that purpose in the Act incorporating the company. Increase of capital stock.

2. The stock shall not be increased until a resolution of the board of directors authorizing such increase has been first submitted to and confirmed by the shareholders present or represented by proxy at a special general meeting of the shareholders of the company duly called for that purpose, the vote in favour of such resolution being that of shareholders holding not less than two-thirds of the subscribed capital stock of the company. 1914, c. 55, s. 33. Confirmation.

SHARE WARRANTS

34. The company may, if so provided by by-law with respect to any share which is fully paid up, issue under its common seal a warrant stating that the bearer of the warrant is entitled to the share or shares therein specified, and may provide by coupons or otherwise for the payment of the future dividends on the share or shares included in such warrant, hereinafter referred to as a "share warrant." "Share warrants."

2. A share warrant shall entitle the bearer of such share warrant to the shares specified in it and such shares may be transferred by the delivery of the share warrant. Transfer by delivery.

3. The bearer of a share warrant shall, subject to the by-laws of the company, be entitled on surrendering such share warrant for cancellation to have his name entered as a shareholder in the books of the company, and the company shall be responsible for any loss Surrender and cancellation.

incurred by any person by reason of the company entering in its books the name of any bearer of a share warrant in respect of the shares specified therein without the share warrant being surrendered and cancelled.

Bearer to be deemed shareholder.

4. The bearer of a share warrant may, if the by-laws so provide, be deemed to be a shareholder of the company within the meaning of this Act either to the full extent or for such purposes as are prescribed by the by-laws, but the bearer of a share warrant shall not be qualified in respect of the shares specified in such share warrant for being a director of the company.

Proviso.

Effect of share warrant.

5. On the issue of a share warrant in respect of any share or shares, the company shall strike out of its books the name of the shareholder then entered therein as holding such share or shares as if he had ceased to be a shareholder, and shall enter in the books the following particulars:—

Particulars required.

- (a) The fact of the issue of the share warrant;
- (b) A statement of the number of shares included in the share warrant;
- (c) The date of the issue of the share warrant;

and until the share warrant is surrendered the above particulars shall be deemed to be the particulars which are required by section thirty-five of this Act to be entered in the books of the company in respect of such share or shares, and on the surrender of a share warrant the date of such surrender shall be entered as if it were the date at which a person ceased to be a shareholder.

Conditions determined by by-laws.

6. The by-laws may determine the conditions upon which share warrants shall be issued, and in particular upon which a new share warrant or coupon will be issued in the place of one worn out, defaced, lost or destroyed, and the conditions upon which the bearer of a share warrant shall be entitled to attend and vote at general meetings, and upon which a share warrant may be surrendered and the name of the holder entered in the books of the company in respect of the shares therein specified.

Share warrant not to be counted as part of stock.

7. Unless the bearer of a share warrant is entitled to attend and vote at general meetings, the shares represented by such share warrant shall not be counted as part of the stock of the company for the purposes of a general meeting.

Holder of share warrant subject to by-laws.

8. The holder of a share warrant shall be subject to the by-laws for the time being in force, whether made before or after the issue of such share warrant. 1914, c. 55, s. 34.

BOOKS OF THE COMPANY

Books and contents.

35. The company shall cause a book or books to be kept by the secretary, or by some other officer specially charged with that duty, wherein shall be kept recorded

- (a) a copy of the special Act of incorporation, letters patent or other incorporating instrument, with all amendments thereto, and of the memorandum of agreement and all by-laws of the company;
- (b) the names, alphabetically arranged, of all persons who are or have been shareholders, together with the address and calling of every such person while such shareholder as far as can be ascertained;

- (c) the number of shares of stock held by each shareholder;
- (d) the amounts paid in and remaining unpaid, respectively, on the shares of stock of each shareholder;
- (e) all transfers of stock, in their order as presented to the company for entry, with the date and other particulars of each transfer, and the date of the entry thereof; and
- (f) the names, addresses and callings of all persons who are or have been directors of the company, with the several dates at which each became or ceased to be such director.

1A. Books kept pursuant to subsection one of this section shall be kept at the head office of the company: Provided that where the particulars mentioned in paragraphs (b), (c), (d) and (e) of subsection one of this section are recorded in books kept by a branch office, or by an agent who has been appointed by the company for the purpose of recording the transfer of its shares and who has an established place of business in Canada, at which the right of inspection conferred by section thirty-seven of this Act can be exercised, the books containing the particulars mentioned in the said paragraph (e) need not be kept at the head office of the company.

Books to be kept at head office of the company.
Proviso.

2. The company shall keep books of account from which shall be made up the annual statement required by section seventy-one of this Act to be made to the Minister, such books of account as regards liabilities to the public to be kept separate and distinct from other books of account of the company. 1914, c. 55, s. 35; 1947, c. 75, s. 8.

Books of account.

36. No transfer of stock of the company, unless made by sale under execution or under the decree, order or judgment of a court of competent jurisdiction, is, until it has been recorded in books kept pursuant to section thirty-five, valid for any purpose whatsoever except for the purpose of exhibiting the rights of the parties thereto as between each other and of rendering the transferee liable, in the meantime, jointly and severally with the transferor, to the company and its creditors.

Validity of transfers of stock.

2. A transfer of stock recorded in a book kept pursuant to section thirty-five of this Act, whether kept at the head office of the company or elsewhere, is, for all purposes, a complete and valid transfer.

Recorded transfer valid.

3. A company may close the books in which transfers of stock are recorded for any time or times not exceeding in the whole thirty days in each year.

Company may close transfer books.

4. The court, as hereinafter defined, of the province or territory in which the head office or chief place of business of the company is situate, shall have jurisdiction, on the application of any person interested, to order that any entry in the books for the registration and transfer of shares of the capital stock of a company be struck out or otherwise rectified on the ground that at the date of such application the entry as it appears in any book does not accurately express or define the existing rights of the person appearing to be the registered owner of any shares of the capital stock of the company; and the court, in deciding such application, may make such order as to costs as the court may deem proper.

Jurisdiction of the court.

5. An application under subsection four of this section may be made by filing with the proper officer of the court a petition, an originating summons or a notice of motion; and the court may direct the trial of any issue arising out of the application.

Procedure.

"court"
defined.

6. In this section "court" means in British Columbia, Alberta, Ontario, New Brunswick and Nova Scotia, the Supreme Court of those provinces respectively; in Prince Edward Island, the Supreme Court of Judicature of that province; in Quebec, the Superior Court; in Manitoba and Saskatchewan, His Majesty's Court of King's Bench for those provinces respectively; in the Yukon Territory, the Territorial Court; and in the Northwest Territories, a Stipendiary Magistrate. 1947, c. 75, s. 9.

Books to
be kept
open for
inspection.

37. The books mentioned in subsection one of section thirty-five of this Act shall, during reasonable business hours of every business day of the company, be kept open for the inspection of shareholders and creditors of the company and their personal representatives and of any judgment creditor of a shareholder, any of whom may make extracts therefrom, at the place or places where they are respectively kept as authorized by the said section. 1947, c. 75, s. 10.

SHAREHOLDERS' LIABILITY

Liability of
shareholder.

38. Every shareholder shall, until the whole amount of his capital stock has been paid up, be individually liable to the company to an amount equal to that not paid up thereon. 1914, c. 55, s. 38.

Limited
liability.

39. The shareholders of the company shall not, as such, be held responsible for any act, default or liability whatsoever of the company, or for any engagement, claim, payment, loss, injury, transaction, matter or thing whatsoever relating to or connected with the company, beyond the amount unpaid of their respective shares in the capital stock thereof. 1914, c. 55, s. 39.

Exemptions.

40. No person holding stock in the company as an executor, administrator, tutor, curator, guardian or trustee shall be personally subject to liability as a shareholder; but the estate and funds in the hands of such person shall be liable in like manner and to the same extent as the testator, or intestate if living, or the minor, ward or other person interested in such trust fund if competent to act and holding such stock in his own name, would be liable. 1914, c. 55, s. 40.

Collaterals.

41. No person holding stock in the company as collateral security shall be personally subject to liability as a shareholder; but the person pledging such stock shall be considered as holding the same and shall be liable as a shareholder accordingly. 1914, c. 55, s. 41.

MEETINGS AND VOTING

Annual
general
meetings.

42. An annual general meeting of the company shall be held at its head office once in each year after the organization of the company and the commencement of business, and at such meeting a statement of the affairs of the company shall be submitted.

Special
general
meetings.

2. Special general meetings may be called by any three of the directors, or the directors shall, upon a written requisition signed by any twenty-five shareholders specifying in the requisition the object of the meeting, call such special general meeting and notice thereof shall be given as provided in the by-laws of the company.

Notice.

3. The directors shall, at least ten days before the date on which the annual general meeting is to be held, forward through the post a copy of the statement called for by subsection one hereof to each

shareholder at his last known address as shown by the records of the company, together with a notice of the time and place at which the meeting will be held and the names of the auditors eligible for appointment at the meeting under the provisions hereinafter set out.

4. A certificate forming part of the statement shall be appended thereto and shall be signed by the manager, general manager or other chief executive officer of the company and not less than two of the directors, and shall state that to the best of their knowledge and belief the statement is correct and shows truly and clearly the financial condition of the company's affairs. 1914, c. 55, s. 42. Certificate of financial condition.

43. No shareholder who is in arrears in respect of any call shall be entitled to vote at any meeting of the company. 1914, c. 55, s. 43. Foreiture of vote.

44. In the absence of other provisions in that behalf in the by-laws of the company, notice of the time and place for holding special general meetings of the company shall be given at least ten days previously thereto, in some newspaper published at the place in which the head office of the company is situated, or if there is no newspaper there published, then in the newspaper published nearest thereto, and the notice shall specify the objects of the meeting. 1914, c. 55, s. 44. Publication of notices.

45. Subject to the provisions of this Act and the by-laws made hereunder every shareholder shall be entitled to as many votes at all general meetings of the company as he owns of shares in the company, and may vote by proxy, but the holder of such proxy must himself be a shareholder and entitled to vote. Number of votes.

2. In all cases where the votes of the shareholders are taken the voting shall be by ballot. 1914, c. 55, s. 45. Ballot.

46. Every executor, administrator, tutor, curator, guardian or trustee may represent the stock in his possession in his fiduciary capacity at all meetings of the company, and may vote as a shareholder. Executor, etc., may vote.

2. Every person who pledges his stock may, notwithstanding such pledge, represent the said stock at all such meetings, and vote as a shareholder. 1914, c. 55, s. 46. Pledgor may vote.

AUDIT

47. The shareholders shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting. Auditors.

2. If an appointment of auditors is not made at an annual general meeting, the Minister may, on the application of any shareholder, 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. Appointment by Minister.

3. A director or officer of the company shall not be capable of being appointed auditor of the company. Officers excluded.

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 fifteen 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 as in this Act provided. Notice of nomination of new auditor.

Appoint-
ments prior
to first
meeting.

5. The first auditors of the company may be appointed by the directors before the first annual general meeting, but shall only hold office by virtue of such appointment until the time of such meeting.

Vacancies.

6. The directors may fill any casual vacancy in the office of auditor, but while any such vacancy continues the surviving or continuing auditor, if any, may act.

Remunera-
tion.

7. The remuneration of the auditors of the company shall be fixed by the shareholders at each annual general meeting, except that the remuneration of any auditors appointed before the first annual general meeting or to fill any casual vacancy may be fixed by the directors. 1914, c. 55, s. 47.

Powers of
auditor.

48. 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 an auditor.

Report.

2. The auditors shall make a report

- (a) to the shareholders on the statement submitted to the company at the annual general meeting; and
- (b) to the Minister on the annual statement to be prepared and transmitted to him in pursuance of this Act.

Contents.

3. The report in each case shall state

- (a) whether they have obtained all the information and explanations they have required; and
- (b) whether in their opinion the respective statements are 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.

Copy and
statement.

4. A copy of the auditors' report to the shareholders shall be attached to and sent to each shareholder with the statement to be forwarded to him through the post under the provisions of this Act. 1914, c. 55, s. 48.

CONTRACTS, ETC.

Effect of
contracts,
etc.

49. Every contract, agreement, engagement or bargain made, and every bill of exchange drawn, accepted or endorsed, and every promissory note and cheque made, drawn or endorsed on behalf of the company, by any agent, officer or servant of the company, in general accordance with his powers as such, shall be binding upon the company.

Seal
unnecessary.

2. 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 endorsed, as the case may be, in pursuance of any by-law or special vote or order.

Exemption
from
liability.

3. The person so acting as agent, officer or servant of the company shall not be thereby subjected individually to any liability whatsoever to any third person therefor. 1914, c. 55, s. 49.

TRUSTS

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50. Except in the capacity of trustee the company shall not be bound to see to the execution of any trust whether express, implied or constructive, in respect of any share of its capital stock. Company bound only as trustee.

2. The receipt of the shareholder in whose name any share stands in the books of the company shall be a valid and binding discharge to the company for any dividend or money payable in respect of such share, and whether or not notice of such trust has been given to the company. Shareholder's receipt a valid discharge.

3. The company shall not be bound to see to the application of the money paid upon such receipt. 1914, c. 55, s. 50. Application of money.

LIABILITY OF DIRECTORS

51. If the directors of the company declare and pay any dividend which impairs or diminishes the paid-up capital of the company, the directors who knowingly or negligently concur in the declaration or making payable of such dividend whereby the paid-up capital of the company is impaired or diminished shall be jointly and severally liable for the amount of such dividend as a debt due by them to the company. 1914, c. 55, s. 51. Impairing capital by declaring dividends.

52. Whenever entry is made in the company's books of any transfer of stock not fully paid up, to a person who is not apparently of sufficient means to fully pay up such shares, the directors present who consent to the transfer, and every director present who does not record his vote in opposition thereto, shall be jointly and severally liable to the company in the same manner and to the same extent as the transferring shareholder but for such entry would have been liable. 1914, c. 55, s. 52. Improvident transfers.

53. If any loan is made by the company to any shareholder or director in violation of the provisions of this Act, all directors and officers of the company who made the loan or assented thereto shall be jointly and severally liable to the company for the amount thereof with lawful interest. 1914, c. 55, s. 53. Loans to shareholder or director.

54. The directors of the company shall be jointly and severally liable to the clerks and servants thereof for all debts, not exceeding three months' salary or wages, due for services performed for the company whilst they are such directors respectively. Liability for salaries or wages.

2. No director shall be liable to an action therefor, unless the company is sued therefor within one year after the debt became due, nor unless such director is sued therefor within one year from the time when he ceased to be such director, nor unless an execution against the company at the suit of such officer or servant is returned unsatisfied in whole or in part. Time limit.

3. The amount unsatisfied on such execution shall be the amount recoverable with costs from the directors. 1914, c. 55, s. 54. Amount recoverable.

PROCEDURE

55. The company may enforce payment of all calls and interest thereon, by action in any court of competent jurisdiction. 1914, c. 55, s. 55. Enforcement of payment.

Declaration
in actions.

56. In such action it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the defendant is a holder of one share or more, stating the number of shares, and is indebted to the company in the sum of money to which the calls in arrears amount, in respect of one call or more, stating the number of calls and the amount of each call, whereby an action has accrued to the company under this Act. 1914, c. 55, s. 56.

Service.

57. Service of any process or notice upon the company may be made by leaving a copy thereof at the head office of the company, with any adult person in charge thereof, or elsewhere with the president or secretary of the company.

Publication.

2. If the company has no known office, and has no known president or secretary, the court may order such publication as it deems requisite to be made in the premises, for at least one month, in at least one newspaper.

Deemed
service.

3. Such publication shall be deemed to be due service upon the company. 1914, c. 55, s. 57.

Action.

58. Any description of action may be prosecuted and maintained between the company and any shareholder thereof. 1914, c. 55, s. 58.

EVIDENCE

Evidence
of by-law.

59. A copy of any by-law of the company, under its seal, and purporting to be signed by any officer of the company, shall be received as *prima facie* evidence of such by-law in all courts in Canada. 1914, c. 55, s. 59.

Books as
evidence.

60. All books required by this Act to be kept by the secretary or by any other officer of the company charged with that duty shall, in any suit or proceeding against the company or against any shareholder, be *prima facie* evidence of all facts purporting to be therein stated. 1914, c. 55, s. 60.

Certificate
prima facie
evidence.

61. In any action by any company to enforce payment of any call or interest thereon, a certificate under the seal of the company and purporting to be signed by any officer of the company to the effect that the defendant is a shareholder, that the call or calls have been made to enforce payment of which or of any interest thereon such action has been brought, and that so much is due by him and unpaid thereon, shall be received in all courts as *prima facie* evidence of the facts purporting to be stated therein. 1914, c. 55, s. 61.

POWERS OF THE COMPANY

Business.

62. The company may

- (a) receive money in trust for the purposes herein specified, and invest and accumulate it at such lawful rates of interest as may be obtained therefor;
- (b) accept and execute all such trusts of every description and nature as are entrusted to it by any government or person, or committed or transferred to it by the order of a judge or by the order, judgment or decree of any court in Canada or elsewhere;

- (c) execute the offices of executor, administrator, trustee, accountant, arbitrator, adjuster, auditor, receiver, assignee, liquidator, sequestrator, official guardian, guardian, tutor or curator, judicial adviser or committee of a lunatic, and perform the duties of such offices or trusts as fully and completely as any person so appointed could do;
- (d) receive and manage any sinking fund on such terms as may be agreed upon; take, hold and accept by grant, assignment, transfer, deed, will, devise, bequest, or otherwise, any real or personal estate upon any lawful trusts, and perform and execute them according to the terms and for the purposes declared, established or agreed upon; accept from, and execute trusts for, married women in respect of their separate property, real or personal, and act as agent for them in the management of such separate property;
- (e) guarantee repayment of the principal or payment of the interest, or both, of any moneys entrusted to the company for investment, on such terms and conditions as are agreed upon;
- (f) act as agent for countersigning, registering or otherwise ascertaining and certifying to the genuineness of any issue of stock, bonds, debentures or other securities for money of any government, municipal or other corporate body duly authorized to issue and make the said issue, and hold the said securities as agent or trustee; and act generally as fiscal or other agent for any such government or corporate body;
- (g) act as agent or attorney for winding up estates, receiving or collecting any principal, interest, rents, coupons, mortgages, debts, debentures or other securities or evidences of debt or demands of any nature, and in the sale or purchase of any real or personal property, and generally act in all matters in the nature of a trust or general agency;
- (h) be the custodian, on such terms as are agreed upon, of any jewellery, plate and other valuable property, and of papers, documents, deeds, wills, debentures and other evidence of title and indebtedness;
- (i) act as investing and managing agent of estates and properties for and on behalf of executors, administrators and trustees or other persons;
- (j) receive and collect such remuneration for its services as is agreed upon or as fixed or allowed from time to time by law, and all usual and customary charges, costs and expenses;
- (k) receive money on deposit in trust and allow interest thereon from the time of deposit at such rate as may be agreed upon and advance moneys to protect any estate, trust or property entrusted to it as aforesaid, and charge lawful interest upon any such advances, but nothing herein shall be held either to restrict or to extend the powers of the company as trustee or agent under the terms of any trust or agency that may be conferred upon it;
- (l) take securities of such nature as are deemed expedient for any moneys owing to the company;

- (m) hold real estate which, having been mortgaged or hypothecated to it, is acquired by it for the protection of its investments, or which is acquired by it in satisfaction in whole or in part of any debt due to itself, and from time to time sell, mortgage, lease or otherwise dispose thereof; but no real estate so acquired by the company, other than as trustee or in an official capacity, shall be held by the company for a longer period than twelve years after the acquisition thereof, unless such period is extended by order of the Governor in Council, but shall, at or before the expiration of such period or extended period, be absolutely sold or disposed of, so that the company no longer retains any interest therein except by way of security. 1914, c. 55, s. 62; 1922, c. 51, s. 2; 1947, c. 75, s. 11.

INVESTMENTS

Investment
of trust
moneys.

63. Subject to any restrictions contained in the instrument creating the trust the company may

- (a) invest unguaranteed trust money in
- (i) debentures, bonds, stocks or other securities
 - (A) of or guaranteed by the Government of Canada,
 - (B) of or guaranteed by the Government of a province,
 - (C) of or guaranteed by the Government of Great Britain and Northern Ireland or of any of His Majesty's self-governing dominions or dependencies,
 - (D) of or guaranteed by the Government of the United States or of a state thereof,
 - (E) of a municipal or school corporation in Canada,
 - (F) guaranteed by a municipal corporation in Canada, or
 - (G) secured by rates or taxes levied under the authority of laws of a province on property situated in the province and collectable by the municipalities in which the property is situated,
 that are not in default in respect of either principal or interest,
 - (ii) first mortgages or hypothecs upon improved freehold real estate in Canada and agreements for sale that constitute first charges or hypothecs upon such real estate: Provided that the amount so invested does not exceed sixty per cent of the value of the real estate,
 - (iii) securities in which trustees are authorized by the laws of the province in which the trust is being administered to invest trust moneys, or
 - (iv) such other securities as are authorized by the instrument creating the trust;
- (b) invest guaranteed trust money in
- (i) securities mentioned in subparagraphs (i), (ii) and (iii) of paragraph (a) of this subsection, or
 - (ii) securities mentioned in paragraphs (b) to (j) inclusive of subsection one of section sixty-seven of this Act, if the security is also authorized by the instrument creating

the trust: Provided that the amount invested under this subparagraph in common stocks shall not exceed fifteen per cent of the guaranteed trust money held by the company;

- (c) lend unguaranteed trust money on the security of
 - (i) securities mentioned in subparagraphs (i), (ii) and (iii) of paragraph (a) of this subsection,
 - (ii) such other securities as are authorized by the instrument creating the trust, or
 - (iii) improved freehold real estate in Canada by way of mortgage or hypothec thereon: Provided that the amount so loaned does not exceed sixty per cent of the value of the real estate; and
- (d) lend guaranteed trust money on the security of
 - (i) securities mentioned in subparagraphs (i), (ii) and (iii) of paragraph (a) of this subsection,
 - (ii) securities mentioned in paragraphs (b) to (j) inclusive of subsection one and paragraph (b) of subsection three of section sixty-seven of this Act subject to all the limitations and restrictions imposed by that section other than subsections eight and nine thereof, if such securities are also authorized by the instrument creating the trust, or
 - (iii) improved freehold real estate in Canada by way of mortgage or hypothec thereon: Provided that the amount so loaned does not exceed sixty per cent of the value of the real estate.

2. The company may accept personal property or personal covenants as additional or collateral security for any loan made under subsection one of this section or for any debt due to the company. Personal property as collateral security.

3. The company shall not lend trust funds to a director or officer thereof, to the wife or a child of a director or officer or to a corporation more than one-half of the capital stock of which is owned by a director or officer, the wife or a child of a director or officer or by a combination of such persons. No loans to directors.

4. The company may manage, sell or dispose of investments as the terms of the trust pursuant to which they were made require or, in the absence of such requirement, as the directors, subject to the provisions of this Act, may see fit. Management and disposal of investments.

5. Where the terms of a trust under which money is deposited with the company on which interest is payable give to the company a general discretion in the investment or lending thereof, the discretion shall be exercised only to invest such money in accordance with the provisions of subparagraphs (i), (ii) and (iii) of paragraph (a) of subsection one of this section or to lend such money in accordance with the provisions of subparagraphs (i) and (iii) of paragraph (c) of the said subsection one. Exercise of discretion.

6. The company shall not lend trust funds on which interest is payable on the security of vacant land not used for agricultural purposes. Vacant lands.

7. The amount of guaranteed trust money invested in or loaned upon the security of the stocks of corporations shall not exceed in the aggregate twenty-five per cent of the total amount of guaranteed trust money held by the company. 1947, c. 75, s. 12. Corporation stocks.

Existing securities.

64. Nothing in the last preceding section shall prevent the company from holding securities of any other kind which form or are part of any trust estate which comes into its hands; and it may hold such securities subject to the trusts and legal obligations attached thereto; but in the case of the realization of any portion thereof the proceeds shall be invested as herein directed, unless the will, deed or instrument creating the trust provides otherwise. 1914, c. 55, s. 64.

Trust funds to be kept separate.

65. The moneys and securities given, acquired or held in trust by the company, shall always be kept distinct from those of the company, and in separate accounts, and so marked for each particular trust as always to be distinguished from any other in the registers and other books of account to be kept by the company, so that at no time shall trust moneys form part of or be mixed with the general assets of the company.

Distinct records of receipt of rent, etc.

2. The company shall, in the receipt of rent and in the overseeing and management of trusts and other property, keep distinct records and accounts of all operations connected therewith.

Invest trust moneys as provided in section 63.

3. In the management of the money and property held by the company as trustee, or in any other official capacity, under the powers conferred by this Act, the company may, unless the authority making the appointment otherwise directs, invest the trust money in the manner provided by section sixty-three of this Act in a general trust fund of the company.

Limited to \$3,000.

4. The total amount of money of any one trust invested in the said general trust fund shall not, at any time, exceed three thousand dollars.

Allocation of specific securities.

5. Where it is provided by the agreement under which guaranteed trust moneys are received that specific securities shall be allocated in respect thereof, specific securities shall be ear-marked and set aside in respect thereof; otherwise, it shall not be necessary for the company to allocate specific securities to particular deposits of guaranteed trust moneys but securities shall be ear-marked and set aside in respect of all such moneys equal to the aggregate amount thereof as required by subsection one of this section. 1914, c. 55, s. 65; 1947, c. 75, s. 13.

Notice for withdrawal of deposits.

66. All deposits of money received by the company in trust on which interest is allowed after the first day of January, nineteen hundred and twenty-three, shall be and be deemed to have been received on the condition that the company shall have the right to require at least thirty days' notice for the withdrawal of the amount so deposited or any portion thereof. 1922, c. 51, s. 4.

Investment of company's funds in debentures, bonds, stocks and other securities.

- 67.** The company may invest its own funds in
- (a) debentures, bonds, stocks or other securities
 - (i) of or guaranteed by the Government of Canada,
 - (ii) of or guaranteed by the Government of a province,
 - (iii) of or guaranteed by the Government of Great Britain and Northern Ireland, or of any of His Majesty's self-governing dominions or dependencies,
 - (iv) of or guaranteed by the Government of the United States or of a state thereof,
 - (v) of a municipal or school corporation in Canada,
 - (vi) guaranteed by a municipal corporation in Canada, or

- (vii) secured by rates or taxes levied under the authority of laws of a province on property situated in the province and collectable by the municipalities in which the property is situated;
- (b) bonds of a corporation incorporated in Canada that are secured by a mortgage or hypothec to a trustee upon
 - (i) real estate,
 - (ii) plant or equipment of the corporation used in the transaction of its business, or
 - (iii) bonds, debentures or other evidences of indebtedness or stocks owned by the corporation of a class or classes authorized by this section as investments for a trust company,
but the inclusion as additional security in the mortgage or hypothec of assets not of a class authorized by this Act as investments for a trust company does not render ineligible such bonds as an investment;
- (c) bonds or debentures of a corporation incorporated in Canada which are secured by the assignment to a trust corporation in Canada of annual payments that the Government of Canada has agreed to make, if each payment is sufficient to meet the interest falling due on bonds or debentures outstanding and the principal amount of the said bonds or debentures maturing for payment in the year in which it is to be made;
- (d) bonds or debentures issued by a charitable, educational or philanthropic institution incorporated in Canada in respect of which bonds and debentures annual subsidies equal to the interest and sinking fund accruing on such bonds or debentures are, by virtue of an Act of a province of Canada passed before the first day of July, nineteen hundred and forty-seven, payable, by or under the authority of the province, to a trust company as trustee for the holders of the bonds or debentures;
- (e) debentures, debenture stock or other evidences of indebtedness of a corporation incorporated in Canada which are fully secured by statutory charge upon real estate or upon plant and equipment of the corporation used in the transaction of its business if interest in full has been paid regularly for a period of at least ten years immediately preceding the date of investment in the debentures, debenture stock or other evidences of indebtedness upon securities of the corporation of that class then outstanding; or the bonds or other evidences of indebtedness of a corporation incorporated in Canada which are fully secured by mortgage or hypothec to a trustee of securities of the class hereinbefore in this paragraph first mentioned;
- (f) equipment trust obligations or certificates issued to finance the purchase of transportation equipment for a railway company incorporated in Canada or for a railway company owned or controlled by a railway company so incorporated which obligations or certificates are fully secured by an assignment of the transportation equipment to, or by the ownership thereof by, a trustee, and by a lease or conditional sale thereof to the railway company;

- (g) debentures or other evidences of indebtedness of a corporation incorporated in Canada which has paid regular dividends on its preferred or common stocks for a term of at least five years immediately preceding the date of investment in such debentures or other evidences of indebtedness;
- (h) preferred stocks of a corporation incorporated in Canada which has paid regular dividends upon such stocks, or upon its other preferred stocks ranking equally therewith or common stocks for not less than five years preceding the purchase of such preferred stocks;
- (i) stocks of a corporation incorporated in Canada which are guaranteed by a corporation which has paid regular dividends upon its preferred or common stocks for not less than five years preceding the purchase of such guaranteed stocks: Provided that the amount of stocks so guaranteed is not in excess of fifty per cent of the amount of the preferred or common stocks, as the case may be, of the guaranteeing corporation;
- (j) common stocks of a corporation incorporated in Canada upon which regular dividends of at least four per cent per annum or, in the case of stocks of no par value, of at least four dollars per share per annum have been paid for the seven years next preceding the purchase of such stocks: Provided that not more than twenty per cent of the common stocks and not more than twenty per cent of the total issue of the stocks of any corporation shall be purchased by a company and that no company shall be permitted to invest in its own shares, or in the shares of any other trust company: Provided further that if a corporation incorporated in Canada has, pursuant to a voluntary reorganization of its capital account and without affecting the status or diminishing the value of its outstanding securities including its capital stock, substituted common shares of no par value for shares of par value, then dividends declared on the no par value stock shall be deemed to be dividends of at least four dollars per share per annum if the sum thereof is equivalent to at least four per cent of the said common stock of par value plus the proceeds of any additional issue of common stock made at the time of, or subsequent to, the aforesaid substitution of shares; and in such circumstances dividends of at least four per cent per annum on the common stock of par value immediately preceding the substitution shall be regarded as dividends on the no par value stock; or
- (k) first mortgages or hypothecs upon improved freehold real estate in Canada and agreements for sale which constitute first charges or hypothecs upon any such real estate, but the amount so invested shall not exceed sixty per cent of the value of the real estate.

Real estate
for actual
use.

2. The company may acquire and hold real and immovable property for its actual use and occupation and the management of its business and may sell or dispose of the same but not more than thirty-five per cent of the company's unimpaired paid-up capital and reserve may be laid out or expended for this purpose.

3. The company may lend its own funds on the security of

Loans.

- (a) bonds, debentures, stocks or other securities in which a company may invest its funds under the provisions of paragraphs (a) and (b) of subsection one of this section;
- (b) bonds, debentures, notes, stocks or other securities of a corporation incorporated in Canada other than those mentioned in paragraph (b) of subsection one of this section, but the market value of the securities on which the loan is made shall exceed the amount of the loan by at least one-third of the market value; and the amount loaned on the security of the stocks of a corporation incorporated in Canada shall not exceed twenty per cent of the market value of the total stocks of the corporation;
- (c) guaranteed investment certificates; or
- (d) improved freehold real estate in Canada by way of a first mortgage or hypothec thereon, but no loan under this paragraph shall exceed sixty per cent of the value of the real estate which forms the security for the loan: Provided that this provision shall not be construed to prohibit a company from accepting as part payment for real estate sold by it, a mortgage or hypothec thereon for more than sixty per cent of the sale price of the real estate.

4. The Treasury Board may authorize the acceptance by a company of bonds, stocks or debentures not fulfilling the foregoing requirements of this section

Treasury Board may authorize investment in certain securities.

- (a) in payment or part payment for securities sold by the company; or
- (b) obtained under a *bona fide* arrangement for the reorganization of a corporation whose securities were previously owned by the company, or for the amalgamation with another corporation of the corporation whose securities were so owned;

but the bonds, stocks or debentures whose acceptance is so authorized shall be absolutely sold and disposed of within five years after the acquisition thereof, or within such further time as the Governor in Council shall on report of the Minister fix and determine, unless it can be shown to the satisfaction of the Minister that the bonds, stocks or debentures whose acceptance is so authorized are not inferior in status or value to the securities for which they have been substituted.

5. For the purpose of determining the eligibility as investments under this section of the preferred or common stocks of a corporation, the capital account of which has been voluntarily reorganized without impairment of the status or value of its outstanding securities, including the capital stock, dividends paid on the preferred and common stocks of the corporation before such reorganization may be counted as dividends paid on such stocks, respectively, of the corporation.

Determining eligibility as investments of preferred or common stocks.

6. The company shall not lend its own funds to a director or officer thereof, to the wife or a child of a director or officer or to a corporation more than one-half of the capital stock of which is owned by a director or officer, the wife or a child of a director or officer or by a combination of such persons.

No loans to directors.

7. The company shall not invest its own funds in, or lend its own funds on the security of, bonds, debentures or other evidences of indebtedness on which payment of principal or interest is in default.

No loans or investments on defaulted securities.

Total value
of common
stocks held.

8. Except as hereinafter provided, the total book value of the investments of the company in common stocks shall not exceed fifteen per cent of the book value of the company's own funds.

Application
of preceding
subsection.

9. If the company has on hand, on the first day of July, nineteen hundred and forty-seven, investments in common stocks of a total book value in excess of fifteen per cent of the book value of the company's own funds at the said date, the provisions of subsection eight of this section are not applicable to the company until the first day of January following the year in which the amount of the said investments is first reduced to fifteen per cent or less of the book value of the company's own funds, and on and after the said date, the said subsection applies; but until the said date no investment in common stocks shall be made by the company.

Exception.

10. The amount or value of shares of common stock acquired by the company after the first day of July, nineteen hundred and forty-seven, as bonuses or dividends on preferred or common stocks or acquired in the exercise of rights or privileges arising from investments of the company in preferred or common stocks, shall not be deemed to be an investment in common stocks for the purposes of subsections eight and nine of this section.

Amount of
company's
investment
or loans
under this
section.

11. Notwithstanding anything in this section contained, the amount of the company's investment or loans under the authority of this section in or upon the security of the debentures, bonds, stock and other securities of a company incorporated as aforesaid shall not exceed in the aggregate twenty per cent of the market value of the debentures, bonds, stock and other securities issued by such company.

12. The amount invested in or loaned upon the security of the stocks of corporations shall not exceed in the aggregate twenty-five per cent of the company's unimpaired paid-up capital and reserve.

Vacant
lands.

13. The company shall not lend its funds on the security of vacant land not used for agricultural purposes.

Collateral.

14. The company may take personal or other security as collateral for an advance or for any debt due to the company.

Advances
to protect
property.

15. Nothing in this section shall prohibit the company from making from its own funds reasonable advances to enable it to obtain possession of or to protect property entrusted to it for administration. 1947, c. 75, s. 14.

Trustee by
appointment
of court.

68. In case of the appointment of the company to any trust or office by any court in Canada, or any judge, officer or person having lawful authority in that behalf, such court, judge, officer or person may require the company to render an account of its administration of the particular trust or office to which it has been appointed, and may appoint a suitable person to investigate the management of such particular trust by the company, and as to the security afforded to those by or for whom its engagements are held, and such person shall report thereon to such court, judge, officer or person, and the expenses of such investigation shall be borne as ordered by such court, judge or officer thereof. 1914, c. 55, s. 67.

BORROWING POWER

69. For the purpose of carrying out the objects and powers of the company as authorized by section sixty-two of this Act or such of them as the company may be authorized to exercise, and for no other purpose, the directors of the company may, if authorized by by-law, sanctioned by a vote of not less than two-thirds of the amount of the paid-up capital stock of the company represented at a general meeting duly called for that purpose, Borrowing.

- (a) borrow money upon the credit of the company;
- (b) hypothecate, mortgage or pledge the real or personal property of the company, or both, to secure any money borrowed under the authority of this section.

2. The company shall not borrow money by the issue of bonds or debentures. Restriction.

3. The aggregate of the sums of money borrowed and of money entrusted to the company for investment, the repayment of which is guaranteed by the company, shall not exceed ten times the amount of the company's unimpaired paid-up capital and reserve. 1914, c. 55, s. 68; 1947, c. 75, s. 15. Limitation of amount.

LICENCE

70. No company to which this Act in whole or in part applies, or person acting on its behalf, shall transact the business of a trust company unless the company has obtained from the Minister a licence authorizing it so to do. Licence must be obtained.

2. The Minister may issue to any such company which has complied with the provisions of this Act and which is, in the opinion of the Minister, in such a financial position as to justify its transaction of the business of a trust company, a licence authorizing the transaction of the said business. Conditions for granting.

3. The licence shall be in such form as may be from time to time determined by the Minister and may contain any limitations or conditions which the Minister may consistently with the provisions of this Act deem proper. Form.

4. The licence shall expire on the thirty-first day of March in each year, but may be renewed from year to year subject, however, to any qualification or limitation which is considered expedient: Provided, that such licence may be from time to time renewed for any term less than a year. Duration and renewal.

5. The Minister shall cause to be published in the *Canada Gazette* a list of all companies to which licences have been issued as aforesaid in the first issue in the month of April in each year. Publication of list of licensed companies.

6. If any company makes application to the Minister for the issue of a licence under the provisions of this section or for the renewal of such licence and such application is refused by the Minister, the company shall have the right of appeal to the Governor in Council against the decision of the Minister, and the Governor in Council, after such hearing given to the company as it deems necessary or desirable, shall render a decision on the appeal, which decision shall be final. 1927, c. 72, s. 1. Right of appeal to the Governor in Council.

Annual statement to Minister.

71. The company shall, on or before the first day of March in each year, prepare and transmit by registered post to the Minister a statement setting forth, as of the thirty-first day of December preceding,

- (a) the capital stock of the company and the portion thereof paid up;
- (b) a list of the company's shareholders;
- (c) the assets of the company which are its absolute property and liabilities in respect thereof;
- (d) the liabilities of the company to the public in its trustee capacity and the investments and holdings of the company on trust account;
- (e) such other details as the form hereinafter mentioned and the Minister require.

Form.

2. The statement shall be in the form in schedule B to this Act, and shall be signed and declaration made by the president or vice-president and by the manager or secretary as in the form prescribed.

Changes in form by Minister.

3. The Minister may make such changes in the form of statement, whether such changes are of general application or are in the opinion of the Minister necessary to meet the circumstances of any particular case, as he may deem best adapted to elicit any information considered necessary or desirable, and the form as changed shall be signed and declared to as hereinbefore prescribed. 1914, c. 55, s. 69.

INSPECTION

Examination and report on condition of company.

72. The Superintendent shall visit personally or cause a duly qualified member of his staff to visit, at least once in each year, the head office of each company required by this Act to make returns to the Minister, and to examine carefully the statements of the condition and affairs of each company, and report thereon to the Minister as to all matters requiring his attention and decision.

Inspection of books.

2. For the purpose of such examination the company shall prepare and submit to the Superintendent such statement or statements, with respect to the business, finances or other affairs of the company, in addition to that mentioned in the last preceding section, as the Superintendent may require, and the officers, agents and servants of the company shall cause their books to be open for inspection and shall otherwise facilitate such examination so far as it is in their power.

Certified copy of by-laws to be filed with Superintendent.

3. The company shall on the request of the Superintendent file with the Superintendent a certified copy of its by-laws, and notice of every repeal, or addition to, or amendment of, its by-laws shall be filed by the company with the Superintendent within one month after the date of such repeal, addition or amendment.

Oaths.

4. The Superintendent may examine under oath the officers, agents or servants of the company for the purpose of obtaining any information which he deems necessary for the purpose of such examination.

5. The Superintendent shall also prepare for the Minister from the said statements, an annual report, showing the full particulars of each company's business. 1920, c. 21, s. 2; 1927, c. 72, s. 2.

Annual report.

73. If as the result of the examination as aforesaid of any company the Superintendent believes that the assets of the company are insufficient to justify its continuance in business, he shall make a special report to the Minister on the condition of such company.

Special report where assets are deficient.

2. If the Minister, after a reasonable time has been given to the company to be heard by him, and upon such further enquiry and investigation as he sees fit to make, reports to the Governor in Council that he agrees with the opinion of the Superintendent, the Governor in Council may, if he also concurs in such opinion, suspend or cancel the licence to the company, and the company shall thereupon cease to transact further business: Provided, however, that the Minister may, during such suspension or cancellation, issue such conditional licence as he may deem to be necessary for the protection of the public.

Power to suspend or cancel licence.

Conditional licence.

3. If the Minister deems it advisable, the said conditional licence may provide that the company shall, during the continuance of such conditional licence, arrange for the sale of its assets and for the transfer of its liabilities to some other company under the provisions of section eighty of this Act.

Sale and transfer under conditional licence.

4. If upon the expiration of the conditional licence no arrangement satisfactory to the Minister has been made for such sale and transfer, and if the company's condition is not then such as to warrant the restoration of the company's licence, the company shall be deemed to be insolvent. 1927, c. 72, s. 3.

When company deemed insolvent.

74. In his annual report prepared for the Minister under the provisions of section seventy-two of this Act, the Superintendent shall,

Annual report of Superintendent.

- (a) allow as assets only such of the investments of the several companies as are authorized by this Act, or by their Acts of incorporation, or by the general Acts applicable to such investments;
- (b) make all necessary corrections in the annual statements made by the companies as herein provided;
- (c) be at liberty to increase or diminish the assets or liabilities of such companies to the true and correct amounts thereof as ascertained by him in the examination of their affairs at the head office thereof, or otherwise. 1922, c. 51, s. 6.

75. The Superintendent may request any company to dispose of and realize any of its investments acquired after the twenty-eighth day of June, nineteen hundred and twenty-two, and not authorized by this Act, and the company shall within sixty days after receiving such request absolutely dispose of and realize the said investments, and if the amount realized therefrom falls below the amount paid by the company for the said investments, the directors of the company shall be jointly and severally liable for the payment to the company of the amount of the deficiency.

Any company may be required to dispose of and realize unauthorized investments.

Liability of directors for deficiencies.

2. If any director present when any such investment is authorized does forthwith, or if any director then absent does, within twenty-four hours after he becomes aware of such investment and

Protest by directors.

is able to do so, enter on the minutes of the board of directors his protest against the same, and within eight days thereafter gives notice of his protest by registered letter to the Superintendent, such director may thereby, and not otherwise, exonerate himself from such liability. 1922, c. 51, s. 6.

Appeal to
Exchequer
Court.

76. An appeal shall lie in a summary manner from the ruling of the Superintendent as to the admissibility of any asset not allowed by him, or as to any item or amount so added to liabilities, or as to any correction or alteration made in any statement, or as to any other matter arising in the carrying out of the provisions of this Act, to the Exchequer Court of Canada, which court shall have power to make all necessary rules for the conduct of appeals under this section.

Rules of
court.

Certificate
of ruling
appealed
from.

2. For the purposes of such appeal the Superintendent shall at the request of the company interested give a certificate in writing setting forth the ruling appealed from and the reasons therefor, which ruling shall, however, be binding upon the company unless the company shall, within fifteen days after notice of such ruling, serve upon the Superintendent notice of its intention to appeal therefrom, setting forth the grounds of appeal, and within fifteen days thereafter file its appeal with the registrar of the said court and with due diligence prosecute the same, in which case action on such ruling shall be suspended until the court has rendered judgment thereon. 1922, c. 51, s. 6.

Notice of
and filing
of appeal.

Appraisal-
ment of
overvalued
real estate.

77. If upon an examination of the assets of any company it appears to the Superintendent, or if he has any reason to suppose, that the value placed by the company upon the real estate owned by it or any parcel thereof is too great, he may either require such company to procure an appraisalment of such real estate by one or more competent valuers, or may himself procure such appraisalment at the company's expense, and the appraised value, if it varies materially from the return made by the company, may be substituted in the annual report prepared for the Minister by the Superintendent.

Appraisal-
ment of
lands held
as security
for loans on
mortgage.

2. If, upon such examination, it appears to the Superintendent, or if he has any reason to suppose that the amount secured by mortgage or hypothec upon any parcel of real estate, together with the interest due and accrued thereon, is greater than the value of such parcel, or that such parcel is not sufficient security for such loan and interest, he may in like manner require the company to procure an appraisalment thereof, or may himself at the company's expense procure such appraisalment, and if from the appraised value it appears that such parcel of real estate is not adequate security for the loan and interest, he may write off such loan and interest a sum sufficient to reduce the same to such an amount as may fairly be realizable from such security, in no case to exceed such appraised value, and may insert such reduced amount in his said annual report. 1922, c. 51, s. 6.

(Section 78 repealed by 1932, c. 45, s. 10.)

PURCHASE AND SALE

79. The company may acquire the whole or any part of the business, rights and property of any other company, which the company is authorized to carry on, exercise or hold, conditional upon the assumption by the company of the duties, obligations and liabilities of such other company with respect to the business, rights and property so acquired as are not performed or discharged by such other company, but no agreement therefor shall take effect until it has been submitted to and approved of by the Treasury Board. 1914, c. 55, s. 71.

Business of other companies.

Proviso.

80. The company may sell and dispose of the whole or any part of the business, rights and property of the company, for such consideration as the company may think fit.

Sale of business and property.

2. No sale or disposal shall be made until it is approved by at least a three-fourths vote of such shares as are represented in person or by proxy at a meeting of the shareholders duly called for that purpose and representing at least fifty per cent of the issued capital stock of the company.

Approval of shareholders.

3. No such sale or disposal shall take effect until it has been submitted to and approved of by the Treasury Board.

Approval of Treasury Board.

4. In any sale under the authority of this section of the whole of the business, rights and property of the company to any trust company, incorporated under the laws of the Dominion of Canada or of any province thereof, the consideration for such sale may, notwithstanding anything in this Act contained, be fully paid shares in the capital stock of the purchasing company or in part cash and in part shares of such purchasing company or such other consideration as may be agreed upon. 1914, c. 55, s. 72; 1922, c. 51, s. 7; 1924, c. 71, s. 6.

Consideration of sale may be shares in stock of purchasing company.

81. Nothing in this Act contained shall affect the validity of any investment or loan made on or before the first day of July, nineteen hundred and twenty-two.

Validity of loans prior to 1922.

2. All investments or loans made after the said date shall be such as are authorized by the provisions of this Act unless such investments or loans were contracted for before the said date.

After.

3. The loaning and investment powers of a trust company shall be determined by reference exclusively to the provisions of this Act notwithstanding anything contained in the special Act by which the company was incorporated, *The Companies Act, 1934*, or any other statute or law.

Loaning and investment powers exclusively under this Act.

1934, c. 33.

4. Nothing in this Act shall operate to reduce the number of directors or increase the number forming a quorum of directors of any company permitted under the laws applicable to such company on the first day of July, nineteen hundred and twenty-two. 1922, c. 51, s. 8; 1924, c. 71, s. 4; 1945, c. 33, s. 2.

Directors.

PENSION FUNDS

81A. Every trust company is hereby declared to have possessed, since the date of its incorporation, in addition to any other powers possessed by it, the power to provide, either by itself or jointly in association with any loan company, by whatsoever authority incor-

Staff pension and insurance fund.

porated, for the creation of a staff pension and insurance fund, by by-law of the directors submitted to and approved of at an annual general meeting of the company or at a special general meeting thereof, notice of the intention to consider such by-law having been in either case given in the same manner and at the same time as notice of such meeting. 1939, c. 9, s. 1.

PENALTIES

Payment of
organization
expenses
after
certificate.

Penalty.

82. Any director who authorizes payment of, or any manager or any other officer or servant of the company who pays or causes to be paid, any money for or on account of the incorporation or organization expenses of the company after the certificate permitting the company to commence business has been obtained from the Minister, except and unless the liability so paid has been disclosed to the Minister at the time of the application for such certificate, is guilty of an indictable offence and liable to imprisonment for any term not exceeding two years. 1914, c. 55, s. 73.

Refusal to
make entry.

Penalty.

83. Every director, officer and servant of the company who refuses or wilfully neglects to make any proper entry in the books of the company is guilty of an indictable offence and liable to imprisonment for any term not exceeding two years. 1914, c. 55, s. 74.

False
statement
in accounts,
etc.

Penalty.

84. The making of any wilfully false or deceptive statement in any account, statement, return, report or other document respecting the affairs of the company, or the using of any false or deceptive statement in any account, statement, return, report or other document respecting the affairs of the company with intent to deceive or mislead any person, is an indictable offence punishable, unless a greater punishment is in any case by law prescribed therefor, by imprisonment for a term not exceeding five years. 1914, c. 55, s. 75.

Signing, etc.,
of false
statement.

Penalty.

85. Every director, auditor, manager or other officer of the company, and every auditor and inspector who negligently prepares, signs, approves or concurs in any account, statement, return, report or document respecting the affairs of the company containing any false or deceptive statement, shall be guilty of an indictable offence punishable, unless a greater punishment is in any case by law prescribed therefor, by imprisonment for a term not exceeding three years. 1914, c. 55, s. 76.

Refusal to
produce
books.

Penalty.

86. Every director, officer and servant of the company who, on the application of any shareholder or creditor, his attorney or agent, refuses or neglects to produce the books of the company within his power or control containing the names of the persons who are or have been shareholders, or who refuses or neglects to produce the books of account of the company within his power or control, or who refuses or neglects to allow any of such books to be inspected and extracts to be taken therefrom, during reasonable business hours of any juridical day, is guilty of an offence and liable on summary conviction to a penalty not exceeding fifty dollars and costs. 1914, c. 55, s. 77.

87. Every director, officer and servant of the company who refuses to produce for examination to the Superintendent or any member of his staff duly authorized by him to examine the statement of the condition and affairs of the company, all books and documents in his custody or control, is guilty of an offence and liable on summary conviction to a penalty not exceeding fifty dollars and costs. 1914, c. 55, s. 78; 1922, c. 51, s. 9.

Refusal to inspect.

Penalty.

88. Every company which neglects to prepare and transmit to the Minister on or before the first day of March in each year a statement verified as required by this Act and setting forth the particulars as to capital stock, assets and liabilities, and such other details as are by this Act required, shall incur a penalty of twenty dollars for each and every day during which such neglect continues. 1914, c. 55, s. 79.

Neglect to send statement to Minister.

Penalty.

89. Any company which, or person who, does, causes or permits to be done any matter, act or thing contrary to any provision of this Act, or to the orders or directions of the Governor in Council, or of the Minister, or of the Superintendent, made under this Act, or omits to do any matter, act or thing by this Act required to be done by or on the part of such company or person, shall, if no other penalty for such act or omission is provided in this Act, be liable for each such offence to a penalty of not less than twenty dollars and not more than five thousand dollars in the discretion of the court before which such penalty is recoverable.

Penalty for contravention.

2. Such company or person shall also, in addition to such penalty, be liable to any person injured by such matter, act or thing, or by such omission, for all damages sustained thereby. 1922, c. 51, s. 10.

Liability for damages.

90. The amount of the penalties imposed upon a company or person for any violation of this Act shall, unless otherwise provided by this Act, be recoverable and enforceable with costs at the suit of His Majesty instituted by the Attorney General of Canada or by the Minister.

Penalties recoverable at suit of Crown.

2. Such penalties shall, unless otherwise provided by this Act, belong to the Crown for the public uses of Canada, provided that the Governor in Council, on the report of the Treasury Board, may direct that any portion of any penalty be remitted. 1914, c. 55, s. 80.

Application.

Remittal.

SCHEDULE A

(See Section 6)

MODEL BILL

For Incorporation of a Trust Company.

An Act to incorporate the (state the name of the company).

WHEREAS the persons hereinafter named have by their petition prayed that it be enacted as hereinafter set forth and it is expedient to grant the prayer of the said petition: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. (Insert names of the persons applying for incorporation) together with such persons as become shareholders in the company, are incorporated under the name of (state name of company), hereinafter called "the Company."

2. The persons named in section 1 of this Act (or as the case may be) shall be the provisional directors of the company. (The name, address and calling of each director must be given.)

3. The capital stock of the company shall be.....dollars, which may be increased to.....dollars.

4. The head office of the company shall be in the.....ofin the province of.....

5. The company shall have all the powers, privileges and immunities conferred by, and be subject to all the limitations, liabilities and provisions of, the *Trust Companies Act*. 1914, c. 55, Sch. A.

SCHEDULE B

(See Section 71)

ANNUAL STATEMENT FOR THE YEAR ENDING DECEMBER 31, 19 .

On the financial position and the condition of the affairs of.....

Head Office.....

President..... Secretary.....

Vice-President..... Manager.....

Date of incorporation..... Date of commencement of business.....

Statute under which incorporated.....

1. CAPITAL.	\$
Amount of capital stock authorized—preferred stock.....	
“ “ “ common stock.....	
Amount subscribed for—preferred.....	
“ “ common.....	
Amount paid in cash—preferred.....	
“ “ common.....	
Share warrants exchangeable for capital stock.....	
Dividend declared during the year.....rate.....amount	

LIST OF SHAREHOLDERS AS AT DECEMBER 31, 19 .

Name.	Residence.	Amount of capital stock subscribed for.	Amount paid thereon in cash.
		\$	\$

(To be given in a separate schedule attached, and if the company has issued preferred stock, a list of shareholders of preferred and common stock is to be separately given.)

LIST OF DIRECTORS.

As at.....19... (Date of filing of statement.)

ASSETS OF THE COMPANY.	\$
Only items which are the absolute property of the company are to be herein included.	
1. Book value of office premises held by the company..... (The location and cost and market value of each piece to be given. Any encumbrances thereon to be deducted.)	.....
2. Amount of loans on real estate secured by mortgage and hypothec, first liens.....	.....
3. The same, other than first mortgages or hypothecs..... (Detailed statement of loans in 2 and 3 to be given in a separate schedule.)	.....
4. Government, municipal and school securities—	.....
(a) owned.....	.....
(b) amount loaned against.....	.....
(Particulars thereof with par and market values, date of maturity and rate of interest to be given in a separate schedule.)	.....
5. Loaned against—	.....
(a) bank stocks.....	.....
(b) stocks of incorporated companies.....	.....
(c) securities of incorporated companies.....	.....
(Particulars thereof with par and market values and rate of dividend to be given in a separate schedule.)	.....
6. Cash on hand.....	.....
7. Cash in banks (specify banks with deposits in each).....	.....
Total.....	\$.....
OTHER ASSETS.	
8. Market value of real estate, government securities, etc., owned, over book value, (if under, a deduction to be made).....	.....
9. Interest due—(a) more than 6 months.....	.....
(particulars in separate schedule)	.....
(b) less than 6 months.....	.....
10. Proportionate part to date of statement of interest accruing due.....	.....
11. Office furniture and fixtures.....	.....
12. Unpaid fees and remuneration for services.....	.....
13. All other property belonging to the company (with details thereof in a separate schedule).....	.....
Total assets of the company.....	\$.....

LIABILITIES OF THE COMPANY.

TO SHAREHOLDERS.	\$
1. Capital stock fully paid.....	.....
2. Capital stock subscribed (\$.....), on which has been paid.....	.....
3. Reserve fund.....	.....
4. Dividends declared and unpaid.....	.....
5. Unappropriated profits.....	.....
OTHER LIABILITIES.	
6. Due for interest.....	.....
7. Due for salaries.....	.....
8. Due for rent.....	.....
9. Due for advertising, agency and miscellaneous expenses.....	.....
10. Money borrowed upon the credit of the company.....	.....
11. All other liabilities.....	.....
Total liabilities of the company.....	\$.....

LIABILITIES TO THE PUBLIC.

	\$
1. Money in trust for investment.....	
2. Trust funds for investment, guaranteed.....	
3. Estates, trusts and agencies under administration by the Company.....	

Total.....	\$.....

INVESTMENTS ON TRUST ACCOUNT.

	\$
1. First mortgages and hypothecs, upon improved freehold property,	
(a) in Canada.....	
(b) in the United Kingdom.....	
(c) in British Possessions.....	
(d) in the United States.....	
2. Government securities, direct or guaranteed, held as trustee,	
(a) of Canada.....	
(b) of the provinces of Canada.....	
(c) of the United Kingdom.....	
(d) of British Possessions.....	
(e) of the United States.....	
3. " " as above, amount loaned against.....	
4. Canadian municipal bonds and debentures, held in trust.....	
5. " " " " amount loaned against.....	
6. School district bonds and debentures.....	
7. " " " " amount loaned against.....	
8. Other securities authorized by terms of trust.....	
(Classification of such securities in separate schedule)	
9. Investments other than foregoing.....	
(Classification of such investments in separate schedule)	

HOLDINGS AS TRUSTEE UNINVESTED.

10. Cash in hand.....	
11. Cash in banks, including interest-bearing deposits.....	
(Specify banks with deposit in each)	
12. Uninvested and unrealized trust or agency assets.....	
(At the like valuation as same items are included in 3 of "Liabilities to the Public" foregoing.)	

Total.....	\$.....

MISCELLANEOUS STATEMENT.

- 1. Real estate acquired in protecting Company's own, as distinguished from trust, investments \$.
- 2. Earliest date at which any portion of same has been acquired
- 3. Amount of interest due Company in its trustee capacity overdue more than 6 months \$.
- 4. Average rate of interest earned—
 - (a) upon the Company's own, as distinguished from trust, investments.
 - (b) upon trustee investments—
 - (i) in mortgages and hypothes.
 - (ii) in government securities.
 - (iii) in municipal and school securities.
 - (iv) in all other classes of investment.

We declare that the foregoing statement and the separate schedules therein referred to and hereunto attached and signed by us are made up from the books of the company and that to the best of our knowledge and belief they are correct and show truly and clearly the financial position of the company and the condition of the company's affairs.

(Place) this day of 19

A. B.
President (or Vice-President, as the case may be)

C. D.
Manager (or Secretary, as the case may be)

1914, c.55, Sch. B.

THE DEPARTMENT OF INSURANCE ACT

22-23 GEORGE V.

CHAP. 45.

An Act respecting the Department of Insurance.

[Assented to 26th May, 1932.]

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

Short title.

1. This Act may be cited as *The Department of Insurance Act*.

INTERPRETATION

Definitions.

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

“Department,”
“Minister.”

(a) “Department” means the Department of Insurance;
(b) “Minister” means the Minister of Finance.

Constitution of Department.

3. There shall be a Department of the Government of Canada to be called the Department of Insurance over which the Minister shall preside.

Minister.

(2) The Minister shall have the management and direction of the Department.

Superintendent of Insurance, his rank and salary.

4. The Governor in Council may appoint an officer to be called the Superintendent of Insurance, (hereinafter referred to as the Superintendent), who shall be the deputy head of the Department and who shall hold office during pleasure.

(2) Such officer shall be paid such salary as may be authorized by law.

Continuance in office of present incumbent.

(3) The person now holding the office of Superintendent shall continue to hold office during pleasure and to be paid the salary authorized by law for such office.

Appointment of officers and clerks.

5. Such officers, clerks and servants as are necessary for the proper conduct of the business of the Department may be appointed in the manner authorized by law.

Continuance in office of present officers.

(2) The several officers, clerks and servants now employed in the Department shall continue to hold their respective offices during pleasure.

Duties of Minister.

6. The Minister shall have the administration of the Acts specified in the schedule to this Act and also of all orders or regulations passed or made under any of the said Acts.

Superintendent to act under Minister.

(2) The Superintendent shall act under the instructions of the Minister and shall examine into, and report to the Minister from time to time upon, all matters connected with the administration of each of the said Acts and of the orders or regulations passed or made thereunder.

Superintendent or officers not to be interested in any company.

7. The Superintendent or any officer or clerk under him shall not, directly or indirectly, be interested as a shareholder in any insurance company, trust company or loan company doing business in Canada or in any province of Canada, or registered or licensed under any of the Acts respecting companies specified in the schedule to this Act.

8. The Superintendent shall annually, as soon as may be after the close of each fiscal year, by reference to the public accounts, and by such further inquiry or investigation as he may deem necessary, ascertain and certify the total amount of the expenditure incurred by the Government for or in connection with the administration of the Acts respecting insurance companies specified in the said schedule, the *Loan Companies Act*, and the *Trust Companies Act*, respectively, during the last preceding fiscal year, and the amount of the expenditure so ascertained and certified by the Superintendent shall be final and conclusive for all purposes of this section.

Superintendent to ascertain expenditure under Acts during last preceding year.

R.S., c. 28;
R.S., c. 29.

(2) The Superintendent shall also before the thirty-first day of December in each fiscal year ascertain from the annual statements filed under the requirements of the said Acts and from such other information as may be necessary or available,

- (a) The total amount of net premiums received in Canada during the last preceding calendar year by each company registered under the said Acts respecting insurance companies, or any of them, and by each company not so registered but transacting the business of life insurance thereunder and deduct therefrom the amount of the dividends paid or allowed by each such company to its policyholders in Canada during the said calendar year; and Amount of net premiums received by each insurance company.
- (b) The total amount of income received during the last preceding calendar year by each loan company licensed under the *Loan Companies Act*; and Amount of income of each loan company.
- (c) The total amount of income received during the last preceding calendar year by each trust company licensed under the *Trust Companies Act*; Amount of income of each trust company.

and the finding of the Superintendent as to the amount of the net receipts resulting from the said deduction and as to the amounts of income received as aforesaid, when certified by his hand, shall be final and conclusive.

(3) Thereupon the Superintendent shall ascertain the ratio or percentage which the total expenditure incurred in the administration of the said Acts respecting insurance companies, of the *Loan Companies Act*, and of the *Trust Companies Act*, respectively, so found and certified is of the total net receipts of the said insurance companies, the total income of the said loan companies and the total income of the said trust companies, respectively, and he shall cause an assessment to be prepared against each of the aforesaid companies as follows, that is to say:—

Basis of assessments against companies.

- (a) Against each of the said insurance companies of an amount equivalent to such percentage of the said net receipts of each company as the total expenditure incurred in the administration of the said Acts respecting insurance companies is of the total net receipts of all such companies; and
- (b) Against each of the said loan companies of an amount equivalent to such percentage of the said income of each company as the total expenditure incurred in the administration of the *Loan Companies Act* is of the total income of all such companies; and
- (c) Against each of the said trust companies of an amount equivalent to such percentage of the said income of each

company as the total expenditure incurred in the administration of the *Trust Companies Act* is of the total income of all such companies;

and such assessment, when certified by the Superintendent, shall be binding upon the said companies, and each of them, and shall be final and conclusive.

Amount assessed to be a debt payable to His Majesty.

(4) The amount so assessed against each company shall constitute a debt payable to His Majesty, and shall be payable upon demand of the Superintendent, and may be recovered as a debt in any court of competent jurisdiction.

Annual report.

9. The Minister shall lay before Parliament within thirty days after the commencement of each session thereof the annual report of the Superintendent made to the Minister under the provisions of each of the Acts specified in the schedule to this Act.

Repeal.

10. Section seventy-five of the *Loan Companies Act*, chapter twenty-eight of the *Revised Statutes, 1927*, and section seventy-eight of the *Trust Companies Act*, chapter twenty-nine of the *Revised Statutes, 1927*, are repealed.

Schedule.

SCHEDULE.

Revised Statutes of Canada, 1927.

	Chapter
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The Loan Companies Act	28
The Trust Companies Act	29

Statutes of Canada, 1932.

The Canadian and British Insurance Companies Act, 1932.
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THE FARMERS' CREDITORS ARRANGEMENT ACT

— 1943 —

CHAPTER 26, 1943

An Act to facilitate Compromises and
Arrangements between insolvent
Farmers and their Creditors

THIS ACT CAME INTO FORCE
DECEMBER 15, 1943
BY PROCLAMATION OF
THE GOVERNOR IN COUNCIL

THIS ACT SHALL COME INTO FORCE
ON A DATE TO BE FIXED BY PROCLAMATION
OF THE GOVERNOR IN COUNCIL

7 GEORGE VI.

CHAP. 26.

An Act to facilitate Compromises and Arrangements
between insolvent Farmers and their Creditors.

[Assented to July 24th, 1943.]

WHEREAS in view of the depressed state of agriculture Preamble
in the provinces of Manitoba, Saskatchewan and
Alberta during the period immediately following 1929 the
present indebtedness of certain farmers in that area is
beyond their capacity to pay: AND WHEREAS it is in
the national interest to retain such farmers on the land as
efficient producers and for such purpose it is necessary to
provide means whereby compromises or rearrangements may
be effected of debts of such farmers, and also to simplify
the operation of the *Bankruptcy Act* with respect to farmers R.S., c. 1.
generally: Therefore His Majesty by and with the advice
and consent of the Senate and House of Commons of
Canada, enacts as follows:—

1. This Act may be cited as *The Farmers' Creditors* Short title.
Arrangement Act, 1943.

BANKRUPTCY AND INSOLVENCY PROVISIONS

- 2.** (1) In this Act, unless the context otherwise requires Interpreta-
or implies, the expression tion.
- (a) "Appeal Court" means an Appeal Court constituted "Appeal
Court."
by this Act;
- (b) "composition" means a composition in satisfaction "composi-
tion."
of debts;
- (c) "court" means the county or district court of the "court."
county court district or judicial district in which the
farmer resides;
- (d) "Court of Appeal" means, in the province of Man- "Court of
Appeal."
itoba and the province of Saskatchewan, the Court of
Appeal of the respective province and, in the province
of Alberta, the Appellate Division of the Supreme Court
of Alberta;
- (e) "creditor" includes a secured creditor and any person "creditor."
to whom a farmer owes any debt and includes the
Crown, as well in right of any province as in right of
Canada;
- (f) "debt" includes "debt."
(i) taxes, rates, assessments or charges, including
any

any interest or penalties thereon, levied or made under or pursuant to any statute, payable by a farmer to, or charged on the property, or any part thereof, of a farmer in favour of the Crown, as well in right of any province as in right of Canada, or any municipality or other person; and any such taxes, rates, assessments or charges so payable or charged shall, for all purposes of this Act, be a debt owing by the farmer to the Crown aforesaid, or the municipality or other person to whom they are payable or in whose favour they are so charged, as the case may be;

(ii) money owing or payable under or secured by mortgage, pledge, charge or lien on or against the property of a farmer or any part thereof, or where a farmer holds property or any part thereof under an agreement for sale or conditional sale agreement or an assignment of an agreement for sale or conditional sale agreement, money owing or payable under such agreement for sale or conditional sale agreement to the vendor or to any assignee or transferee of the vendor; and money so owing, payable or secured shall, for all purposes of this Act, be a debt owing by the farmer to the holder of the mortgage, pledge, charge or lien or to the vendor under the agreement for sale or conditional sale agreement or to the assignee or transferee of the holder or vendor, notwithstanding the absence of privity of contract between him and the farmer or between the farmer and any other person and notwithstanding the making of any order *nisi* for foreclosure of the mortgage or for cancellation, determination or foreclosure of the agreement for sale; and any money owing or payable from time to time by way of interest on such money shall be deemed to form part of such debt;

"extension of time."

(g) "extension of time" means an extension of time for the payment of debts;

"farmer."

(h) "farmer" means a person whose principal occupation consists in farming, which term includes stock raising, dairying and the tillage of the soil;

"incurred before the first day of May, 1935."

(i) "incurred before the first day of May, 1935", with reference to a debt owing by a farmer, means a debt incurred by the farmer before such date or owing by him by reason of a debt incurred by some other person before such date and assumed or otherwise incurred by him prior to the commencement of this Act; and all money at any time owing by the farmer by reason of any such debt, including interest or arrears of interest, whether such interest or arrears accrued or accrues due before or after such date, or money owing under any agreement by way of renewal of or collateral to or in any way in substitution for any such

- debt, whether such agreement was made before or after such date, is deemed to form part of such debt and to have been incurred when such debt was first incurred by the farmer or by such other person;
- (j) "member of the family", with reference to a deceased farmer or a farmer who is mentally incompetent, means a parent or a widow or widower or a brother, sister or a child or grandchild of the farmer; "member of the family."
- (k) "mortgage" includes a deed of sale or other conveyance of property with a right of redemption "mortgage."
- (l) "Official Receiver" means an Official Receiver under this Act; "Official Receiver."
- (m) "personal representative" means the executor, administrator or other personal representative of a deceased person according to the law of the province to which the context extends, and includes any person appointed in the manner authorized by law to administer the affairs of a person who is mentally incompetent; "personal representative."
- (n) "proposal" means a proposal for a composition, extension of time or scheme of arrangement made under this Act; "proposal."
- (o) "regulation" means a regulation made under this Act; "regulation."
- (p) "resides" means ordinarily resides, and "residing" means ordinarily residing; "resides."
"residing."
- (q) "scheme of arrangement" means a scheme of arrangement in relation to the payment of debts; "scheme of arrangement."
- (r) "*The Farmers' Creditors Arrangement Act, 1934*" means the said Act as amended from time to time. "The Farmers' Creditors Arrangement Act, 1934."
- (2) Unless it is otherwise provided or the context otherwise requires, expressions contained in this Act shall have the same meaning as in the *Bankruptcy Act*, and this Act shall be read and construed as one with the *Bankruptcy Act*, but shall have full force and effect notwithstanding anything contained in the *Bankruptcy Act*, and the provisions of the *Bankruptcy Act* and Bankruptcy Rules shall, except as in this Act or in the regulations otherwise provided, apply *mutatis mutandis* in the case of proceedings hereunder including meetings of creditors. Application of *Bankruptcy Act*.
R.S., c. 11.

OFFICIAL RECEIVERS

3. (1) The Clerk of the Court shall be the Official Receiver under this Act for the county court district or judicial district in which he is Clerk of the Court. Clerk of the Court to be Official Receiver.
- (2) The Governor in Council may appoint one or more Official Receivers in any county court district or judicial district in addition to or in substitution for the Clerk of the Court. Appointments by G. in C.
- (3) An Official Receiver, notwithstanding that he is the holder of any other office whether Dominion or provincial, shall, notwithstanding anything contained in any other statute or law, be bound to perform the functions and duties of the Official Receiver. Official Receiver bound to perform functions and duties.

Certain provisions not to apply.

(4) The provisions of the *Bankruptcy Act* requiring Official Receivers to keep the *Canada Gazette* on file shall not apply in the case of Official Receivers appointed under this Act.

COURTS

Jurisdiction on assignment or petition.

4. (1) In the case of an assignment by, or petition against, a farmer under the *Bankruptcy Act*, and all matters and proceedings relating thereto under the said Act, the court shall have exclusive jurisdiction in bankruptcy subject to appeal as provided in section one hundred and seventy-four of the *Bankruptcy Act*.

Powers of judge.

(2) The judge of the court shall exercise the powers vested in the Registrar by section one hundred and fifty-nine of the *Bankruptcy Act*.

Duties of clerk.

(3) The Clerk of the Court shall perform all the duties of the Registrar, except his judicial duties.

Jurisdiction on proposal.

5. In the case of a proposal made by a farmer under this Act the court shall have exclusive jurisdiction in bankruptcy and in respect of all matters and proceedings relating thereto under this Act, subject to appeal as hereinafter provided.

ASSIGNMENTS BY AND PETITIONS AGAINST FARMERS

Official Receiver for the purposes of the *Bankruptcy Act*.

6. (1) In the case of an assignment by or petition against a farmer under the *Bankruptcy Act*, an Official Receiver in the county court district or judicial district in which the farmer resides, shall be the Official Receiver for the purposes of the said Act.

Functions and duties.

(2) The Official Receiver shall perform the functions and duties of the Official Receiver, custodian and trustee under the *Bankruptcy Act*, and the meetings of creditors shall be held at his office.

PROPOSALS BY FARMERS IN ALBERTA, MANITOBA AND SASKATCHEWAN

Proposals by farmers where no previous proposal or previous proposal and composition, etc., approved or confirmed prior to 31st Dec., 1938.

7. Where a farmer residing in the province of Alberta, Manitoba or Saskatchewan

(i) who did not make a proposal under *The Farmers' Creditors Arrangement Act, 1934*, or

(ii) who made a proposal under *The Farmers' Creditors Arrangement Act, 1934*, pursuant to which a

composition, extension of time or scheme of arrangement was approved by the court or confirmed by the Board of Review on or before December 31, 1938, is unable to meet his debts as they become due, if two-thirds of the total amount thereof are owing by him in respect of debts incurred before the first day of May, 1935, he may make a proposal under this Act for a composition, extension of time or scheme of arrangement either before or after an assignment under the *Bankruptcy Act*: Provided

that, in the case of a farmer coming under paragraph (ii) of this section, the debts of the farmer mean his debts under the composition, extension of time or scheme of arrangement and otherwise.

8. (1) Where a farmer residing in the province of Alberta, Manitoba or Saskatchewan

(i) dies, or

(ii) a personal representative is appointed to administer his affairs by reason of his mental incompetence,

Representative of deceased or mentally incompetent farmer may apply.

if such farmer was at the date of his death or of such appointment entitled to make a proposal under the next preceding section, the personal representative may apply to the court for leave to make and file a proposal as the personal representative of the decedent or of such farmer.

(2) Where such farmer has died or such appointment was made before the commencement of this Act and after the third day of July, 1934, if such farmer would have been entitled at the date of his death or of such appointment to make a proposal under the next preceding section if this Act had then been in operation, the personal representative may apply to the court for leave to make and file a proposal as the personal representative of the decedent or of such farmer.

Death or mental incompetence before commencement of Act.

(3) If the court is satisfied that a member of the family of the decedent or of such farmer resides and will continue to reside on the farm of the decedent or of such farmer, who intends and is able to operate the same, the court shall, upon such terms and conditions as it deems fit, by order, grant such application, and upon such order being made the personal representative shall be entitled to make and file a proposal in the like manner and with the like results as the decedent or mentally incompetent farmer might have done if death had not ensued or if the personal representative had not been appointed.

Leave granted by court.

FILING PROPOSAL

9. A proposal shall be in writing, and shall be filed with the Official Receiver for the county court district or judicial district in which the farmer resides, or if the proposal is made by the personal representative of a farmer, with the Official Receiver for the county court district or judicial district in which the said farmer resided.

Proposal to be in writing and filed.

EFFECT OF FILING A PROPOSAL

10. (1) On a proposal being filed the property of the farmer shall be deemed to be under the authority of the court until a composition, extension of time or scheme of arrangement is approved or confirmed by the court or the

Preservation of property.

court declines to formulate a proposal pursuant thereto, and the court may make such order as it deems necessary for the preservation of the property.

Incapacity
of farmer
to deal with
property.

Exception.

(2) No farmer who has filed a proposal shall have capacity, except with the leave of the court, to sell or otherwise dispose of any property which is deemed to be under the authority of the court as provided in this section, except crops, or any share or part thereof, or livestock or other personal property sold or otherwise disposed of in the ordinary course of the operation of his farm, but the farmer shall be required to account for the proceeds thereof by the Official Receiver or the court.

Stay of
proceedings
by creditors.

11. On a proposal being filed no creditor shall, so long as the property of the farmer is deemed to be under the authority of the court as in the next preceding section provided, have any remedy against the property or person of the farmer or shall commence or continue any proceedings under the *Bankruptcy Act* or any action, execution or other proceedings, judicial or extra-judicial, for the recovery of a debt, the release of any security or the taking of any property out of the possession of the farmer, unless with leave of the court and on such terms as the court may impose.

PROCEEDINGS BEFORE OFFICIAL RECEIVER

Meeting of
creditors.

12. Upon a proposal being filed the Official Receiver shall forthwith convene a meeting of the creditors, and shall perform the duties and functions required by the *Bankruptcy Act* to be performed by a trustee in the case of a proposal for a composition, extension of time or scheme of arrangement under the *Bankruptcy Act*.

Questions
of law.

13. The Official Receiver, the person filing a proposal or any creditor may, although the court has not been requested to formulate a proposal, apply to the court to determine any question of law which it is necessary to decide for the purpose of disposing of any proposal, and the court shall have exclusive jurisdiction subject to appeal as hereinafter provided, to decide such question whether it relates to the application of this Act in respect of the person filing such proposal or in respect of any debt, or otherwise.

Proposal to
be submitted
to the court.

14. (1) A proposal filed by a farmer and approved by the creditors or as amended and approved by the farmer and by the creditors shall be submitted by the Official Receiver to the court, and the court may, by order, approve the composition, extension of time or scheme of arrangement therein proposed, and, upon such approval, it shall be binding upon the creditors and the farmer.

If proposal
approved.

(2) The court shall, before approving the composition, extension of time or scheme of arrangement, hear a report of the Official Receiver as to the terms thereof and as to the conduct of the farmer and any objections which may be made by or on behalf of any creditor.

Court to hear report of Official Receiver and objections.

(3) If the court is of opinion that the terms of the composition, extension of time or scheme of arrangement are not reasonable, or are not fair and just in relation to the creditors or any of them or the farmer, the court shall, by order, refuse to approve it.

Approval may be refused.

FORMULATION OF PROPOSAL BY COURT

15. On the written request of a creditor or of the farmer, where the Official Receiver reports that the farmer has made a proposal but that no proposal has been approved by the creditors or where the court has refused to approve a composition, extension of time or scheme of arrangement submitted to it by the Official Receiver pursuant to a proposal, the court shall endeavour to formulate an acceptable proposal to be submitted to the creditors and the farmer.

Proposal by court in certain cases.

16. The court shall base its proposal upon the present and prospective capability of the farmer to meet his debts as they become due and the productive value of the farm.

How court to base its proposal.

17. The court shall have exclusive jurisdiction, subject to appeal as hereinafter provided, to hear and decide all questions of fact and all questions of law, whether relating to the application of this Act in respect of any person filing a proposal or in respect of any debt, or otherwise, which in its opinion it is necessary to decide for the purpose of formulating a proposal.

Jurisdiction of court to decide questions of fact and of law.

18. The court shall consider representations on the part of all parties interested in the proposal.

Representations to be considered.

19. The court may, by order, decline to formulate a proposal in any case where it does not consider that it can do so in fairness and justice to the creditors or the farmer or where it finds that the farmer has not acted in good faith in his conduct in relation to the creditors in the management of his farm or the disbursement of his income.

Court may decline to formulate a proposal.

CONFIRMATION BY COURT

20. A proposal formulated by the court shall be submitted to the creditors and to the farmer.

Proposal submitted to creditors and to farmer.

21. If a proposal formulated by the court is approved by the creditors and by the farmer, the court may, by order, confirm the composition, extension of time or scheme of

If proposal approved.

arrangement therein proposed and, upon such confirmation, it shall be binding upon the creditors and the farmer.

In case of refusal.

22. If the creditors or the farmer decline to approve a proposal formulated by the court, the court may, nevertheless, by order, confirm the composition, extension of time or scheme of arrangement therein proposed or as amended by it, and, upon such confirmation, it shall be binding upon the creditors and the farmer.

APPEAL COURT

Appeal courts in provinces.

23. (1) There shall be an Appeal Court in each of the provinces of Alberta, Manitoba and Saskatchewan which shall consist of one judge to be appointed by the Governor in Council from the judges of the courts of each of the said provinces invested with original or appellate jurisdiction in bankruptcy by the *Bankruptcy Act*.

Appointment of *ad hoc* judge.

(2) The Governor in Council may, in case of the sickness or absence from Canada or engagement upon other duties of the judge of an Appeal Court or for any other reason, which he deems sufficient, specially appoint a judge having the qualifications for appointment hereinbefore mentioned as an *ad hoc* judge of the Appeal Court for such period as he may deem necessary.

Appointment of Registrar officers and employees.

(3) The Governor in Council may appoint a Registrar of the Appeal Court in each of the said provinces, and may fix his remuneration, and may appoint such other officers, clerks and employees as may be deemed necessary to assist him in the performance of his duties and may fix their remuneration.

Appeal may be taken to Appeal Court.

24. An appeal may be taken from any judgment or order of the court made in any proceedings under this Act pursuant to a proposal, including an order approving or confirming a composition, extension of time or scheme of arrangement or declining to formulate a proposal, to the Appeal Court in the province in which the court has jurisdiction, and shall be asserted, heard and decided according to the ordinary procedure governing appeals from judgments or orders of the court to the Court of Appeal in such province, subject to any special rules of practice and procedure relating thereto made under this Act.

Written report of judge in case of appeal.

25. Where an appeal is taken from a judgment or order of the court delivered or made in any proceedings under this Act pursuant to a proposal, the judge delivering such judgment or making such order shall make a written report setting out all information obtained by him upon which he purported to act in delivering such judgment or making such order, and the information so reported shall be part of the record before the Appeal Court.

26. The Appeal Court shall have and exercise on any appeal all jurisdiction, powers and authority of the court appealed from and of the Court of Appeal of the province in which the Appeal Court has jurisdiction, and may draw inferences of fact and deliver the judgment or may make the order which the court appealed from ought to have made and, without restricting the generality of the foregoing, may confirm an order of the court approving or confirming a composition, extension of time or scheme of arrangement or may vary the terms thereof and confirm the same as varied or may quash such order and decline to formulate a proposal.

Jurisdiction
of Appeal
Court.

27. A decision of the Appeal Court shall be final.

Decision to
be final.

NO FURTHER PROPOSAL

28. No farmer shall be entitled to make more than one proposal under this Act.

One proposal
only.

ANNULMENT OF COMPOSITION, ETC.

29. (1) Where the affairs of a farmer have been arranged by a composition, extension of time or scheme of arrangement approved by the court or confirmed by the Board of Review under *The Farmers' Creditors Arrangement Act, 1934*, or approved or confirmed by the court under this Act, if the farmer defaults in carrying out any of the terms thereof and if such default was not due to causes beyond the control of the farmer, the court may, on the application of a creditor, annul the composition, extension of time or scheme of arrangement, but, notwithstanding any of the provisions of the *Bankruptcy Act*, no such composition, extension of time or scheme of arrangement shall be annulled by reason of the default of the farmer in carrying out the terms thereof except as provided in this section.

If farmer
defaults.

1934, c.53.

(2) The right of a creditor to make application to the court under this section shall not affect any right which he may have to bring any action or commence any proceedings or otherwise to carry out or enforce his rights under the terms of the composition, extension of time or scheme of arrangement.

Rights
preserved.

(3) Where the court has annulled a composition, extension of time or scheme of arrangement, the farmer shall be deemed to have committed an act of bankruptcy within the meaning of section three of the *Bankruptcy Act*, and Part One of the *Bankruptcy Act* shall, notwithstanding section seven thereof, apply to such farmer.

Farmer
deemed
to have
committed
an act of
bankruptcy.

R.S., c. 11.

Farmers
residing
in Quebec.
1934, c.53.

(4) For the purpose of any application by a creditor to annul a composition, extension of time or scheme of arrangement approved by the court or confirmed by the Board of Review under *The Farmers' Creditors Arrangement Act, 1934*, pursuant to a proposal made by a farmer residing in Quebec, or the presentation of a petition in bankruptcy against any such farmer by reason of such annulment, "court" means, notwithstanding anything contained in this Act, the Superior Court of the judicial district in which the farmer resides, which shall have, for all purposes relating to any such application or petition, exclusive jurisdiction in bankruptcy subject to appeal as provided in section one hundred and seventy-four of the *Bankruptcy Act*, and for such purposes the judge thereof shall exercise the powers vested in the Registrar by section one hundred and fifty-nine of the *Bankruptcy Act*, and the prothonotary shall perform all the duties of the Registrar except his judicial duties.

GENERAL

No release
in certain
cases.

30. No composition, extension of time or scheme of arrangement approved or confirmed by the court pursuant to a proposal nor the approval or confirmation thereof shall release any person who under the *Bankruptcy Act* would not be released by an order of discharge if the farmer had been adjudged bankrupt, nor shall the approval or confirmation thereof release a security given by any third person.

Execution or
discharge of
mortgages.

31. Whenever a composition, extension of time or scheme of arrangement has been approved or confirmed by the court pursuant to a proposal, the court may order the farmer or any creditor to execute or discharge any mortgage, conveyance or other instrument necessary to give effect thereto.

Reduction
of secured
debts.

32. A composition, extension of time or scheme of arrangement approved or confirmed by the court pursuant to a proposal may provide for a composition, extension of time or scheme of arrangement in relation to a debt owing to a secured creditor, but in such case the concurrence of the secured creditor shall be required before approval thereof by the court unless the composition, extension of time or scheme of arrangement was formulated by the court.

Farmer may
not sell in
case of
reduction
of debt,
except with
leave of the
court.

33. (1) Where any debt secured on the land owned by a farmer or owing or payable by a farmer under an agreement for sale of any land has been reduced under any composition, extension of time or scheme of arrangement approved or confirmed by the court under this Act, the farmer shall not, except with the leave of the court granted upon such terms and conditions as the court thinks fit, sell or otherwise dispose of such land or any part thereof or his

interest therein within a period of three years after the date on which the composition, extension of time or scheme of arrangement was approved or confirmed.

(2) The conditions imposed by the court upon granting leave to any farmer to make any such sale or other disposition may include a condition that such portion of the selling price or other consideration, as the court deems equitable, having regard to all the circumstances and in particular to any improvements made to the land since the date of such approval or confirmation, shall become payable into the court in such manner and within such time as the court directs, and shall be applied by the court for the benefit of any holder of security on the said land or the vendor or assignee of the vendor under the agreement for sale.

34. Nothing in this Act or in any composition, extension of time or scheme of arrangement approved by the court or confirmed by the Board of Review under *The Farmers' Creditors Arrangement Act, 1934*, or approved or confirmed by the court under this Act, relating to the debts or affairs of a purchaser of land, or of an assignee of a purchaser of land, under agreement for sale from the Director of Soldier Settlement, shall be deemed to limit or restrict the powers of the said Director to rescind such agreement for sale or to exercise any other of the powers conferred on him in connection therewith, if the purchaser or assignee defaults in carrying out the terms of the composition, extension of time or scheme of arrangement.

Powers of Director of Soldier Settlement preserved. 1934, c.53.

35. Section sixteen of the *Bankruptcy Act* shall not apply to a proposal or to a composition, extension of time or scheme of arrangement approved or confirmed by the court pursuant to a proposal.

Section 16 of R.S., c. 11 not to apply.

36. The provisions of the *Bankruptcy Act* relating to gazetting shall not apply in the case of an assignment by or a petition against a farmer or a proposal.

Certain provisions of R.S., c. 11 not to apply.

37. No costs shall be awarded on any application, motion or hearing before the court or the Appeal Court: except that the Appeal Court may, if of opinion that there were no reasonable grounds for bringing an appeal, order the appellant to pay the costs of any other party appearing on the appeal.

No costs. Exception.

CONTINUATION OF PROCEEDINGS

38. (1) Where a farmer who has made a proposal

(i) dies, or

(ii) a personal representative is appointed to administer his affairs by reason of his mental incompetence

Personal representative or person appointed may apply.

if no composition, extension of time or scheme of arrangement has been approved or confirmed by the court or the court has not declined to formulate a proposal before the death of the farmer or such appointment, the personal representative may apply to the court for leave to continue the proceedings in respect of the proposal as the personal representative of the decedent or of such farmer.

If member of family resides on the farm.

(2) If the court is satisfied that a member of the family of the decedent or of such farmer resides and will continue to reside on the farm, who intends and is able to operate the same, the court shall, upon such terms and conditions as it deems fit, by order, grant such application, and upon such order being made the personal representative shall be entitled to proceed with the proposal in the like manner and with the like results as the decedent or mentally incompetent farmer might have done if death had not ensued or if the personal representative had not been appointed.

Prior proceedings continued under this Act.

39. (1) Where a proposal has been made under *The Farmers' Creditors Arrangement Act, 1934*, and at the date of the commencement of this Act no composition, extension of time or scheme of arrangement has been approved by the Court or confirmed by the Board of Review or the Board of Review has not declined to formulate a proposal pursuant thereto, all proceedings in connection therewith shall be taken or continued under this Act as if such proposal had been made under this Act and any amendments necessary for such purpose may be made to the proposal: Provided that unless two-thirds of the total amount of the debts are owing in respect of debts incurred before the first day of May, 1935, the proposal shall not, without the concurrence of the creditor, be amended to include any debt incurred after the first day of May, 1935.

Proviso.

Files and papers to be delivered to the Official Receiver.

(2) The Official Receiver under *The Farmers' Creditors Arrangement Act, 1934*, with whom any such proposal was filed shall forthwith deliver all files and papers relating to such proposal together with a report of the proceedings taken pursuant thereto before the commencement of this Act to the Official Receiver under this Act with whom such proposal should be filed.

Court may order delivery and report.

(3) The court may order any Official Receiver who neglects or fails to deliver any files or papers or to make any report required under this section to deliver such files or papers and make such report to such person as it designates.

APPRAISERS OF LAND

G. in C. may appoint appraisers of land.

40. (1) The Governor in Council may appoint any person employed on the staff of the Director of Soldier Settlement of Canada or of the Canadian Farm Loan Board

as a District or Field Supervisor or as a Land Appraiser or otherwise in any position the duties of which include the valuing of lands, as an appraiser of land for the purposes of this Act.

(2) An appraiser of land shall, upon the request of the court or of the Appeal Court, inspect any lands or any farm specified in such request, and shall appraise the productive value thereof. Duties of appraiser.

(3) Such appraiser of land shall make a written report to the court or the Appeal Court, as the case may be, setting out the value of the lands or farm as appraised by him and giving particulars of the manner in which the total value thereof is made up and the reasons for the value placed thereon by him. Report.

(4) The court or the Appeal Court shall not be bound by any such appraisal, but such appraisal shall be admitted as evidence on any hearing before the court or the Appeal Court. Court not bound.

(5) An appraiser of land appointed under this Act shall, before entering upon his duties, take the following oath before a judge of the court or of an Appeal Court, namely:— Oath.

“I (A.B.) do solemnly and sincerely swear that I will faithfully and honestly fulfil the duties which devolve upon me as an appraiser of land under *The Farmers' Creditors Arrangement Act, 1943*.
So help me God.”

RULES AND REGULATIONS

41. (1) The Governor in Council may make rules and regulations governing the procedure in the case of an assignment by or a petition against a farmer under the *Bankruptcy Act* or a proposal, including the advertising to be done in each case, and the procedure in relation to the exercise of the jurisdiction under this Act of the court or the Appeal Court and to give effect to the provisions of this Act, and may establish a tariff of fees to be paid in any such case, including the remuneration of the Official Receiver acting as Official Receiver, Custodian or Trustee under the *Bankruptcy Act* or under this Act. G. in C. may make rules and regulations and establish tariff of fees.

(2) Every trustee acting as such under this Act shall be subject to such supervision by the Superintendent of Bankruptcy as the Governor in Council may determine. Supervision of trustees.

42. (1) The Minister of Finance shall be charged with the administration of this Act, and the expenses necessary for such administration shall be payable out of any unappropriated moneys of the Consolidated Revenue Fund. Administration and expenses.

(2) The Minister shall, at the end of the fiscal year, prepare a report of expenditure incurred and of proceedings taken under this Act, and shall lay the same before Parlia- Annual report.

ment forthwith or, if Parliament be not then sitting, within fifteen days after the commencement of the next ensuing session.

INTEREST ON FARM LOANS

Rate of interest.

43. (1) Notwithstanding the provisions of any other statute or law, whenever any rate of interest exceeding seven per centum is stipulated for in any mortgage of farm real estate, if any person liable to pay the mortgage tenders or pays to the person entitled to receive the money the amount owing on such mortgage and interest to the time of payment, together with three months' further interest in lieu of notice, no interest shall after the expiry of three months' period aforesaid be chargeable, payable or recoverable in respect of the said mortgage at any rate in excess of five per centum per annum.

Application of this section.

(2) The provisions of this section shall apply in the case of any mortgage heretofore or hereafter made and whether or not the principal sum is due and owing at the time such tender or payment is made.

Repeal.

44. The enactments mentioned in the Schedule to this Act are repealed.

Coming into force.

45. This Act shall come into force on a date to be fixed by proclamation of the Governor in Council.

SCHEDULE

ENACTMENTS REPEALED

Title	Session	Chapter
<i>The Farmers' Creditors Arrangement Act, 1934</i>	1934	53
<i>The Farmers' Creditors Arrangement Act Amendment Act, 1935</i>	1935	20
An Act relating to the application of <i>The Farmers' Creditors Arrangement Act, 1934</i> , in the Province of British Columbia.....	1935	61
An Act to amend <i>The Farmers' Creditors Arrangement Act, 1934</i>	1938	47

OFFICE CONSOLIDATION

THE PRAIRIE FARM ASSISTANCE ACT

(Office Consolidation of the Prairie
Farm Assistance Act and Amending
Acts as assented to August 7, 1940,
and June 14, 1941, March 27, 1942 and
June 27, 1947)

AN ACT TO ASSIST AGRICULTURE
IN THE PRAIRIE PROVINCES



OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1947

THE PRAIRIE FARM ASSISTANCE ACT

311

(Office Consolidation of the Prairie Farm Assistance Act and Amending Acts as assented to August 7, 1940, and June 14, 1941, March 27, 1942, and June 27, 1947.)

An Act to Assist Agriculture in the Prairie Provinces.

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

SHORT TITLE

1. This Act may be cited as *The Prairie Farm Assistance Act, 1939*. Short title.

INTERPRETATION

2. (1) In this Act and in any regulation, unless the context otherwise requires, Definitions.

- (a) "average price" means the average of the daily closing prices of No. 1 Manitoba Northern wheat in store at Fort William, between the thirty-first day of July and the first day of November in any year as ascertained by the Minister pursuant to regulations; "average price".
- (aa) "Board" means the Board of Review established under the provisions of this Act; "Board".
- (b) "crop failure area" means an area declared to be a crop failure area pursuant to section four of this Act; "crop failure area".
- (c) "crop year" means the period of twelve months commencing on the first day of August in any year and ending on the thirty-first day of July in the next following year; "crop year".
- (d) "cultivated land" means land that in the year of award was seeded to crop or in summerfallow and includes land seeded to grass in any year if the productivity thereof was maintained in the year of award; "cultivated land".
- (e) "farmer" means a person who as owner or tenant operates a farm in the spring wheat area or who as a member of a co-operative farm association is engaged in farming in the spring wheat area; "farmer".
- (f) "grain" means wheat, oats, barley and rye; "grain".
- (g) "local improvement district" means in the province of Saskatchewan a local improvement district organized under *The Local Improvement Districts Act, 1936*, of Saskatchewan, and in the province of Alberta a district as defined by *The Improvements Districts Act, 1927*, of Alberta, and in the province of British Columbia, an assessment and collection district created under the provisions of the *Taxation Act* of British Columbia; "local improvement district".
- (h) "Minister" means the Minister of Agriculture; "Minister".

- "regulation". (i) "regulation" means a regulation made pursuant to the provisions of this Act;
- "rural municipality". (j) "rural municipality" means in the province of Manitoba a municipal district to which the provisions of *The Municipal Act* of Manitoba apply, and in the province of Saskatchewan a municipality to which the provisions of *The Rural Municipality Act, 1935*, apply, and in the province of Alberta a municipal district to which the provisions of the *Municipal District Act* of Alberta apply, and in the province of British Columbia a district municipality as defined by the *Municipal Act* of British Columbia;
- "spring wheat area". (k) "spring wheat area" means the provinces of Manitoba, Saskatchewan, Alberta, and the Peace River District of British Columbia;
- "township". (l) "township" means, in the provinces of Manitoba, Saskatchewan and Alberta, a township according to the system of survey authorized by the *Dominion Lands Surveys Act*, and in the province of British Columbia a township whose boundaries are confirmed by the *Official Surveys Act* of British Columbia.
- R.S., c. 117.
- Application of Canada Grain Act, 1930, c. 5. (2) In this Act unless it is otherwise provided or the context otherwise requires, expressions shall have the same meaning as in *The Canada Grain Act*.
- Sum awarded as assistance. 3. (1) Subject to this Act, the Minister may in any crop year award to each person who was a farmer from the first day of May to the first day of November in such year, a sum by way of assistance according to his cultivated land in a township with respect to which an application for assistance has been made by the rural municipality in which that township is situated or, in case there is no such rural municipality, by the government of the province in which that township is situated.
- Computation. (2) The sum to be awarded by way of assistance under subsection one of this section shall be computed as follows:—
- (a) if the average yield of wheat in the township is found by the Board to be more than eight and not more than twelve bushels per acre, the award shall be ten cents per acre of the cultivated land of the farmer for each cent, or fraction thereof, not exceeding ten, by which the average price is less than eighty cents per bushel;
- (b) if the average yield of wheat in the township is found by the Board to be more than four and not more than eight bushels per acre, the award shall be one dollar and fifty cents per acre;
- (c) if the average yield of wheat in the township is found by the Board to be not more than four bushels per acre, the award shall be two dollars and fifty cents per acre.
- Restriction on award. (3) No award under this section shall be made
- (a) with respect to more than one-half of the cultivated land of the farmer; nor

- (b) with respect to more than two hundred acres of the cultivated land of the farmer.

(4) The number of acres for which an award may be made under paragraphs (a), (b) or (c) of subsection two of this section shall not exceed a number that bears the same proportion to two hundred as the number of acres of cultivated land of the farmer in the township in respect of which the award is made bears to the total number of acres of the cultivated land of the farmer.

Number of acres for which award may be made.

(5) Where not less than one-half of the cultivated land of a farmer that may be included in the computation of an award under subsection two of this section is situated in a township in respect of which an award may be made under paragraph (c) of that subsection and the amount that the Minister may award to him under that subsection is less than two hundred dollars, the Minister may, in lieu of that amount, award him the sum of two hundred dollars.

Where minister may award a lump sum of \$200.

4. Repealed.

BOARD OF REVIEW

5. (1) A Board of Review shall be established to consist of three persons, to be appointed by the Governor in Council on the recommendation of the Minister, one of whom shall be named chairman.

Board of Review established.

(2) The Board shall examine all information and data regarding the average yield of wheat in any township for which an application for assistance has been received and shall determine the eligibility of such township for an award under this Act.

Board to determine eligibility of township.

(3) The Board shall decide, under the Act and regulations, any question concerning the eligibility of any farmer or class of farmers for an award under this Act.

Eligibility of farmer or class of farmers.

(4) The decision of the majority of the members of the Board shall constitute the decision of the Board.

Decision of majority.

(5) Any decision or determination of the Board shall be final.

Decision to be final.

REGULATIONS

6. The Minister may with the approval of the Governor in Council make regulations

Regulations by Minister.

- (a) requiring farmers or elevator operators to furnish, on a prescribed form, all information required under the regulations;
- (b) (*Repealed.*)
- (c) prescribing the manner in which the average price of wheat shall be ascertained;
- (d) prescribing the manner in which information with respect to the average yields of wheat shall be obtained for the Board;

- (e) providing that in special circumstances another kind of grain may be taken in lieu of wheat as the basis of awards under this Act, and in that event what number of bushels of such other kind of grain shall be deemed to be equivalent to a certain number of bushels of wheat for the purposes of such substitution;
- (f) defining who is an owner or tenant for the purposes of this Act, prescribing the minimum areas of farms in respect of which payments may be made under this Act and excluding from the operation of this Act persons who, in such circumstances and under such conditions as are prescribed in such regulations, have occupations in addition to farming or do not reside on farms.
- (g) excluding from the operation of any section of this Act any lands in the spring wheat area and any grain grown thereon;
- (h) respecting any other matter deemed necessary or expedient for the efficient administration and enforcement of this Act.

7. Notwithstanding anything contained in this Act,

Blocks
ineligible
for award.

- (a) where any rectangular block of sections of land having an area of not less than one-quarter of a township within an eligible township and a side of which lies along the boundary of an ineligible township is determined by the Board to have an average yield of fourteen or more bushels of wheat per acre, such block of sections of land shall be ineligible for award;

Blocks
eligible.

- (b) where any rectangular block of sections of land having an area of not less than one-quarter of a township within an ineligible township and a side of which lies along the boundary of an eligible township is determined by the Board to have an average yield of ten bushels of wheat or less per acre, such block of sections of land shall be eligible for award as though it were a complete township but shall not be included as a township in determining a crop failure area under this Act.

8. Repealed.

Award
payable in two
instalments.

9. Every award authorized under this Act shall be paid in two instalments, the first, being sixty per centum of the award, in the month of December, and the second, being forty per centum, in the month of March next following.

Award
protected from
attachment.
Not assignable.

10. Every award payable under this Act shall be exempt from the operation of any law relating to bankruptcy or insolvency, or to garnishment or attachment, and shall not be assignable either at law or in equity.

Officers,
clerks and
employees.

11. The Governor in Council may appoint such officers, clerks and employees as may be deemed necessary for the efficient administration of this Act, and such officers, clerks and employees shall hold office during pleasure, and receive such salary or other remuneration as may be fixed by the Governor in Council.

OFFENCES—PENALTIES

12. (1) Every person shall be guilty of an offence under this Act and liable on summary conviction to a fine not exceeding one hundred dollars, who Offences.

- (a) violates or fails to comply with any provision of this Act or of any regulation;
- (b) in respect to any information or return required by regulation, submits false information or makes a false return thereto;
- (c) falsely claims to be entitled to any payment under this Act.

(2) No award shall be made to any farmer who submits any such false information to the Minister or makes any such false return.

ONE PER CENTUM LEVY

13. (1) Notwithstanding the provisions of *The Canada Grain Act* a levy of one per centum shall be deducted from the purchase price of all grain purchased by or through the managers of licensed country elevators, licensed grain dealers, licensed track buyers or licensed commission merchants and unless, previously deducted by such licensees, a levy of one per centum of the purchase price shall be deducted on all grain purchased by the managers of licensed mill elevators and licensed terminal elevators, and transferred to the Board of Grain Commissioners for Canada as hereinafter provided. Levy of 1 per centum from purchase price of all grain purchased by licensees.

(2) Notwithstanding the provisions of *The Canada Grain Act* the manager of every licensed country elevator, mill elevator, terminal elevator and every licensed grain dealer, track buyer or commission merchant shall record on the cash ticket or other form of settlement issued to the vendor the deduction of one per centum of the purchase price as hereinbefore provided. Reduction to be recorded on cash ticket.

(3) The purchase price for grain purchased on the basis in store at a terminal elevator shall be subject to deductions of lawful charges for freight, elevation, inspection, weighing and cleaning before calculation of the levy of one per centum hereinbefore provided. Purchase price subject to certain charges before levy calculated.

(4) All licensees shall pay to the Board of Grain Commissioners for Canada for the credit of the Receiver General monthly, as shall be provided by regulation, all moneys collected hereunder and any licensee who fails to comply with the regulation shall be subject to a penalty of one-thirtieth of one per centum of the amount due for each day that such payment is in default. Licensees to pay collections to Receiver General.
Penalty.

(5) Every licensee specified in subsection one hereof shall keep or cause to be kept such records and shall make or cause to be made such returns from time to time relating to the collection of the levy hereinbefore provided as may be directed or required by the Board of Grain Commissioners for Canada and all such records and returns shall accurately and faithfully represent the facts of the transactions to which they respectively Licensees to keep records and make returns.

Penalty.

purport to relate, and shall be subject at any time to examination by any officer of the Board of Grain Commissioners for Canada. Any breach of the provisions of this subsection shall be punishable on summary conviction by imprisonment for not more than one year or by a fine not exceeding five thousand dollars.

Prairie Farm
Emergency
Fund.

(6) There shall be a special account in the Consolidated Revenue Fund called the Prairie Farm Emergency Fund, hereinafter referred to as the "Fund," to which the Minister of Finance shall from time to time credit all revenue hereunder.

1931, c. 27.
Payment of
awards out
of Fund.

(7) Notwithstanding the provisions of *The Consolidated Revenue and Audit Act, 1931*, the Minister of Finance may, subject to the provisions of this Act, on the requisition of the Minister or any officer duly authorized by the Minister, pay out of the Fund awards made under this Act, but no other payments shall, except as hereinafter in this section provided, be made out of the said Fund.

Advances to
Fund out of
C.R. Fund.

(8) If at any time the Fund is insufficient to pay awards made under this Act the Minister of Finance may, out of unappropriated moneys in the Consolidated Revenue Fund, with the approval of the Governor in Council, make an advance to the Fund of the amount required to meet the deficit.

Advances
repayable
without
interest.
Annual
Report.

(9) An advance made by the Minister of Finance under this section shall be repayable out of the Fund without interest.

14. (1) The Minister shall, as soon as possible after the termination of each crop year, prepare an annual report in such form as the Governor in Council may prescribe, which report shall be laid before Parliament.

Orders in
Council or
regulations
in *Gazette*.

(2) Orders in Council and regulations, or abstracts thereof disclosing their essential provisions, shall be published in the *Canada Gazette* in the issue next following the passing thereof.

Expenses.

15. All administrative, including travelling and other expenses incurred under this Act, shall be paid out of moneys provided by Parliament for this purpose.

OFFICE CONSOLIDATION

1933

347

THE BANKRUPTCY ACT

AS AMENDED BY 21-22 GEORGE V, CHAP. 17 (1931);
21-22 GEORGE V, CHAP. 18 (1931); AND
22-23 GEORGE V, CHAP. 39 (1932)

TOGETHER WITH

RULES AND FORMS AND CONSOLIDATED INDEX



OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
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1947

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NOTE 1

All persons making use of this consolidation are reminded that it has no parliamentary sanction; that the amendments have been embodied only for convenience of reference, and that the original Acts should be consulted for all purposes of interpreting and applying the law.

NOTE 2

In the preparation of this consolidation the marginal notes appearing in the original and amending statutes have been omitted. These should also be referred to in the original and amending Acts for all purposes of interpreting and applying the law.

THE BANKRUPTCY ACT

R.S.C., 1927, Chap. 11

As amended by 21-22 George V, chap. 17 (1931); 21-22 George V, chap. 18 (1931); and 22-23 George V, chap. 39 (1932).

NOTE.—All persons making use of this consolidation are reminded that it has no parliamentary sanction; that the amendments have been embodied only for convenience of reference, and that the original Acts should be consulted for all purposes of interpreting and applying the law.

SHORT TITLE

1. This Act may be cited as the Bankruptcy Act. 1919, c. 36, s. 1.

INTERPRETATION

2. In this Act, unless the context otherwise requires or implies, the expression

- (a) “affidavit” includes statutory declaration and affirmation;
- (b) “alimentary debt” means a debt incurred for necessaries or maintenance;
- (c) “appeal court” means the court having jurisdiction in bankruptcy, under this Act, on appeal;
- (d) “assignment” includes conveyance;
- (e) “assignor” means the maker of an assignment, whether under this Act such maker may lawfully make such assignment or such assignment may lawfully be made, or not;
- (f) “authorized assignment” means an assignment accepted and filed by the Official Receiver;
- (g) “authorized assignor” means an insolvent assignor whose debts provable under this Act exceed five hundred dollars;
- (h) “available act of bankruptcy” means an act of bankruptcy committed within six months before the date of
 - (i) the presentation of a bankruptcy petition, or
 - (ii) the making of an authorized assignment, or
 - (iii) the payment, delivery, conveyance, assignment, transfer, contract, dealing or transaction mentioned in section sixty-five;
- (i) “bank” or “chartered bank” means an incorporated bank carrying on the business of banking under the Bank Act;
- (j) “banker” includes any person owning, conducting or in charge of any bank or place where money or securities for money are received upon deposit or held subject to withdrawal by depositors;
- (k) “corporation” includes any company incorporated or authorized to carry on business by or under an Act of the Parliament of Canada or of any of the provinces of Canada, and any incorporated company, wheresoever incorporated, which has an office in or carries on business within Canada, but does not include building societies having a capital stock, nor incorporated banks, savings banks, insurance companies, trust companies, loan companies or railway companies;

- (l) "court" or "the court" means the court which is invested with original jurisdiction in bankruptcy under this Act;
- (m) "creditor" with relation to any meeting held under authority of this Act, shall, in the case of a corporation, include bondholder, debenture holder, shareholder and member of the corporation;
- (n) "custodian" means the person duly authorized to exercise the functions of custodian for the time being;
- (o) "debt provable in bankruptcy" or "provable debt" or "debt provable" includes any debt or liability by this Act made provable in bankruptcy or in proceedings under an authorized assignment;
- (p) "debtor" includes any person, whether a British subject or not, who, at the time when any act of bankruptcy was done or suffered by him, or any authorized assignment was made by him.
 - (i) was personally present in Canada, or
 - (ii) ordinarily resided or had a place of residence in Canada, or
 - (iii) was carrying on business in Canada personally or by means of an agent or manager, or
 - (iv) was a corporation or a member of a firm or partnership which carried on business in Canada;
- (q) "discharge" means the release of a bankrupt or authorized assignor from all his debts provable in bankruptcy or under an authorized assignment save such as are excepted by this Act;
- (r) "gazetted" means published in the *Canada Gazette*;
- (s) "general rules" includes forms;
- (t) "goods" includes all chattels personal and movable property;
- (u) "insolvent person" and "insolvent" includes a person, whether or not he has done or suffered an act of bankruptcy;
 - (i) who is for any reason unable to meet his obligations as they generally become due, or
 - (ii) who has ceased paying his current obligations in the ordinary course of business as they generally become due, or
 - (iii) the aggregate of whose property is not, at a fair valuation, sufficient, or, if disposed of at a fairly conducted sale under legal process, would not be sufficient to enable payment of all his obligations, due and accruing due, thereout;
- (v) "judge" means a judge of the court, which is by this Act invested with original jurisdiction in bankruptcy;
- (w) "judgment" or "execution" or "attachment" shall have operation as if by law the liability of married women thereon and thereunder were personal as well as proprietary;
- (x) "local newspaper" means a newspaper published in and having a circulation throughout the bankruptcy district or division which includes the locality of the debtor;
- (y) "locality of a debtor," whether a bankrupt or assignor, means
 - (i) the principal place where the debtor has carried on business during the year immediately preceding the date of the presentation against him of a bankruptcy petition or the making by him of an authorized assignment.
 - (ii) the place where the debtor has resided during the year immediately preceding the date of the presentation against him of a bankruptcy petition or the making by him of an authorized assignment; or
 - (iii) in cases not coming within (i) or (ii), the place where the greater portion of the property of such debtor is situate;

- (z) "oath" includes affirmation and statutory declaration;
- (aa) "Official Receiver" means the person having authority in the locality of the debtor to exercise the functions of the official receiver for the time being;
- (bb) "ordinary resolution" means a resolution carried in manner provided by section one hundred and two of this Act;
- (cc) "person" includes a firm or partnership, an unincorporated association of persons, a corporation as restrictively defined by this section, a body corporate and politic, the successors of such association, partnership, corporation, or body corporate and politic, and the heirs, executors; administrators or other legal representative of a person, according to the law of that part of Canada to which the context extends;
- (dd) "petition" means petition in bankruptcy;
- (ee) "prescribed" means prescribed by General Rules;
- (ff) "property" includes money, goods, things in action, land, and every description of property, whether real or personal, movable or immovable, legal or equitable, and whether situate in Canada or elsewhere; also obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, in, arising out of, or incident to property as above defined;
- (gg) "registrar" includes any other officer who performs duties like to those of a registrar;
- (hh) "resolution" means ordinary resolution;
- (ii) "Secured creditor" means a person holding a mortgage, hypothec, pledge, charge, lien or privilege on or against the property of the debtor, or any part thereof, as security for a debt due or accruing due to him from the debtor, or a person whose claim is based upon, or secured by, a negotiable instrument held as collateral security and upon which the debtor is only indirectly or secondarily liable.
- (jj) "sheriff" includes bailiff and any officer charged with the execution of a writ or other process;
- (kk) "trustee" or "licensed trustee" means any person, including a trust company, who is licensed or appointed pursuant to the provisions of this Act as a trustee in bankruptcy or under an authorized assignment or in connection with a proposal by a debtor for a composition, extension or scheme of arrangement.
- (ll) "wage-earner" means one who works for wages, salary, commission or hire at a rate of compensation not exceeding fifteen hundred dollars per year, and who does not on his own account carry on business;
- (mm) "Minister" means the Minister of Finance;
- (nn) "Superintendent" means the Superintendent of Bankruptcy. 1919, c. 36, s. 2; 1920, c. 34, ss. 2 and 3; 1921, c. 17, ss. 3, 4 and 5; 1923, c. 31, ss. 2 and 6A; 1925, c. 31, s. 2; 1932, c. 39, s. 2.

PART I

BANKRUPTCY AND RECEIVING ORDERS

Acts of Bankruptcy

3. A debtor commits an act of bankruptcy in each of the following cases:—

- (a) If in Canada or elsewhere he makes an assignment of his property to a trustee for the benefit of his creditors generally, whether it is an assignment authorized by this Act or not;
- (b) If in Canada or elsewhere he makes a fraudulent conveyance, gift, delivery, or transfer of his property, or of any part thereof;
- (c) If in Canada or elsewhere he makes any conveyance or transfer of his property or any part thereof, or creates any charge thereon, which would under this Act be void as a fraudulent preference if he were adjudged bankrupt;
- (d) If with intent to defeat or delay his creditors he does any of the following things, namely, departs out of Canada, or, being out of Canada, remains out of Canada, or departs from his dwelling house or otherwise absents himself, or begins to keep house;
- (e) If he permits any execution or other process issued against him under which any of his goods are seized, levied upon or taken in execution to remain unsatisfied until within four days from the time fixed by the sheriff for the sale thereof, or for fourteen days after such seizure, levy or taking in execution, or if the goods have been sold by the sheriff or the execution or other process has been held by him after written demand for payment without seizure, levy or taking in execution or satisfaction by payment for fourteen days, or if it is returned endorsed to the effect that the sheriff can find no goods whereon to levy or to seize or take: Provided that where interpleader proceedings have been instituted in regard to the goods seized, the time elapsing between the date at which such proceedings were instituted and the date at which such proceedings are finally disposed of, settled or abandoned, shall not be taken into account in calculating any such period of fourteen days;
- (f) If he exhibits to any meeting of his creditors any statement of his assets and liabilities which shows that he is insolvent, or presents or causes to be presented to any such meeting a written admission of his inability to pay his debts;
- (g) If he assigns, removes, secretes or disposes of or attempts or is about to assign, remove, secrete or dispose of any of his goods with intent to defraud, defeat or delay his creditors or any of them;
- (h) If he makes any bulk sale of his goods without complying with the provisions of any Bulk Sales Act applicable to such goods in force in the province within which he carries on business or within which such goods are at the time of such bulk sale;
- (i) If he gives notice to any of his creditors that he has suspended or that he is about to suspend payment of his debts;
- (j) If he ceases to meet his liabilities generally as they become due. 1919, c. 36, s. 3; 1922, c. 8, s. 3; 1923, c. 31, s. 3.

Petition and Receiving Order

4. Subject to the conditions hereinafter specified, if a debtor commits an act of bankruptcy a creditor may present to the court a bankruptcy petition.

2. The petition shall be verified by affidavit and served on the debtor in the prescribed manner.

3. A creditor shall not be entitled to present a bankruptcy petition against a debtor unless

- (a) the debt owing by the debtor to the petitioning creditor, or, if two or more creditors join in the petition, the aggregate amount of debts owing to the several petitioning creditors amounts to five hundred dollars; and
- (b) the act of bankruptcy on which the petition is grounded has occurred within six months before the presentation of the petition.

4. If the petitioning creditor is a secured creditor, he must in his petition either state that he is willing to give up his security for the benefit of the creditors in the event of the debtor being adjudged bankrupt, or give an estimate of the value of his security, and in the latter case he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him after deducting the value so estimated in the same manner as if he were an unsecured creditor.

5. The petition shall be presented to the court having jurisdiction in the locality of the debtor.

6. At the hearing the court shall require proof of the debt of the petitioning creditor, of the service of the petition, and of the act of bankruptcy, or, if more than one act of bankruptcy is alleged in the petition, of some one of the alleged acts of bankruptcy, and, if satisfied with the proof, may adjudge the debtor a bankrupt and in pursuance of the petition, make an order, in this Act called a receiving order, for the protection of the estate, and appoint as custodian a licensed trustee, having regard, as far as the court deems just, to the wishes of the creditors.

7. If the court is not satisfied with the proof of the petitioning creditor's debt, or of the act of bankruptcy, or of the service of the petition, or is satisfied by the debtor that he is able to pay his debts, or, in case an authorized assignment has been made, that the estate can be best administered under the assignment, or that for other sufficient cause no order ought to be made, it shall dismiss the petition.

8. Where the debtor appears on the petition, and denies that he is indebted to the petitioner, or that he is indebted to such an amount as would justify the petitioner in presenting a petition against him, the court, on such security (if any) being given as the court may require for payment to the petitioner of any debt which may be established against him in due course of law and of the costs of establishing the debt, may, instead of dismissing the petition, stay all proceedings on the petition for such time as may be required for trial of the question relating to the debt.

9. Where proceedings have been stayed or have not been prosecuted with effect the court may, if by reason of the delay or for any other cause it is deemed just so to do, make a receiving order on the petition of another creditor, and shall thereupon dismiss on such terms as it may deem just the petition in the stayed or non-prosecuted proceedings.

10. A creditor's petition shall not, after presentment, be withdrawn without the leave of the court.

11. The bankruptcy of a debtor shall be deemed to have relation back to and to commence at the time of the presentation of the petition on which a receiving order is made against him.

12. Nothing herein contained shall invalidate any proceedings by reason of the same having been commenced, taken or carried on in the wrong court, but the court may at any time transfer to the proper court the petition, application or proceedings, as the case may be. 1919, c. 36, s. 4; 1920, c. 34, ss. 4 and 5; 1921, c. 17, ss. 6, 7 and 54; 1923, c. 31, s. 4; 1932, c. 39, s. 3.

Interim Receiver

5. The court may, if no custodian has been appointed and if it is shown to be necessary for the protection of the estate, at any time after the presentation of a bankruptcy petition, and before a receiving order is made, appoint a licensed trustee as interim receiver of the property of the debtor, or of any part thereof, and direct him to take immediate possession thereof or of any part thereof.

2. The interim receiver may, under the direction of the court, take conservatory measures and summarily dispose of goods which are perishable or likely to depreciate rapidly in value, or carry on the business of the debtor for such period as the court deems advisable. 1921, c. 17, s. 8; 1925, c. 31, s. 3; 1932, c. 39, s. 4.

6. On a receiving order being made against a debtor, such debtor shall cease to have any capacity to dispose of or otherwise deal with his property affected by the receiving order, which shall be deemed to be in the custody of the court, and upon the appointment of a trustee as hereinafter provided, such property shall, subject to the provisions of this Act, and subject to the rights of secured creditors forthwith pass to and vest in such trustee, and in any case of change of trustee, the property shall pass from trustee to trustee without any conveyance, assignment or transfer whatever.

2. The court, upon the application of the trustee or of a creditor proceeding under authority of any ordinary resolution carried by the votes of a majority in number of the known creditors, and upon satisfactory proof that the affairs of the debtor can be more economically administered within another bankruptcy district or division, or for other sufficient cause, may at any time by order, transfer any proceedings under this Act, which are pending before it to another bankruptcy district or division wherein thereafter they may be carried on as effectually as if therein commenced. 1919, c. 36, s. 6; 1923, c. 31, s. 6; 1932, c. 39, s. 5.

7. The provisions of this Part shall not apply to wage-earners or to persons engaged solely in farming or the tillage of the soil. 1919, c. 36, s. 8; 1923, c. 31, s. 8.

8. Notwithstanding anything in this Part appearing, no act or omission of a debtor in respect of any debt which

- (a) was contracted or existed before the first day of July one thousand nine hundred and twenty; or
- (b) is or is evidenced by any judgment or negotiable or renewable instrument the cause or consideration whereof existed before the first day of July, one thousand nine hundred and twenty, whether or not such judgment or instrument is a renewal or one of several renewals, proceeding from the same cause or consideration;

shall be deemed an available act of bankruptcy, nor shall any such debt be deemed sufficient to found the presentation of a bankruptcy petition, but it shall be provable in any proceedings otherwise founded under this Part, and otherwise. 1919, c. 36, s. 8.

PART II

ASSIGNMENTS AND COMPOSITIONS

Assignments

9. Any insolvent debtor (other than a resident in the province of Quebec engaged solely in farming or the tilling of the soil) whose liabilities to creditors, provable as debts under this Act, exceed five hundred dollars, may, at any time prior to the making of a receiving order against him, make an assignment of all his property for the general benefit of his creditors.

2. Such assignment shall be accompanied by a sworn statement in the prescribed form showing the property of the debtor divisible among his creditors, the names and addresses of all his creditors and the amounts of their respective claims and the nature of each, whether privileged, secured or otherwise.

3. The assignment shall be offered to the Official Receiver in the locality of the debtor to be filed and it shall be inoperative until accepted and filed by such Official Receiver, who shall refuse to accept the same unless it is in the form prescribed by the General Rules or to the like effect, and accompanied by the sworn statement required by the preceding subsection.

4. If the Official Receiver accepts the assignment, he shall file the same, whereupon the property of the debtor shall be deemed to be under the authority of the court and the debtor shall cease to have any capacity to dispose of or otherwise deal with such property.

5. Immediately after the acceptance of the authorized assignment the Official Receiver shall appoint as custodian a licensed trustee whom he shall, as far as possible, select by reference to the wishes of the most interested creditors, if ascertainable at the time.

6. Upon the appointment of the trustee by the creditors, the Official Receiver shall complete the authorized assignment by inserting therein as grantee the name of such trustee, and such assignment shall thereupon, subject to the provisions of this Act, and subject to the right of secured creditors vest, as of the date of the acceptance and filing of the said assignment, in the trustee, all the property of the debtor, and in any case of change of trustee, the property shall pass from trustee to trustee without any conveyance, assignment or transfer whatever.

7. Every assignment of his property other than an authorized assignment made by an insolvent debtor for the general benefit of his creditors shall be null and void.

8. If the Official Receiver is unable to find any person who is willing to act as custodian, he may, after thirty days have elapsed from the date of the filing of the assignment and after giving the debtor seven days' notice of his intention, cancel the assignment, whereupon the said assignment shall cease to have any effect under this Act. 1919, c. 36, s. 9; 1923, c. 31, s. 11; 1932, c. 39, s. 6.

10. Every Official Receiver with whom an assignment is filed, shall, when the same is completed as hereinbefore provided, deposit the same in the court having jurisdiction in the locality of the debtor, and if subsequently the trustee is displaced by a new trustee, such new trustee shall within four days of his appointment give notice thereof to the said court. 1923, c. 31, s. 12.

Composition, Extension or Scheme of Arrangement

11. Where an insolvent debtor intends to make a proposal for

- (a) a composition in satisfaction of his debts; or
- (b) an extension of time for payment thereof, or
- (c) a scheme of arrangement of his affairs;

he may, after the making of a receiving order against him or the making of an authorized assignment by him, require in writing the trustee duly appointed to convene at the office of such trustee a meeting of such debtor's creditors for the consideration of such proposal.

2. The debtor shall at the time when he requires the convening of such meeting, or before, lodge with the trustee

- (a) a true statement of the debtor's affairs, including a list of his creditors, which list shall show the post office address of and the amount payable to each creditor, the whole statement being verified by the debtor by statutory declaration; and
- (b) a proposal in writing signed by the debtor, embodying the terms of the proposed composition, extension or scheme and setting out the particulars of any sureties or securities proposed. 1919, c. 36, s. 13; 1923, c. 31, s. 15.

12. As soon as possible after a trustee has been required to convene a meeting of creditors to consider a proposal of a composition, extension or scheme of arrangement, he shall submit the proposal to the inspectors and if authorized by a majority of them shall forthwith fix a date for such meeting and send by registered mail to every known creditor

- (a) at least ten days' notice of the time and place of meeting, the day of mailing to count as the first day's notice;
- (b) a condensed statement of the assets and liabilities of the debtor;
- (c) a list of his creditors; and
- (d) a copy of his proposal.

2. If any meeting of his creditors whereat a statement or list of the debtor's assets, liabilities and creditors was presented has been held before the trustee is so required to convene such meeting to consider such proposal and at the time when the debtor requires the convening of such meeting the condition of the debtor's estate remains substantially the same as at the time of such former meeting, the trustee may omit observance of the provisions identified as (b) and (c) in the preceding subsection. 1923, c. 31, s. 15; 1932, c. 39, s. 7.

13. If at the meeting so convened to consider such proposal or at any subsequent meeting of creditors a majority of all the creditors and holding three-fourths in amount of all proved debts present in person or by proxy at such meeting resolve to accept the proposal either as made or as altered or modified at the request of the meeting, it shall be deemed to be duly accepted by the creditors.

2. The trustee shall forthwith, if the proposal is accepted by the creditors, apply to the court to approve it, and if the trustee does not make such application within ten days, the debtor or any creditor may do so.

3. If approved by the court such extension, composition or scheme of arrangement shall be binding on all the creditors.

4. No such proposal or any security or guarantee tendered therewith may be withdrawn pending the decision of the creditors and the court with respect thereto. 1923, c. 31, s. 15; 1925, c. 31, s. 6; 1932, c. 39, s. 8.

14. Any creditor who has proved his debt may assent to or dissent from the proposal by a letter to that effect addressed postage prepaid and registered to the trustee, prior to the meeting, and any such assent or dissent if received by the trustee at or prior to the meeting shall have effect as if the creditor had been present and had voted at the meeting. 1919, c. 36, s. 13.

15. If creditors who hold ten per cent or more in amount of proved debts request the examination of the debtor, the trustee shall cause him to be examined under oath before the registrar or other officer appointed for that purpose by General Rules and his testimony to be taken down in writing.

2. The testimony, so taken, may be read upon the hearing of the application for the approval of the composition or scheme of arrangement.

3. The court if not satisfied with such testimony as so taken, may direct that the debtor attend before the court for the purpose of further examination. 1919, c. 36, s. 13.

16. The court shall, before approving the proposal, hear a report of the trustee as to the terms thereof, and as to the conduct of the debtor, and any objections which may be made by or on behalf of any creditor.

2. If the court is of the opinion that the terms of the proposal are not reasonable or are not calculated to benefit the general body of creditors, the court shall refuse to approve the proposal, and the court shall refuse to approve the proposal whenever it is established that the debtor has committed any one of the offences mentioned in section one hundred and ninety-one of this Act.

3. If any of the facts mentioned in section one hundred and forty-three of this Act are proved against the debtor, the court shall refuse to approve the proposal unless it provides reasonable security for payment of not less than fifty cents in the dollar on all the unsecured debts provable against the debtor's estate: Provided that if a composition, extension or scheme, is proposed by the debtor before the expiration of any previous extension or of any renewal or extension thereof no such previous extension or renewal or extension thereof shall be deemed to have been made on a previous occasion within the meaning of paragraph (j) of section one hundred and forty-three.

4. In any other case the court, subject to the provisions of subsection five of this section, may either approve or refuse to approve the proposal.

5. No composition, extension or scheme shall be approved by the court which does not provide for the payment in priority to other debts of all debts directed to be so paid in the distribution of the property of a bankrupt or authorized assignor. 1919, c. 36, s. 13; 1923, c. 31, s. 15.

17. If the court approves the proposal, the approval may be testified by the seal of the court being attached to the instrument containing the terms of the proposed composition, extension or scheme, or by the terms being embodied in an order of the court. 1919, c. 36, s. 13.

18. A composition, extension or scheme accepted and approved shall be binding on all the creditors so far as relates to any debts due to them from the debtor and provable under this Act, but shall not release the debtor from any liability under a judgment against him in an action for seduction, or under an affiliation order or for alimony, or under a judgment against him as co-respondent in a matrimonial case or for necessaries of life or alimentary debts, except to such an extent and under such conditions as the court expressly orders in respect of such liability.

2. Notwithstanding anything herein contained, a composition, extension or scheme shall not be binding on any creditor so far as regards a debt or liability from which, under the provisions of this Act, the debtor would not be dis-

charged by an order of discharge in bankruptcy, unless the creditor assents (as, for the purposes solely of proceedings relating to a composition, extension or scheme he may, notwithstanding any thing in this Act, so assent) to such composition, extension or scheme.

3. The acceptance by a creditor of a composition, extension or scheme shall not release any person who under this Act would not be released by an order of discharge if the debtor had been adjudged bankrupt. 1919, c. 36, s. 13.

19. The provisions of a composition, extension or scheme under this Act may be enforced by the court on application by any person interested, and any disobedience of an order of the court made on the application shall be deemed a contempt of court.

2. If default is made in payment of any instalment due in pursuance of the composition, extension or scheme, or if it appears to the court, on satisfactory evidence, that the composition, extension or scheme cannot, in consequence of legal difficulties, or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, or that the approval of the court was obtained by fraud, the court may, if it thinks fit, on application by the trustee or by any creditor, adjudge the debtor bankrupt, make a receiving order against him and annul the composition, extension or scheme.

3. Such adjudication shall be made without prejudice to the validity of any sale, disposition or payment duly made, or thing duly done, under or in pursuance of the composition, extension or scheme.

4. Where a debtor is adjudged bankrupt under this section any debt provable in other respects, which has been contracted before the adjudication, shall be provable in the bankruptcy proceedings.

5. If the court approves the composition, extension or scheme, it may make an order annulling the bankruptcy or authorized assignment and vesting the property of the debtor in him or in such other person as the court may appoint on such terms and subject to such conditions, if any, as the court may declare. 1919, c. 36, s. 13; 1923, c. 31, s. 15.

20. Any scheme of arrangement under which the right of participation therein of any creditor, or of any shareholder of a debtor which is a corporation, is made conditional upon the purchase by such creditor or shareholder of any new securities or upon any other payment or contribution by such creditor or shareholder shall provide that the claim of any creditor or shares of any such shareholder who elects not to participate in the scheme shall be valued by the court at the amount, if any, realizable thereon upon a sale by the trustee of all the property and assets of the debtor to wind up his estate.

2. The value so determined shall within ninety days after the determination thereof or such further time as may be allowed by the court be paid to such creditor or shareholder either in money or in such securities as shall be specified pursuant to such scheme of arrangement and approved by the court and such payment shall be in full satisfaction of his claim or payment upon his shares as the case may be.

3. For the purpose of assisting the court so to value the claims of any creditors and shares of any shareholders of a corporation debtor who elect not to participate in the scheme, the court may appoint a qualified person to examine into the value thereof as aforesaid and report the same to the court.

4. In case of request therefor by creditors or shareholders who do not elect to participate in the scheme holding one-fifth in amount of all proved debts, or

one-fifth in interest of all the shares of any such corporation debtor, hereinafter referred to as "the minority creditors" or "the minority shareholders" as the case may be, the court shall appoint three persons; one to be nominated by the minority creditors to assist the court in valuing the claims of the minority creditors, one by the minority shareholders to assist the court in valuing the shares of the minority shareholders, and the third by the creditors and shareholders who elect to participate in the scheme.

5. A majority of the minority creditors or shareholders shall have the right to agree with the creditors and shareholders who elect to participate in the scheme upon one or two persons only being appointed.

6. Such person or persons shall be entitled to reasonable compensation to be fixed by the court which together with the necessary expenses in connection with the examination into the value of such claims and shares shall be paid from the estate of the debtor.

7. No secret arrangement shall be made with any creditors or shareholders to induce them to participate in any such scheme. 1922, c. 8, s. 12.

21. In the case of a meeting to consider a proposal of a scheme of arrangement of the affairs of a corporation debtor of a nature that any change is made in the rights of the shareholders under the letters patent or other instrument of incorporation of the company or the right of participation in such scheme of any shareholder is made conditional upon the purchase by such shareholder of any new securities or upon any other payment or contribution by such shareholder, every shareholder of such corporation shall be notified in the manner prescribed by section twelve of this Act.

2. If at the meeting so convened shareholders representing three-fourths in value of the holders of each class of shares present in person or by proxy at such meeting, resolve to accept the proposal either as made or as altered or modified at the request of the meeting, it shall be deemed to be accepted by the shareholders.

3. If approved by the court such scheme of arrangement shall be binding upon all the shareholders

(a) In the case of a corporation incorporated by or under an Act of the Parliament of Canada, upon the filing in the office of the Secretary of State of a certified copy of the scheme and of the court's approval thereof, and

(b) in the case of a corporation incorporated other than by or under an Act of the Parliament of Canada, upon any necessary steps being taken to give effect thereto under the laws by or under which such company is incorporated. 1923, c. 31, s. 15.

22. All parts of this Act shall, so far as the nature of the case and the terms of the composition, extension or scheme admit, apply thereto as if the terms "trustee," "bankruptcy," "bankrupt," "assignment," "authorized assignment," "assignor," "authorized assignor," "order" and "order of adjudication" included respectively a composition, extension or scheme of arrangement, a compounding, extending or arranging debtor and an order approving the composition, extension or scheme. 1919, c. 36, s. 13

PART III

GENERAL

Property of Debtor

23. The property of the debtor divisible amongst his creditors (in this Act referred to as the property of the debtor) shall not comprise the following particulars:—

- (i) Property held by the debtor in trust for any other person;
- (ii) Any property which as against the debtor is exempt from execution or seizure under legal process in accordance with the laws of the province within which the property is situate and within which the debtor resides.

But it shall comprise the following particulars:—

- (a) All such property as may belong to or be vested in the debtor at the date of the presentation of any bankruptcy petition or at the date of the execution of an authorized assignment, and all property which may be acquired by or devolve on him before his discharge; and
- (b) The capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of the property as might have been exercised by the debtor for his own benefit at the date of said petition or assignment, or before his discharge. 1919, c. 36, s. 25; 1923, c. 31, s. 21.

Stay of Proceedings

24. On the making of a receiving order or authorized assignment, no creditor to whom the debtor is indebted in respect of any debt provable in bankruptcy shall have any remedy against the property or person of the debtor or shall commence or continue any action, execution or other proceedings for the recovery of a debt provable in bankruptcy unless with the leave of the court and on such terms as the court may impose.

2. Subject to the provisions of sections one hundred and six to one hundred and thirteen inclusive, any secured creditor or person holding security on the property of the debtor may realize or otherwise deal with his security in the same manner as he would have been entitled to realize or deal with it if this section had not been passed, unless the court otherwise orders.

3. The court shall not, however, in so ordering have power to postpone the right of any such secured creditor or person holding security on the property of the debtor as aforesaid to realize or otherwise deal with his security as aforesaid, except as hereinafter provided, namely:—

- (a) In the case of a security for a debt due at the date of the receiving order or authorized assignment or which becomes due not later than six months thereafter, such right shall not be postponed for more than six months from such date;
- (b) In the case of a security for a debt which does not become due until more than six months from the date of the receiving order or authorized assignment, such right shall not be postponed for more than six months from such date, unless all instalments of interest which are more than six months in arrears are paid and all other defaults of more than six months' standing are cured, and then, only so long as no instalment of interest remains in arrears or defaults remain uncured for more than six months, but, in any event, not beyond the date at which the debt secured by such security becomes payable under the instrument or law creating the security, except under paragraph (a) hereof. 1923 c. 31, s. 10.

General Provisions Relating to Receiving Orders and Assignments

25. Every receiving order and every authorized assignment made in pursuance of this Act shall take precedence over

- (a) all attachments of debts by way of garnishment, unless the debt involved has been actually paid over to the garnishing creditor or his agent; and
- (b) all other attachments, executions or other process against property, except such thereof as have been completely executed by payment to the execution or other creditor; and except also the rights of a secured creditor.

2. Notwithstanding the provisions of subsection one of this section, one bill of costs, including sheriff's fees, shall be payable to the garnishing, attaching or execution creditor who has first attached by way of garnishment or lodged with the sheriff an attachment, execution or other process against property. 1920, c. 34, s. 6; 1921, c. 17, s. 10; 1932, c. 39, s. 9.

26. An execution levied by seizure and sale on and of the goods of a debtor is not invalid by reason only of its being an act of bankruptcy, and a person who purchases the goods in good faith under a sale by the sheriff shall, in all cases, acquire a good title to them against the trustee.

2. If an authorized assignment or a receiving order has been made, the sheriff or other officer of any court having seized property of the debtor under execution or attachment or any other process, shall, upon receiving a copy of the assignment certified by the trustee named therein or of the receiving order certified by the registrar or other officer of the court which made it, forthwith deliver to the trustee all the property of the execution debtor in his hands.

3. If the sheriff has sold the debtor's estate or any part thereof, he shall deliver to the trustee the money so realized by him less his fees and the said costs. 1919, c. 36, s. 11; 1932, c. 39, s. 10.

27. No receiving order or authorized assignment or other document made or executed under authority of this Act shall, except as herein otherwise provided, be within the operation of any legislative enactment now or at any time in force in any province of Canada relating to deeds, mortgages, judgments, bills of sale, chattel mortgages, property or registration of documents affecting title to or liens or charges upon property, real or personal, immovable or movable. 1919, c. 36, s. 11.

28. A notice in the prescribed form of the receiving order or assignment and of the first meeting of creditors required to be called pursuant to this Act shall, as soon as possible after the making or executing of such receiving order or assignment, be gazetted by the custodian, and not less than six days prior to said meeting be published in a local newspaper.

2. The registrars of the courts of bankruptcy, and Official Receivers shall keep on file for public reference a copy of each issue of the *Canada Gazette* which contains any notice or notices of, incident to or resulting from receiving orders or authorized assignments referring to bankrupts or assignors who resided or carried on business in the province wherein the said courts are situated.

3. They shall also keep an index book wherein they shall enter alphabetically the name of each bankrupt and authorized assignor who resided or carried on business in such province prior to the date of the receiving order or assignment and in respect of whose estate a notice may at any time hereafter appear in the said *Canada Gazette*.

4. A fee not exceeding twenty-five cents for each search and fifty cents for each certificate may be charged by such registrar or Official Receiver.

5. The King's Printer, upon request of any person who is by this Act required to keep on file for public reference a copy of the *Canada Gazette*, shall regularly supply to such person, *gratis*, two copies of every issue of such Gazette. 1919, c. 36, s. 11; 1923, c. 31, s. 14; 1932, c. 39, s. 11.

29. Every receiving order and every authorized assignment (or a true copy certified as to such order by the registrar or other officer of the court which has made it, and as to such assignment certified by the Official Receiver therein named) may be registered or filed by or on behalf of the custodian or trustee in the proper office in every district, county or territory in which the whole or any part of any real or immovable property which the bankrupt or assignor owns or in which he has any interest or estate is situate.

2. The proper office in this section referred to shall be the land registration office, registry office or other office wherein, according to the law of the province, deeds or other documents of title to real or immovable property may or ought to be deposited, registered or filed.

3. From and after such registration or filing or tender thereof in the proper office to the registrar or other proper officer, such order or assignment shall have precedence of all certificates of judgment, judgments operating as hypothecs, executions and attachments against land (except such thereof as have been completely executed by payment) within such office or within the district, county or territory which is served by such office, but subject to a lien for the costs of registration and sheriff's fees, of such judgment, execution or attaching creditors as have registered or filed in such proper office their judgments, executions or attachments.

4. Every registrar or other officer for the time being in charge of such proper office to whom any custodian or trustee shall tender or cause to be tendered for registration or filing any such receiving order or authorized assignment shall register or file the same according to the ordinary procedure for registering or filing within such office, documents which evidence liens or charges against real or immovable property and subject to payment of the like fees.

5. At the time of the tender of such document for such purpose there must be annexed thereto as part thereof an affidavit substantially in form number one of the schedule to this Act.

6. In cases where the title to real, or immovable, property, or any lien or charge upon or against such property, is affected by any receiving order, or authorized assignment, there shall be added to such affidavit the words set out in form number two of the schedule to this Act, with the incidentally necessary description and information.

7. Such affidavit may be sworn before such registrar or other officer, or before a notary public or a commissioner authorized to administer oaths for use in any of the courts of the province. 1919, c. 36, s. 11; 1921, c. 17, s. 11; 1923, c. 31, s. 14; 1932, c. 39, s. 12.

29A. Whenever any land or charge, of which the debtor is owner, is registered under a Land Titles Act, a caution, in the form to be prescribed by General Rules, may be lodged with the proper master or registrar by the custodian or trustee, as the case may be, as soon as practicable after his appointment. No registration shall thereafter be made in respect of such land or charge on behalf of the said registered owner unless such caution be removed. Upon the caution being removed the land or charge shall be dealt with in the same manner as if no caution had been lodged.

2. Whenever the debtor is the owner of any land or charge registered under a Land Titles Act, the trustee shall, on production of evidence that the land or charge is part of the property of the debtor, be entitled to be registered as owner

free of all certificates of judgment, judgments operating as hypothecs, executions and attachments against land (except such thereof as have been completely executed by payment) within the office of such master or registrar or within the district, county or territory which is served by his office, but subject to a claim for the costs of registration and sheriff's fees, of such judgment, execution or attaching creditors as have registered or filed in such office their judgments, executions or attachments.

3. "Proper master or registrar" shall mean the master, local master or registrar under a Land Titles Act in whose office the land or charge of the debtor is registered. 1932, c. 39, s. 13.

30. If the receiving order or authorized assignment is not registered, or filed, or if notice of said receiving order or assignment is not published within the time and in the manner prescribed by this Part, an application may be made by any creditor or by the debtor to compel the registration or filing of the receiving order or assignment, or publication of such notice, and the judge shall make his order in that behalf and with or without costs, or upon the payment of costs by such person as he may, in his discretion, direct to pay the same.

2. The judge may, in his discretion, impose a penalty on the trustee for any omission, neglect or refusal so to register, file, or publish as aforesaid, in an amount not exceeding the sum of five hundred dollars, and such penalty when imposed shall forthwith be paid by the trustee personally into and for the benefit of the estate of the debtor.

3. Saving and preserving the rights of innocent purchasers, for value, neither the omission to publish or register as aforesaid, nor any irregularity in the publication or registration, shall invalidate the assignment or affect or prejudice the receiving order. 1919, c. 36, s. 11.

31. The provisions of subsection one of section twenty-five and subsection three of section twenty-nine of this Act shall not apply to any judgment or certificate of judgment registered against real or immovable property in any of the provinces of Nova Scotia, New Brunswick or Quebec prior to the first day of July, one thousand nine hundred and twenty, which became, under the laws of the province wherein it was registered, a lien or hypothec upon such real or immovable property. 1925, c. 31, s. 5.

32. Notwithstanding anything contained in this Act, any deed, conveyance, transfer, agreement for sale, mortgage, charge or hypothec made to or in favour of a *bona fide* purchaser or mortgagee for good and valuable consideration and covering any real or immovable property affected by a receiving order or an authorized assignment under this Act, shall be valid and effectual according to the tenor thereof and according to the laws of the province in which the said property is situate as fully and effectually and to all intents and purposes as if no receiving order or authorized assignment had been made under this Act, unless such receiving order or authorized assignment or notice thereof, or caution, has been registered against the said property in the proper office as required and defined by sections 29 and 29A of this Act, prior to the registration of any such deed, conveyance, transfer, agreement for sale, mortgage, charge or hypothec in accordance with the laws of the province in which the said property is situate. 1921, c. 17, s. 55; 1932, c. 39, s. 14.

33. No advantage shall be taken of or gained by any creditor through any mistake, defect or imperfection in any authorized assignment or in any receiving order or proceedings connected therewith, if the same can be amended or corrected; and any mistake, defect or imperfection may be amended by the court.

2. Such amendment may be made on application of the trustee or of any creditor on such notice being given to other parties concerned as the court shall think reasonable; and the amendment when made shall have relation back to the date of the assignment or petition in bankruptcy, but not so as to prejudice the rights of innocent purchasers for value. 1919, c. 36, s. 12; 1932, c. 39, s. 15.

PART IV

ADMINISTRATION OF ESTATES

The Custodian

34. The custodian whether appointed by the court pursuant to a receiving order, or by the Official Receiver pursuant to an authorized assignment, shall take immediate possession of the books and all the property of the debtor liable to seizure, and for the purpose of making an inventory thereof shall be entitled to enter upon any premises where the books or property of the debtor are, notwithstanding that such books or property are in the possession of a sheriff or secured creditor or other claimant thereto.

2. The custodian may under the direction of the Official Receiver take conservatory measures and summarily dispose of goods which are perishable or likely to depreciate rapidly in value, or may carry on the business of the debtor for such period as the court deems advisable.

3. The custodian shall remain in possession until a trustee is appointed by the creditors.

4. Any person appointed as custodian pursuant to the provisions of this Act, shall during the term of his office as such custodian be deemed to be an officer of the court, and shall when so appointed forthwith give such security for the proper performance of his duties as shall be prescribed by General Rules. 1923, c. 31, s. 9; 1932, c. 39, s. 16.

35. Notwithstanding anything contained in this Act, if the Lieutenant-Governor in Council of any province authorizes any officer of the provincial government to act as custodian and trustee under this Act, the Official Receiver shall in the case of any assignment by a person engaged solely in farming or the tillage of the soil appoint such officer as custodian.

2. Any officer so appointed to the office of custodian by the Official Receiver shall thereupon in addition to such office be and be deemed to be the trustee as if appointed under subsection one of section thirty-seven of this Act, and shall continue to be the trustee until properly removed under subsection two of the said section thirty-seven.

3. In case any such provincial officer is appointed custodian and trustee, he shall not be entitled under this Act to be paid any remuneration as custodian or trustee nor any of the costs enumerated as costs of custodian in Part III of the General Rules. 1925, c. 31, s. 4.

The Trustee

36. The Minister may issue a licence to any qualified person who has complied with the requirements of this Act and such person so licensed shall be a licensed trustee under this Act.

2. Any person desiring to obtain a licence to act as a trustee shall file with the Superintendent an application for licence in such form as may be prescribed, and shall deposit security for the due and faithful performance of his duties, in such form and amount as shall be prescribed. Such security may be enforced by the Superintendent for the benefit of the creditors.

3. The Superintendent shall make such investigation into the character, business experience, and efficiency of any applicant for licence as the Superintendent deems advisable or expedient, and shall report to the Minister the result of such investigation, together with his recommendation for or against the granting of the application and giving his reasons therefor.

4. The Minister, as soon as he has received a report from the Superintendent as to the qualifications of any applicant for licence, and that proper security has been duly deposited and that the applicant has conformed to the requirements of this Act may, if he considers it will be of public advantage so to do, issue the licence, and may in and by the licence restrict the powers and duties of the licensee to any bankruptcy district or any part thereof.

5. The licence shall be in the prescribed form and shall expire on the thirty-first of December in each year but may be renewed from year to year subject, however, to any qualification or limitation which may seem expedient. The fee payable for such licence and any renewal thereof shall be such as is prescribed.

6. The validity of any licence purporting to be issued by the Minister under this Act shall not be called in question on behalf or at the instance of any person other than the Minister.

7. Every licensed trustee shall for the purpose of obtaining possession of and realizing upon the assets of the bankrupt or authorized assignor have power to act as such anywhere.

8. Notwithstanding the provisions of this Act, when the debtor resides or carries on business at a distance far removed from the nearest licensed trustee, the Court of the Official Receiver may, having regard as far as the Court or Official Receiver deems just to the wishes of the creditors, appoint a responsible person residing in the locality of the debtor as custodian, and such person shall be eligible to be appointed by the creditors as trustee and shall, for the purposes of the administration of the estate of such debtor, have all the powers of a licensed trustee under this Act and thereupon the provisions of this Act shall apply to such person as if he had been duly licensed hereunder.

9. The word "prescribed" when used in this section means prescribed by the Minister. 1923, c. 31, s. 17; 1932, c. 39, s. 17.

36A. The Governor in Council may appoint an officer to be called the Superintendent of Bankruptcy who shall hold office during pleasure and who shall be paid such salary as may be authorized.

2. The Superintendent shall supervise, as herein provided, the administration of all bankrupt or insolvent estates to which this Act applies, except estates administered under section thirty-five hereof.

3. The Superintendent shall

- (a) keep a record of every application for licence received by him in cases where licences have been granted, and of the appointment of custodians and trustees pursuant to subsection eight of section thirty-six, and shall
- (b) enter in a book under the name of the person licensed the name of every insolvent debtor in respect of whose estate such licensee is appointed as trustee, the value from time to time of the assets in the hands of the licensee, and particulars of the security deposited by such licensee;
- (c) in each case before the renewal of any licence, make a report to the Minister that the application should or should not in his opinion be granted, giving his reasons therefor;
- (d) keep a record of the licences as they are issued;

- (e) from time to time make or cause to be made such inspection of the administration of estates as he deems expedient;
- (f) require each licensee under this Act from time to time either to increase or decrease the security deposited with the Superintendent to such extent as the Superintendent may from time to time determine;
- (g) receive and keep a record of all complaints from any creditor or other person interested in any bankrupt or insolvent estate coming under the jurisdiction of the Superintendent, and make such specific investigations with regard to such complaints as the Superintendent may determine, and report to the Minister thereon;
- (h) make a report to the Minister after any investigation by the Superintendent or any one on his behalf, if it should appear that any licensee under this Act has not fully complied with the law with regard to the proper administration of any bankrupt or insolvent estate together with such recommendations to the Minister as the Superintendent may deem advisable or expedient;
- (i) make such report to the court in connection with any application by a debtor or a trustee for his discharge as the Superintendent sees fit.

4. The Minister, after consideration of any report received by him from the Superintendent and after a reasonable time has been given to the licensee to be heard by him, and upon such further enquiry and investigation as he deems proper to make, may suspend or cancel the licence of any licensee, and in such case shall direct that such licensee be removed as trustee of all bankrupt or insolvent estates being administered by such licensee, and may appoint some other licensee to act as trustee in the place or stead of the trustee whose licence has been suspended or cancelled. The trustee so appointed by the Minister shall continue to act as trustee until removed or replaced by the Court or the creditors under this Act.

5. Such employees as are required to assist the Superintendent to perform his functions under this Act shall be appointed according to the provisions of the *Civil Service Act*. 1932, c. 39, s. 18.

37. The creditors shall at their first meeting appoint by ordinary resolution a trustee for the administration of the estate.

2. The creditors may, by ordinary resolution, at any meeting, and the court may for cause appoint a new trustee and remove a trustee who is in office.

3. When a new trustee is appointed or substituted, all the property and estate of the debtor shall forthwith vest in the new trustee without any conveyance or transfer, and he shall gazette a notice of the appointment or substitution and register an affidavit of his appointment in the office of the registrar of the court from which the receiving order was issued, or in the case of an authorized assignment, in every office in which the original assignment or copy or counterpart thereof was lodged, registered or filed.

4. Registration of such affidavit in any land registration district, land titles office, registry office or other land registration office, or lodging or filing such affidavit as aforesaid, shall have the same effect as the registration, lodging or filing of a conveyance or of a transfer to the new trustee.

5. The new trustee shall pay to the removed trustee, out of the funds of the estate, his proper remuneration and disbursements, which shall be ascertained as provided by section eighty-five of this Act.

6. No trustee shall be bound to assume the duties of trustee in matters relating to assignments or receiving orders or to compositions, extensions, or arrangements by debtors.

7. The court, upon being satisfied that there are assets which have not been realized or distributed under this Act may, on the application of any person interested, at any time after the discharge of the trustee as hereinafter provided for, appoint a trustee to complete the administration of the estate. Such trustee shall be governed by the provisions of this Act as if appointed trustee in the first instance.

8. Every trustee duly appointed shall, in addition to the security required by section 36A of this Act, forthwith give security in cash or by bond of an approved guarantee company, satisfactory to the Official Receiver for the due accounting for, the payment and the transfer of all moneys and property received by him as trustee. Such security shall be deposited with the Official Receiver and shall be given in favour of the creditors generally and may be enforced by one of them on behalf of all by direction of the court. The amount of the said security may be reduced by the Official Receiver at any time or from time to time during the administration of the estate on resolution of the Inspectors. 1919, c. 36, s. 15; 1923, c. 31, s. 18; 1932, c. 39, s. 19.

Official Name

38. The official name of a trustee acting in bankruptcy or authorized assignment proceedings shall be "The Trustee of the Property of..... a Bankrupt (or Authorized Assignor)" (inserting the name of the bankrupt or assignor), and by that name the trustee may in any part of Canada or elsewhere hold property of every description, make contracts, sue or be sued, enter into any engagement binding on himself and his successors in office, and do all other acts necessary or expedient to be done in the execution of his office. 1919, c. 36, s. 16; 1932, c. 39, s. 20.

Duties and Powers of Trustee

39. The trustee shall, as soon as may be, take possession of the deeds, books and documents of the debtor and all other parts of his property capable of manual delivery.

2. The trustee shall, in relation to and for the purpose of acquiring or retaining possession of the property of the debtor, be in the same position as if he were a receiver of the property, appointed by the court, and the court may, on his application enforce such acquisition or retention accordingly. 1919, c. 36, s. 17.

40. The trustee shall forthwith insure and keep insured in his official name until sold or disposed of, all the insurable property of the debtor, to the fair realizable value thereof or to such other insurable amount as may be approved by the inspectors or by the court, in insurance companies authorized to carry on business in the province wherein the insured property is situate.

2. All insurance covering property of the debtor in force at the date of the making of such receiving order or execution of such assignment shall, immediately upon such making or executing, and without any notice to the insurer or other action on the part of the trustee, and notwithstanding any statute or rule of law or contract or provision to a contrary effect, become and be, in the event of loss suffered, payable to the trustee, as fully and effectually as if the name of the trustee were written in the policy or contract of insurance as that of the insured, or as if no change of title or ownership had come about and the trustee were the insured. 1919, c. 36, s. 17; 1921, c. 17, s. 17; 1932, c. 39, s. 21.

41. Subject to the provisions of this Act, trustee may do all or any of the following things:—

- (a) Give receipts for any money received by him, which receipts shall effectually discharge the person paying the money from all responsibility in respect of the application thereof;
- (b) Prove, rank, claim and draw a dividend in respect of any debt due to the debtor;
- (c) Exercise any powers the capacity to exercise which is vested in the trustee under this Act, and execute any powers of attorney, deeds and other instruments for the purpose of carrying into effect the provisions of this Act. 1919, c. 36, s. 18.

42. A trustee may at any time apply to the court for directions in relation to any matter affecting the administration of the estate of a bankrupt, an authorized assignor or a debtor who has made a proposal for a composition, extension or scheme of arrangement.

2. The court shall give in writing such directions, if any, as may be proper according to the circumstances and not inconsistent with this Act, which directions shall bind as well as justify the subsequent consonant action of, the trustee. 1921, c. 17, s. 18.

43. The trustee may, with the permission in writing of the inspectors, do all or any of the following things:—

- (a) Sell all or any part of the property of the debtor, including the goodwill of the business, if any, and the book debts due or growing due to the debtor, 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;
- (aa) lease any real or immovable property for such period and on such terms as the court may direct.
- (b) Carry on the business of the debtor, so far as may be necessary for the beneficial winding-up of the same;
- (c) Bring, institute, or defend any action or other legal proceeding relating to the property of the debtor;
- (d) Employ a solicitor or other agent to take any proceedings or do any business, which may be sanctioned by the inspectors;
- (e) Accept as the consideration for the sale of any property of the debtor a sum of money payable at a future time subject to such stipulations as to security and otherwise as the inspectors think fit;
- (f) Mortgage or pledge any part of the property of the debtor for the purpose of raising money for the payment of his debts;
- (g) Refer any dispute to arbitration, compromise any debts, claims and liabilities, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the debtor and any person who may have incurred any liability to the debtor, on the receipt of such sums, payable at such time, and generally on such terms, as may be agreed on;
- (h) Make such compromise or other arrangement as may be thought expedient with creditors, or persons claiming to be creditors, in respect of any debts provable against the estate;
- (i) Make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the property of the debtor, made or capable of being made on the trustee by any person or by the trustee on any person;

- (j) Divide in its existing form amongst the creditors, according to its estimated value, any property which from its peculiar nature or other special circumstances cannot be readily or advantageously sold;
- (k) Elect to retain for the whole or part of its unexpired term, or to assign or disclaim, the whole pursuant to this Act, any lease of, or other temporary interest in any property forming part of the estate of the debtor.

2. The permission given for the purposes of this section shall not be a general permission to do all or any of the above mentioned things, but shall only be a permission to do the particular thing or things or class of thing or things which the written permission specifies. 1919, c. 36, s. 20; 1921, c. 17, ss. 19 and 20; 1932, c. 39, s. 22.

Sales by Trustee

44. All sales of property made by the trustee shall vest in the purchaser all the legal and equitable estate of the debtor therein. 1919, c. 36, s. 20.

Sales in Quebec

45. In the province of Quebec no immovable property whereon exists a hypothec or a privilege shall be sold by the trustee without the permission in writing of the inspectors and the authorization of the judge and after notice has been given to each hypothecary or privileged creditor, whose name is entered in the register of addresses which the registrars of the registration divisions are obliged to keep according to the laws of the province.

2. The sale of such immovable property, unless a written consent to the contrary is obtained from each hypothecary or privileged creditor whose claim has been duly registered, or unless the sale is made subject to hypothec or privilege of any such creditor not so consenting, shall be made at public auction at the place prescribed and after advertisement as required for the sale of immovable property, by the sheriff in the district or place where such immovable property is situate: Provided that in case of a sale of property situate in more than one district or place the court may direct a sale of all such property as an entirety at one place, to be specified in the order, and after such notice as the court may direct.

3. Any sale at public auction under the provisions of this section shall have the same effect as a sheriff's sale in the said province, and shall be subject to the contribution to the Public Buildings and Jury Fund provided for in the case of sheriff's sale.

4. In case of false bidding, the same recourse as in case of sheriff's sale may be exercised against the false bidder in the manner prescribed by the laws of the province.

5. This section shall not be interpreted as affecting the right of a secured creditor to realize or otherwise deal with his security as provided by this Act.

6. On such sales, the trustee shall fulfil all the duties imposed on the sheriff by articles two thousand one hundred and sixty-one (d) to two thousand one hundred and sixty-one (k) inclusive of the civil code of the province of Quebec. The registrars of the different registration divisions of the said province shall also fulfil all the duties imposed upon them by the said articles, and shall be deemed to be officers of the court having jurisdiction in bankruptcy for the carrying out of the provisions of this section.

7. The omission to comply with any of the provisions of the said articles shall not invalidate any proceedings of the sale but the officer in default shall be responsible for all damages which may result therefrom.

8. When an immovable property affected by a hypothec or privilege is sold by the sheriff, the moneys realized from the sale shall remain in his hands to be paid by him to the privileged and hypothecary creditors in accordance with the report of distribution made by the prothonotary of the Superior Court and the surplus shall be remitted to the trustee upon an order of the judge for its distribution among the ordinary creditors in accordance with the provisions of this Act. 1923, c. 31, s. 20.

Management by Debtor

46. The trustee, with the permission in writing of the inspectors, may appoint the debtor himself to superintend the management of the property of the debtor or any part thereof, or to carry on the trade of the debtor for the benefit of his creditors, and in any other respect to aid in administering the property in such manner and on such terms as the trustee may direct.

2. The trustee may, with like permission, make from time to time such allowance as he may think just to the debtor out of his property for the support of the debtor and his family, or in consideration of his services, if he is engaged in winding-up his estate, but any such allowance may be reduced by the court. 1919, c. 36, s. 21.

47. Where any property of the debtor vesting in a trustee consists of patented articles or goods which were sold to the debtor subject to any restrictions or limitations, the trustee shall not be bound by any such restrictions or limitations but may sell and dispose of any such patented articles, or goods as hereinbefore provided, free and clear of any such restrictions or limitations.

2. If the manufacturer or vendor of any such patented articles or goods objects to the disposition of them by the trustee as aforesaid and gives to the trustee notice in writing of such objection within five days after the date of his appointment such manufacturer or vendor shall have the right to purchase such patented articles or goods at the invoice prices thereof, subject to any reasonable deduction for depreciation or deterioration. 1919, c. 36, s. 19; 1923, c. 31, s. 19.

48. Where the property of a bankrupt or authorized assignor comprises the copyright in any work or any interest in such copyright, and he is liable to pay to the author of the work royalties or a share of the profits in respect thereof, the trustee shall not be entitled to sell, or authorize the sale of, any copies of the work, or to perform or authorize the performance of the work, except on the terms of paying to the author such sums by way of royalty or share of the profits as would have been payable by the bankrupt or authorized assignor, nor shall he, without the consent of the author or of the court, be entitled to assign the right or transfer the interest or to grant any interest in the right by license, except upon terms which will secure to the author payments by way of royalty or share of the profits at a rate not less than that which the bankrupt or authorized assignor was liable to pay. 1919, c. 36, c. 19.

49. No property of an estate of a bankrupt or of an authorized assignor shall be removed out of the province where such property was at the date when the receiving order or authorized assignment was made, without the permission in writing of the inspectors or the order of the court in which proceedings under this Act are being carried on or within the jurisdiction of which such property is situate. 1919, c. 36, s. 26; 1931, c. 17, s. 23.

50. The trustee shall deposit in a chartered bank the proceeds of the sale of any property of the estate of the bankrupt or the authorized assignor and all other moneys realized on account of any trust estate which he is administering under this Act and he shall not withdraw or remove therefrom, without the per-

mission in writing of the inspectors or the order of the court, any such moneys, except for payment of dividends and other charges incidental to the administration of the estate.

2. No trustee under a receiving order, authorized assignment or composition or scheme of arrangement shall pay any sums received by him as a trustee into his private banking account. 1919, c. 36, s. 26; 1921, c. 17, s. 23.

51. Subject to the provisions of subsection two a trustee with the permission in writing of the inspectors, an interim receiver or custodian may incur obligations, borrow money and give security on any property of the estate by mortgage, hypothec, charge, assignment, pledge or otherwise including security under the provisions of the *Bank Act*, and make necessary or advisable advances, which obligations and advances so incurred or made, and moneys so borrowed, shall be discharged or repaid to the lender or to the trustee, interim receiver, or custodian out of the assets of the debtor in priority to the claims of the creditors.

2. The powers of a trustee, interim receiver or custodian to borrow money and give security therefor shall be limited to the borrowing of money in such amounts and on such terms and to the giving of security to such amount and upon such property of the estate and in such manner as may be authorized by the court, and for the purpose of giving security under section eighty-eight of the *Bank Act* the trustee, interim receiver or custodian, if authorized to carry on the business of the debtor, shall be deemed to be a person engaged in the class of business previously carried on by the debtor.

3. The creditors or inspectors may by resolution limit the amount of the obligations which may be incurred, the advances which may be made or moneys which may be borrowed by the trustee and may limit the period of time during which the business of the debtor may be continued by the trustee.

3A. The trustee shall not be under obligation to continue the business of the debtor if in his opinion the realizable value of the assets of the debtor is insufficient to protect him fully against possible loss occasioned by so doing, and if the creditors, upon demand made by the trustee, neglect or refuse to secure him against such possible loss.

4. If the creditors, within ten days after demand by the trustee (made to the inspectors or at any meeting of creditors called by the trustee for the purpose of making such demand) refuse or neglect to repay to the trustee all money advances made by him or obtained in whole or in part upon his credit or responsibility and to secure the trustee to an extent adequate in his opinion or (if the trustee and the creditors cannot agree) in that of the court, in respect of all liabilities incurred or which may be incurred by the trustee in so carrying on the business of the debtor, the court may, upon application of the trustee, order that the property of the debtor be offered for sale by tender, to be addressed to and opened by the court, at any time to be named by the court, and after the opening of any tenders received and subject to the directions and approval of the court, sell the whole or any part of the property of the debtor and apply the proceeds to the payment of the advances, liabilities, expenses and proper costs made and secured by the trustee in the administration of the estate of the debtor.

5. If the property of a debtor is so offered for sale and, within thirty days after the time set for the opening of tenders, no tender or offer of an amount sufficient to repay the advances made and liabilities incurred by the trustee and also his proper costs and expenses, is received by the court, then the court may, after such notice to the debtor and the creditors as to it may seem proper, permit the trustee, in his personal capacity, to bid such a sum as is sufficient to repay him his advances, costs, expenses, and the amount of any liabilities incurred by him and reasonable remuneration and, conditional upon no higher bid being

received before actual vesting of the property in him in his personal capacity, to purchase the whole or any part of such property at such prices and upon such terms as shall be approved by the court.

6. If the trustee so purchases the whole or any part of such property it shall pass to and vest in him in his personal capacity when the court so orders whereupon all rights and interests of the debtor and the creditors in or to it shall be determined and ended. 1919, c. 36, s. 27; 1921, c. 17, s. 24; 1923, c. 31, s. 21A; 1932, c. 39, s. 23.

52. Where the trustee has seized or disposed of any property in the possession or on the premises of a debtor against whom a receiving order has been made or by whom an authorized assignment has been made, without notice of any claim by any person in respect of such property and it is thereafter made to appear that the property was not at the date of the making of said receiving order or assignment the property of the debtor, the trustee shall not be personally liable for any loss or damage arising from such seizure or disposal sustained by any person claiming such property, nor for the costs of any proceedings taken to establish a claim thereto, unless the court is of opinion that the trustee has been guilty of negligence in respect of the same. 1919, c. 36, s. 22.

53. Where any goods of a debtor against whom a receiving order has been made or by whom an authorized assignment has been made, are held by any person by way of pledge, pawn, or other security, it shall be lawful for the trustee, after giving notice in writing of his intention to do so, to inspect the goods, and, where such notice has been given, such person as aforesaid shall not be entitled to realize his security until he has given the trustee a reasonable opportunity of inspecting the goods and of exercising his right of redemption if he thinks fit to do so. 1919, c. 36, s. 22.

54. Where any goods in the charge or possession of a debtor at the time when a receiving order or an authorized assignment is made are alleged to be in his charge or possession subject to the ownership or a special or general property right, or right of possession in another person, and whether or not such goods are held by the debtor under or subject to the terms of any lien, consignment, agreement, hire receipt, or order, or any agreement providing or implying that the ownership of, property in, or right to possession of such goods, or other or like goods in exchange or substitution, shall vest in or pass to the debtor only upon payment of defined or undefined moneys, or upon performance or abstention from performance of any acts or conditions, the person alleged or claiming to own such goods or such special or general property or right of possession therein or thereof shall not, by himself or his agents or servants, nor shall his agents or servants, remove or attempt to remove such goods or any thereof out of the charge or possession of the debtor, or of the trustee or any actual custodian thereof, until the elapse of fifteen days after delivering notice in writing to the trustee of intention so to remove.

2. It shall not be implied from these provisions that the rights of others than the trustee have been thereby in any manner extended. 1921, c. 17, s. 21.

55. The trustee of a bankrupt or assignor shall keep, in manner prescribed, proper books, in which he shall from time to time cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor of the bankrupt or authorized assignor may, subject to the control of the court, personally or by his agent inspect any such books. 1919, c. 36, s. 23.

56. 1. The trustee of a bankrupt or assignor shall from time to time report,

- (a) when required by the inspectors, to every creditor; and
- (b) when required by any specific creditor, to such creditor, and
- (c) when required by the Superintendent to such Superintendent,

showing the condition of the debtor's estate, the moneys on hand, if any, and particulars of any property remaining unsold.

2. The trustee shall be entitled to charge against the estate of the debtor, for the preparation and delivery of any such report, only his actual disbursements. 1919, c. 36, s. 24; 1932, c. 39, s. 24.

57. 1. The trustee of a bankrupt or assignor shall promptly after their receipt or preparation mail to the Superintendent and to the Dominion Statistician. Department of Trade and Commerce, Ottawa, a true copy of

- (a) the notice referred to in section twenty-eight of this Act;
- (b) the statement referred to in section one hundred and twenty-nine of this Act;
- (c) the abstract of receipts and disbursements and the dividend sheet referred to in section seventy-eight of this Act;
- (d) every order made by the court upon the application for discharge of any bankrupt or authorized assignor;
- (e) the statement prepared by the trustee upon which a final dividend is declared; and
- (f) any order made under subsection five of section nineteen of this Act annulling any adjudication of bankruptcy.

2. Any person shall be entitled to examine and make copies of all or any of the documents mentioned in subsection one hereof, which are in the possession of the trustee. 1919, c. 36, s. 24; 1921, c. 17, s. 22; 1932, c. 39, s. 25.

58. The law of set-off shall apply to all claims made against the estate, and also to all actions instituted by the trustee for the recovery of debts due to the debtor in the same manner and to the same extent as if the debtor were plaintiff or defendant, as the case may be, except in so far as any claim for set-off shall be affected by the provisions of this Act respecting frauds or fraudulent preferences. 1919, c. 36, s. 28.

59. If any debtor who has made an authorized assignment or against whom a receiving order has been made, owes or owed debts both individually and as a member of one or more different co-partnerships, the claims shall rank first upon the estate by which the debts they represent were contracted, and shall only rank upon the other or others after all the creditors of such other estate or estates have been paid in full. 1919, c. 36, s. 28; 1932, c. 39, s. 26.

Settlement and Preferences

60. Any settlement of property made after the thirtieth day of June, one thousand nine hundred and twenty, shall, if the settlor becomes bankrupt or makes an authorized assignment within one year after the date of the settlement, be void against the trustee.

2. Any such settlement shall, if the settlor becomes bankrupt or makes an assignment as aforesaid at any subsequent time within five years after the date of the settlement be void against such trustee, unless the parties claiming under the settlement can prove that the settlor was, at the time of making the settle-

ment, able to pay all his debts without the aid of the property comprised in the settlement, and that the interest of the settlor in such property passed to the trustee of such settlement on the execution thereof.

3. This section shall not extend to any settlement made

- (a) before and in consideration of marriage, or
- (b) in favour of a purchaser or incumbrancer in good faith and for valuable consideration, or
- (c) on or for the wife or children of the settlor of property which has accrued to the settlor after marriage in right of his wife. 1919, c. 36, s. 29.

61. Any covenant or contract made after the thirtieth day of June, one thousand nine hundred and twenty, by any person (hereinafter called "the settlor") in consideration of his or her marriage, either for the future payment of money for the benefit of the settlor's wife or husband or children, or for the future settlement on or for the settlor's wife or husband or children, of property, wherein the settlor had not at the date of the marriage any estate or interest, whether vested or contingent, in possession or remainder, and not being money or property in right of the settlor's wife or husband, shall, if the settlor is adjudged bankrupt or makes an authorized assignment as aforesaid, and the covenant or contract has not been executed at the date of the petition in bankruptcy or said assignment, be void against such trustee except so far as it enables the persons entitled under the covenant or contract to claim for dividend in the settlor's bankruptcy or assignment proceedings under or in respect of the covenant or contract, but any such claim to dividend shall be postponed until all claims of the other creditors for valuable consideration in money or money's worth have been satisfied. 1919, c. 36, s. 29.

62. Any payment of money made after the thirtieth day of June, one thousand nine hundred and twenty, not being payment of premiums on a policy of life insurance in favour of the husband, wife, child or children of the settlor, or any transfer of property hereafter made by the settlor in pursuance of such a covenant or contract as aforesaid, shall be void against the trustee unless the person to whom the payment or transfer was made, prove either

- (a) that the payment or transfer was made more than six months before the date of the petition in bankruptcy or the date of the authorized assignment; or
- (b) that at the date of the payment or transfer the settlor was able to pay all his debts without the aid of the money so paid or the property so transferred; or
- (c) that the payment or transfer was made in pursuance of a covenant or contract to pay or transfer money or property expected to come to the settlor from or on the death of a particular person named in the covenant or contract and was made within three months after the money or property came into the possession or under the control of the settlor.

2. In the event of any such payment or transfer being declared void, the persons to whom it was made shall be entitled to claim for dividend under or in respect of the covenant or contract in like manner as if it had not been executed at the date of the said petition or assignment.

3. For the purpose of this section and sections sixty and sixty-one "settlement" shall include any conveyance or transfer of property. 1919, c. 36, s. 29.

63. Where a person engaged in any trade or business makes an assignment of his existing or future book debts or any class or part thereof, and is subsequently adjudicated bankrupt or makes an authorized assignment, the assign-

ment of book debts shall be void against the trustee in the bankruptcy or under the authorized assignment, as regards any book debts which have not been paid at the date of the presentation of the petition in bankruptcy or of the making of the authorized assignment.

2. This section shall not apply if, in the province where the assignor has his principal place of business, there is a statute providing for the registration of such assignment, and if the assignment is registered in compliance therewith.

3. Nothing in this section shall have effect so as to render void any assignment of book debts, due at the date of the assignment from specified debtors, or of debts growing due under specified contracts, or any assignment of book debts included in a transfer of a business made *bona fide* and for value, or in any authorized assignment.

4. For the purposes of this section "assignment" includes assignment by way of security and other charges on book debts. 1919, c. 36, s. 30; 1922, c. 8, s. 4; 1932, c. 39, s. 27.

64. Every conveyance or transfer of property or charge thereon made, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any insolvent person in favour of any creditor or of any person in trust for any creditor with a view of giving such creditor a preference over the other creditors shall, if the person making, incurring, taking, paying or suffering the same is adjudged bankrupt on a bankruptcy petition presented within three months after the date of making, incurring, taking, paying or suffering the same, or if he makes an authorized assignment, within three months after the date of the making, incurring, taking, paying or suffering the same, be deemed fraudulent and void as against the trustee in the bankruptcy or under the authorized assignment.

2. If any such conveyance, transfer, payment, obligation or judicial proceeding has the effect of giving any creditor a preference over other creditors, or over any one or more of them, it shall be presumed *prima facie* to have been made, incurred, taken, paid or suffered with such view as aforesaid whether or not it was made voluntarily or under pressure and evidence of pressure shall not be receivable or avail to support such transaction.

3. For the purpose of this section, the expression "creditor" shall include a surety or guarantor for the debt due to such creditor. 1920, c. 34, s. 8.

65. Subject to the foregoing provisions of this Act with respect to the effect of bankruptcy or of an authorized assignment on an execution, attachment or other process against property, and with respect to the avoidance of certain settlements and preferences, nothing in this Act shall invalidate, in the case of a receiving order or an authorized assignment,

- (a) any payment by the bankrupt or assignor to any of his creditors;
- (b) any payment or delivery to the bankrupt or assignor;
- (c) any conveyance or transfer by the bankrupt or assignor for adequate valuable consideration;
- (d) any contract, dealing, or transaction by or with the bankrupt or assignor for adequate valuable consideration;

Provided that both the following conditions are complied with, namely:—

- (i) That the payment, delivery, conveyance, assignment, transfer, contract, dealing, or transaction, as the case may be, is in good faith and takes place before the date of the receiving order or authorized assignment;
- and

- (ii) That the person, other than the debtor, to, by, or with whom the payment, delivery, conveyance, assignment, transfer, contract, dealing or transaction was made, executed or entered into, has not at the time of the payment, delivery, conveyance, assignment, transfer, contract dealing or transaction, notice of any available act of bankruptcy committed by the bankrupt or assignor.

2. The expression "adequate valuable consideration" in paragraph (c) of this section means a consideration of fair and reasonable money value with relation to that of the property conveyed, assigned or transferred, and in paragraph (d) hereof means a consideration of fair and reasonable money value with relation to the known or reasonably to be anticipated benefits of the contract, dealing or transaction. 1919, c. 36, s. 32; 1921, c. 17, s. 26.

66. If a person in whose favour any settlement of property, conveyance or transfer which is void under this Act has been made, shall have sold, disposed of, realized on or collected the property so conveyed or transferred, or any part thereof, the money or other proceeds, whether further disposed of or not, shall be deemed the property of the trustee as such.

2. The trustee may recover such property or the value thereof from the person in whose favour such settlement of property, conveyance or transfer was made or from any other person, to whom the person in whose favour such settlement of property, conveyance or transfer was made may have resold, redispensed of or paid over the proceeds of such property as fully and effectually as the trustee could have recovered the same if it had not been so sold, disposed of, realized on or collected.

3. Notwithstanding the provisions of subsection one of this section, where any person to whom such property has been sold or disposed of shall have paid or given therefor in good faith fair and reasonable consideration he shall not be subject to the operation of this section but the trustee's recourse shall be solely against the person in whose favour such settlement was made for recovery of the consideration so paid or given or the value thereof.

4. In case the consideration payable for or upon any sale or resale of such property or any part thereof shall remain unsatisfied the trustee shall be subrogated to the rights of the vendor to compel payment or satisfaction. 1919, c. 36, s. 33.

67. All transactions by a bankrupt or authorized assignor with any person dealing with him *bona fide* and for value, in respect of property, whether real or personal acquired by the bankrupt or authorized assignor after the making of a receiving order or authorized assignment shall, if completed before any intervention by the custodian or the trustee, be valid against the trustee, and any estate or interest in such property which by virtue of this Act is vested in the trustee shall determine and pass in such manner and to such extent as may be required for giving effect to any such transaction.

2. For the purposes of this section, the receipt of any money, security or negotiable instrument from or by the order or direction of a bankrupt or authorized assignor by his banker, and any payment and any delivery of any security or negotiable instrument made to, or by the order or direction of a bankrupt or authorized assignor, by his banker, shall be deemed to be a transaction by the bankrupt or authorized assignor with such a banker dealing with him for value. 1925, c. 31, s. 7.

68. Where a banker has ascertained that a person having an account with him is an undischarged bankrupt or has made an authorized assignment, then, unless the banker is satisfied that the account is on behalf of some other person, it shall be his duty forthwith to inform the trustee of the existence of the account,

and thereafter he shall not make any payments out of the account, except under an order of the court or in accordance with instructions from the trustee, unless upon the expiration of one month from the date of giving the information no instructions have been received from the trustee. 1919, c. 36, s. 34; 1921, c. 17, s. 56.

69. If at any time a creditor desires to cause any proceeding to be taken which, in his opinion, would be for the benefit of the bankrupt's or authorized assignor's estate, and the trustee, under the direction of the creditors or inspectors, refuses or neglects to take such proceedings after being duly required to do so, the creditor may, as of right, obtain from the court an order authorizing him to take proceedings in the name of the trustee, but at his own expense and risk, upon such terms and conditions as to indemnity to the trustee as the court may prescribe.

2. Any benefit derived from the proceedings shall to the extent of his claim and full costs, belong exclusively to the creditor instituting the same.

3. If, before such order is granted, the trustee shall, with the approval of the inspectors, signify to the court his readiness to institute the proceedings for the benefit of the creditors the order shall prescribe the time within which he shall do so, and in that case the advantage derived from the proceedings, if instituted within such time, shall belong to the estate. 1919, c. 36, s. 35.

Contributories to Insolvent Corporations

70. Every shareholder or member of a corporation or his representative shall be liable to contribute the amount unpaid on his shares of the capital or on his liability to the corporation or to its members or creditors, as the case may be, under the act, charter or instrument of incorporation of the company or otherwise.

2. The amount which the contributory is liable to contribute shall be deemed an asset of the corporation and a debt payable to the trustee forthwith upon the making of a receiving order against the corporation or on the execution by the corporation of an authorized assignment.

3. If a shareholder has transferred his shares under circumstances which do not, by law, free him from liability in respect thereof, or if he is by law liable to the corporation or to its members or creditors, as the case may be, to an amount beyond the amount unpaid on his shares, he shall be deemed a member of the corporation for the purposes of this Act and shall be liable to contribute as aforesaid to the extent of his liability to the corporation or its members or creditors independently of this Act.

4. The amount which he is so liable to contribute shall be deemed an asset and a debt as aforesaid. 1919, c. 36, s. 36; 1921, c. 17, s. 57.

71. The trustee may from time to time make demand on any contributory requiring him to pay to the trustee within thirty days from and after the date of the service of such demand, the amount for which such person is so liable to contribute or such portion thereof as the trustee deems necessary or expedient.

2. Any such demand shall be deemed to have been properly served if delivered personally to the contributory or if a copy of the same is mailed in a registered prepaid letter addressed to the contributory at his last known address or at the address shown in or by the stock register or other books of the corporation.

3. If the contributory disputes liability, either in whole or in part, he shall within fifteen days from the service of such demand give notice in writing to the trustee stating therein what portion of the demand is disputed and setting out

his grounds of defence and he shall not thereafter, unless by leave of the court, be permitted to plead in any action or proceeding brought against him by the trustee any grounds of defence of which he has not notified the trustee within said fifteen days.

4. If at the expiration of thirty days from the date of the service of such demand the contributory has not paid to the trustee the required amount, the trustee may take proceedings against the contributory for the recovery thereof in the manner provided by General Rules.

5. If the contributory considers the demand excessive or unjust he may apply to the court to reduce or disallow it.

6. If the court considers the demand to be grossly excessive or unjust it may order the trustee to pay personally the costs of any such application. 1919, c. 36, s. 36; 1920, c. 34, s. 9.

72. The court shall, on the application of any contributory, adjust the rights of the contributories among themselves, and, for the purpose of facilitating such adjustment may direct the trustee to intervene, carry the proceedings, employ legal or other assistance and make such investigations, do such acts and furnish such information as to the court may seem necessary or advisable.

2. The court shall allow to the trustee and to any solicitor, advocate or counsel or other assistant employed by him under the provisions of the immediately preceding subsection, as against the contributories or any of them such remuneration, expenses and costs as the court shall deem just, and such remuneration, expenses and costs shall be paid out of such moneys as shall be collected from contributories under the order or direction of the court for the purposes of the adjustment or out of moneys payable to the contributories by the estate of the debtor, as the court shall order, but such remuneration, expenses and costs shall not be payable in any event out of the general estate of the debtor.

3. The court, before proceeding to adjust the rights of contributories among themselves, as by subsection one of this section provided, may order that the contributory applying shall provide security, in form and amount satisfactory to the court, for the payment of such remuneration, expenses and costs as will be incident to such adjustment, and, in default of such security being provided as and when ordered, the court may refuse to proceed with such adjustment. 1921, c. 17, ss. 27 and 28.

73. The provisions of sections seventy, seventy-one and seventy-two shall apply only to corporations which have become bankrupt or authorized assignors under this Act.

2. The word "contributory" as used in the three last preceding sections means such shareholder or member of a corporation as is referred to in subsection one of section seventy. 1919, c. 36, s. 36.

Dividends

74. Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the trustee shall, with all convenient speed, declare and distribute dividends amongst the creditors who have proved their debts.

2. Such dividend as can be paid shall be so paid within six months from the date of the receiving order or assignment, and earlier, if required by the inspectors.

3. A further dividend shall be paid whenever the trustee has sufficient moneys on hand to pay to the creditors ten per cent, and more frequently if required by the inspectors, until the estate is wound up and disposed of.

4. No action for a dividend shall lie against the trustee, but if the trustee refuses to pay any dividend, the court may, if it thinks fit, order him to pay it, and also to pay out of his own money interest thereon for the time that it is withheld and the costs of the application. 1919, c. 36, s. 37.

75. The trustee may, at any time after the first meeting of creditors, give notice by registered mail prepaid to every person of whose claim to be a creditor with a provable debt the trustee has notice or knowledge, but whose said debt has not been proved, that if such person does not prove his debt within a period limited by the notice and expiring not sooner than thirty days after the mailing of the notice the trustee will proceed to make a dividend or final dividend without regard to such person's claim.

2. If any person so notified does not prove his debt within the time limited or within such further time as the court, upon proof of merits and satisfactory explanation of the delay in making proof, may allow, the claim of such person shall, notwithstanding anything in this Act, be excluded from all share in any dividend. 1921, c. 17, s. 30.

76. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled upon proof of such debt to be paid out of any money for the time being in the hands of the trustee any dividend or dividends he may have failed to receive, before that money is applied to the payment of any future dividend or dividends but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein. 1919, c. 36, s. 37; 1921, c. 17, s. 29.

77. When sections twenty-eight and eighty-eight have been complied with as to gazetting, publishing and mailing notices to creditors, the trustee, having realized all the property of the bankrupt or authorized assignor or all thereof that can, in the joint opinion of himself and of the inspectors, be realized without needlessly protracting the trusteeship, and settled or determined or caused to be settled or determined the claims of all creditors to rank against the estate of the debtor, shall make a final dividend and be at liberty subject to the various provisions of this Act, to divide the property of the debtor among the creditors who have proved their debts without regard to the claims of any other claimants. 1921, c. 17, s. 31; 1923, c. 31, s. 22.

78. So soon as a final dividend sheet is prepared, the trustee shall send by registered mail to every creditor, to the Registrar and to the Superintendent

- (a) a notice of the fact,
- (b) an abstract of his receipts and expenditures as trustee which abstract shall indicate what amount of interest has been received by the trustee for moneys in his hands, and
- (c) a copy of the dividend sheet with notice thereon
 - (i) of the claims objected to and
 - (ii) whether any reservation has been made therefor and
- (d) notice that he will apply to the court on a day named therein for his discharge.

2. After the expiry of fifteen days from the date of the mailing of the last of said notices, abstracts and dividend sheets, dividends on all debts not objected to up to the time of the payment shall be paid. 1919, c. 36, s. 37; 1923, c. 31, s. 22; 1932, c. 39, s. 28.

79. Notwithstanding the declaration of a final dividend if any assets reserved for contingent claims, or assets subsequently received, become available for the payment of a further dividend and the necessary expenses of declaring

the same, the trustee shall declare and pay such further dividend. 1921, c. 17, s. 58.

80. Where one partner of a firm is adjudged bankrupt, or makes an authorized assignment, a creditor to whom the bankrupt is indebted jointly with the other partners of the firm, or any of them, shall not receive any dividend out of the separate property of the bankrupt or authorized assignor until all the separate creditors have received the full amount of their respective debts. 1919, c. 36, s. 37.

81. Where joint and separate properties are being administered, dividends of the joint and separate properties shall, on the application of any person interested, be declared together, and the expenses of and incident to such dividends shall be fairly apportioned by the trustee between the joint and separate properties, regard being had to work done for and the benefit received by each property. 1919, c. 36, s. 37.

82. The trustee shall, not later than six months after he is at liberty, pursuant to the provisions of this Act to distribute the proceeds of the estate of the bankrupt or assignor, pay to the Receiver General of Canada all declared but unpaid dividends remaining in his hands, and shall at the same time provide a list of the names and post office addresses, so far as known, of the creditors entitled, showing the respective amounts payable to the respective creditors.

2. The Receiver General shall, thereafter, upon application made, pay to any unpaid creditors his proper dividends as shown on this list, and such payment shall have effect as if made by the trustee. 1920, c. 34, s. 10; 1921, c. 17, s. 32.

83. The debtor shall be entitled to any surplus remaining after payment in full of his creditors with interest as by this Act provided and of the costs, charges and expenses of the proceedings under the bankruptcy petition or under the authorized assignment. 1919, c. 36, s. 38.

Appeals from Decisions of Trustee

84. If the debtor or any of the creditors or any other person is aggrieved by any act or decision of the trustee, he 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. 1919, c. 36, s. 39.

Remuneration of Trustee

85. The remuneration of the trustee in bankruptcy or in any other proceedings under this Act, for his services, excepting those rendered (a) upon the adjustment of the rights of contributories as among themselves, and (b) in connection with the application of a bankrupt or authorized assignor for a discharge, shall be such as is voted to the trustee by a majority of creditors present at any general meeting.

2. In the excepted cases the trustee's remuneration shall be fixed by the court.

3. Where the remuneration of the trustee has not been fixed under the two last preceding subsections before the final dividend, the trustee may insert in the final dividend sheet and retain as his remuneration a sum not exceeding five per cent of the cash receipts, subject to reduction by the court upon application of any creditor or of the debtor.

4. The remuneration of the trustee for all services shall not under any circumstances exceed five per cent of the cash receipts, except with the approval in writing of the inspectors and of the court.

5. The disbursements of a trustee shall in all cases be taxed by the prescribed officer.

6. In fixing the remuneration of the trustee, only that part of the sale price of real or immovable property which is available for distribution amongst creditors other than secured creditors claiming as such against the property shall be taken into account. Provided that this subsection shall not affect the application of subsection four of this section.

7. If in any case after the trustee has paid all expenses of administration and has realized all available assets, the commissions allowable under subsection three of this section do not amount to one hundred dollars, the inspectors may grant the trustee a fee which with the commissions, if any, already paid or to be paid to him, shall not exceed one hundred dollars. 1919, c. 36, s. 40; 1921, c. 17, s. 33; 1923, c. 31, s. 23; 1932, c. 39, s. 29.

Discharge of Trustee

86. The court may by its order discharge a trustee from his trusts and from further performance of all or any of his duties and obligations with respect to any estate, upon full administration of the affairs thereof or, for sufficient cause, before full administration.

2. The court shall require proof of the extent of administration and (where there has not been full administration) of the condition of the estate and of the alleged sufficient cause.

3. In particular the trustee shall be entitled to be discharged as aforesaid if, before full administration of the affairs of an estate, another trustee has been substituted for the trustee applying, the latter has accounted to the satisfaction of the inspectors or the court for all property of the estate which came to his hands and a period of three months has elapsed after the date of such substitution without any undisposed of claim or objection having been made by the debtor or any creditor.

4. When the trustee's receipts, disbursements and accounts have been approved in writing by the court, and proof has been supplied that all objections, applications and appeals made by any creditor or the debtor have in the meantime been settled or satisfactorily disposed of, the affairs of the estate shall be deemed to have been fully administered.

5. The discharge of a trustee under the provisions of this section shall operate as a release of the security provided pursuant to subsection eight of section thirty-seven of this Act.

6. Nothing in or done under authority of this section shall relieve or discharge or be deemed to relieve or discharge a trustee from the results of fraud or any fraudulent breach of trust.

7. Upon the discharge of the trustee, assets, if any, not realized or distributed shall vest in the Receiver General for the benefit of the creditors.

8. There shall be no fee on this application unless it is contested. 1921, c. 17, s. 34; 1923, c. 31, s. 24; 1925, c. 31, s. 8; 1932, c. 39, ss. 30, 31.

87. The trustee shall finally dispose of all books and papers of the estate of the bankrupt or authorized assignor in manner prescribed by general rules. 1921, c. 17, c. 34.

PART V

CREDITORS

Meetings of Creditors

88. It shall be the duty of the custodian to inform himself by reference to the debtor and his records and otherwise, of the names and addresses of the

creditors and within five days from the date of his appointment, to mail prepaid and registered to every creditor known to him a circular calling the first meeting of creditors at the office of the Official Receiver in the locality of the debtor to be named in the notice.

2. Such first meeting shall be called for a date not later than fifteen days after the mailing of such notice.

3. The custodian shall include in such notice a list of the creditors, the amounts of their claims and their post office addresses together with a proxy in the form prescribed by the General Rules but no name shall be inserted in the proxy before it is so sent.

4. The purpose of such meeting shall be to consider the affairs of the debtor and to appoint a trustee and inspectors and give directions to the trustee with reference to the disposal of the estate. 1919, c. 36, s. 42; 1922, c. 8, s. 6; 1923, c. 31, s. 26; 1932, c. 39, s. 32.

Notice Re British Creditors

Where in any estate it appears that there are creditors in Great Britain and Ireland the custodian is hereby reminded to send a copy of the notice of the first meeting and a list of the creditors also to:

His Majesty's Senior Trade Commissioner,
1111 Beaver Hall Hill,
Montreal, Quebec.

89. The trustee may at any time call a meeting of creditors and he shall do so whenever requested in writing by twenty-five per cent in number of the known creditors holding twenty-five per cent in value of the known claims. 1919, c. 36, s. 42.

90. Meetings other than the first thereof shall be called by mailing or otherwise giving notice of the time and place thereof to each creditor at the address given in his proof of claim.

2. After the first meeting the trustee shall not be under obligation to give notice of any meeting to any creditors other than those who have proved their debts. 1919, c. 36, s. 42.

Procedure at Meetings

91. The Official Receiver or his nominee shall be the chairman at the first meeting of creditors, and shall decide any questions arising in connection with the appointment of the trustee by creditors, and from any such decision any creditor may appeal to the court.

2. At all other meetings the chairman shall be such person as the meeting by resolution appoints.

3. The chairman of any meeting may with the consent of the meeting adjourn the meeting from time to time and place to place. 1923, c. 31, s. 26.

92. A meeting shall not be competent to act for any purpose except the election of a chairman of and the adjournment of the meeting, unless there are present or represented at least three creditors, or all the creditors if their number does not exceed three.

2. If within half an hour from the time appointed for the meeting a quorum of creditors is not present or represented, the meeting shall be adjourned to the same day in the following week at the same time and place, or to such other day as the chairman may appoint, not being less than seven nor more than twenty-one days from the day of the adjourned meeting. 1919, c. 36, s. 42.

93. The chairman shall cause minutes of the proceedings at the meeting to be drawn up and fairly entered in a book kept for that purpose, and the minutes shall be signed by him or by the chairman of the next ensuing meeting. 1919, c. 36, s. 42.

94. A person shall not be entitled to vote as a creditor at the first or any other meeting of creditors unless he has duly proved a debt provable in bankruptcy or under an authorized assignment to be due to him from the debtor, and the proof has been duly lodged with the custodian or trustee before the time appointed for the meeting. 1919, c. 36, s. 42; 1923, c. 31, s. 26.

95. For the purpose of voting, a secured creditor shall, unless he surrenders his security, state in his proof the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote only in respect of the balance (if any) due to him, after deducting the value of his security.

2. A secured creditor shall not be entitled to vote at any meeting of creditors until he has proved his claim and valued his security as hereinafter provided. 1919, c. 36, s. 42.

96. A creditor shall not vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him, unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the debtor, and against whom a receiving order has not been made, or by whom an authorized assignment has not been made, as a security in his hands, and to estimate the value thereof, and for the purposes of voting, but not for the purposes of dividend, to deduct it from his proof. 1919, c. 36, s. 42.

97. No person shall be entitled to vote on a claim acquired after the receiving order or assignment unless the entire claim is acquired, but this shall not apply to persons acquiring notes, bills or other securities upon which they are liable. 1919, c. 36, s. 42.

98. The trustee, if a creditor or a proxy for a creditor, may vote, as a creditor at any meeting of creditors, and, in addition, in case of a tie, shall have a casting vote, personally, as if he were a creditor holding a proved claim of twenty-five dollars.

2. The vote of the trustee, or of his partner, clerk solicitor, or solicitor's clerk, either as creditor or as proxy for a creditor, shall not be reckoned in the majority required for passing any resolution affecting the remuneration or conduct of the trustee.

3. The following persons shall not be entitled to vote on the appointment of a trustee, namely:

(i) the father, mother, son, daughter, sister, brother, uncle or aunt by blood or marriage, wife or husband of the bankrupt or authorized assignor;

(ii) if the bankrupt or authorized assignor is an incorporated company, any officer, director or employee thereof. 1919, c. 36, s. 42; 1932, c. 39, s. 33.

99. A corporation may vote at meetings of creditors as if a natural person, by an authorized agent.

2. The bondholders, debenture holders, shareholders and members of the corporation and each class thereof may at such meeting express their views or wishes in manner prescribed by General Rules. 1919, c. 36, ss. 2 and 42.

100. The chairman of the meeting shall have power to admit or reject a proof for the purpose of voting, but his decision shall be subject to appeal to the court.

2. Notwithstanding anything in this Act, the chairman may, for the same purpose, accept telegraphic or cable communication as proof of the debt of a creditor who carries on business out of Canada and likewise as to the authority of any one claiming to represent and vote on behalf of such creditor.

3. If the chairman is in doubt whether the proof of a creditor should be admitted or rejected he shall mark the proof as objected to and allow the creditor to vote subject to the vote being declared invalid in the event of the objection being sustained. 1921, c. 17, s. 35.

101. A creditor may vote either in person or by proxy deposited with the custodian or trustee at or before the meeting at which it is to be used.

2. A proxy shall not be invalid merely because it is in the form of a letter, telegram or cable. 1919, c. 36, s. 42; 1923, c. 31, s. 26.

102. Subject to the provisions of this Act, all questions at meetings of creditors shall be decided by resolution carried by the majority of votes, and for such purpose the votes of creditors shall be calculated as follows:—

- For every claim of or over twenty-five dollars and not exceeding two hundred dollars—one vote;
- For every claim of over two hundred dollars and not exceeding five hundred dollars—two votes;
- For every claim of over five hundred dollars and not exceeding one thousand dollars—three votes;
- For every claim of one thousand or more dollars three votes and one additional vote for each additional one thousand dollars or fraction thereof. 1919, c. 36, s. 42.

Inspectors

103. At the first or a subsequent meeting the creditors shall appoint one or more, but not exceeding five, inspectors of the administration by the trustee of the estate of the debtor.

2. The powers of inspectors may be exercised by a majority of them.

3. The creditors may, at any meeting, revoke the appointment of any inspector and in such event or in case of the death, resignation, or absence from the province of an inspector, may appoint another in his stead.

4. Each inspector may be repaid his actual and necessary travelling expenses incurred in and about the performance of his duties, and may also be paid the following fees:—

Estate with assets below \$	5,000	..	..	..	..	..	..	..	..	a fee of \$	2.00	per meeting
" " " from	5,000 to \$	15,000	..	..	..	..	..	..	..	"	3.00	"
" " " "	15,000 to	30,000	..	..	..	..	..	..	..	"	4.00	"
" " " "	30,000 to	50,000	..	..	..	..	..	..	..	"	5.00	"
" " " "	50,000 to	100,000	..	..	..	..	..	..	..	"	7.50	"
" " " "	100,000 and over	..	..	..	..	..	..	..	..	"	10.00	"

5. In the event of an equal division of opinion at a meeting of inspectors, the opinion of any absent inspector shall be sought in order to resolve the difference and in the case of a difference which cannot be so resolved it shall be resolved by the trustee, unless it concerns his personal conduct or interest.

6. No inspector shall, directly or indirectly, be capable of purchasing or acquiring for himself or for another any of the property of the estate for which he is an inspector, unless with the prior approval of the court.

7. No person shall be eligible to be appointed or to act as an inspector who is a party to any action or proceedings by or against the estate. 1919, c. 36, s. 43; 1920, c. 34, s. 11; 1921, c. 17, s. 36; 1932, c. 39, s. 34.

Debts Provable

104. Demands in the nature of unliquidated damages arising otherwise than by reason of a contract, promise, or breach of trust, shall not be provable in bankruptcy or in proceedings under an authorized assignment.

2. Save as aforesaid, all debts and liabilities, present or future, to which the debtor is subject at the date of the receiving order or the making of the authorized assignment or to which he may become subject before his discharge by reason of any obligation incurred before the date of the receiving order or of the making of the authorized assignment shall be deemed to be debts provable in bankruptcy or in proceedings under an authorized assignment.

3. The court shall value, at the time and in the summary manner prescribed by General Rules, all contingent claims and all such claims for unliquidated damages as are provable by this section, and after, but not before, such valuation, every such claim shall for all purposes of this Act, be deemed a proved debt to the amount of its valuation. 1919, c. 36, s. 44.

Proof of Debts

105. Every creditor shall prove his debt as soon as may be after the making of a receiving order or after the date of an authorized assignment or as soon as possible after such creditor has received notice of a meeting for the consideration of a composition, extension or scheme of arrangement.

2. A debt may be proved by delivering or sending through the post in a prepaid and registered letter to the custodian or trustee, an affidavit verifying the debt.

3. The affidavit may be made by the creditor himself or by some person authorized by him on behalf of the creditor, and if made by a person so authorized, it shall state his authority and means of knowledge.

4. The affidavit shall contain or refer to a statement of account showing the particulars of the debt and shall specify the vouchers, if any, by which the same can be substantiated, and the trustee may at any time call for the production of invoices, acceptances, bills of lading, receipts, cheques, notes, bank passbooks, or books of accounts, or such further or other evidence as the trustee or inspectors may require in order to deal with the claim.

5. The affidavit shall state whether the creditor is or is not a secured creditor.

6. Every creditor who has lodged a proof shall be entitled to see and examine the proofs of other creditors before the first meeting, and at all reasonable times. 1919, c. 36, s. 45; 1920, c. 34, s. 12; 1923, c. 31, s. 27; 1932, c. 39, s. 35.

Proof by Secured Creditors

106. If a secured creditor realizes his security, he may prove for the balance due to him, after deducting the net amount realized.

2. If a secured creditor surrenders his security to the trustee for the general benefit of the creditors, he may prove for his whole debt. 1919, c. 36, s. 46; 1921, c. 17, s. 37.

107. If a secured creditor does not either realize or surrender his security he may if he wishes to rank for dividend and he shall within thirty days after demand in writing made upon him by the trustee or within such further time as may be allowed by the inspectors or the court, file with the trustee an affidavit stating therein full particulars of his security, or securities, the date when each security was given and the value at which he assesses each thereof.

2. A creditor shall be entitled to receive a dividend in respect only of the balance due to him after deducting the assessed value of his security.

3. Where a security is so valued the trustee may at any time redeem it on payment to the creditor of the assessed value. 1919, c. 36, s. 46; 1923, c. 31, s. 28; 1932, c. 39, s. 36.

108. If the trustee is dissatisfied with the value at which a security is assessed, or if a secured creditor who has neither realized nor surrendered his security, fails to assess said security within the period above mentioned, the trustee may require that the property comprised in the security be offered for sale at such time and on such terms and conditions, as may be agreed on between the creditor and the trustee, or as, in default of such agreement the court may direct.

2. If the sale be by public auction the creditor or the trustee on behalf of the estate may bid or purchase.

3. In the province of Quebec if the security consists of a hypothec or privilege upon immovable property, the sale, when directed by the court, shall be made in accordance with the provisions of section forty-five of this Act, and said sale shall have the effect mentioned in said section.

4. The costs and expenses of any sale made under this section shall be in the discretion of the court. 1923, c. 31, s. 28.

109. Notwithstanding subsection three of section one hundred and seven and section one hundred and eight the creditor may at any time, by notice in writing, require the trustee to elect whether he will or will not exercise his power of redeeming the security or requiring it to be realized, and if the trustee does not, within one month after receiving the notice or such further time or times as the court may allow, signify in writing to the creditor his election to exercise the power, he shall not be entitled to exercise it; and the equity of redemption, or any other interest in the property comprised in the security which is vested in the trustee, shall vest in the creditor, and the amount of his debt shall be reduced by the amount at which the security has been valued. 1919, c. 36, s. 46.

110. If a creditor after having valued his security, subsequently realizes it, or it is realized under the provisions of section one hundred and eight the net amount realized shall be substituted for the amount of any valuation previously made by the creditor and shall be treated in all respects as an amended valuation made by the creditor. 1923, c. 31, s. 28.

111. If the trustee has not elected to acquire the security as hereinbefore provided, a creditor may at any time amend the valuation and proof on showing to the satisfaction of the trustee, or the court, that the valuation and proof were made *bona fide* on a mistaken estimate, or that the security has diminished or increased in value since its previous valuation.

2. Such amendment shall be made at the cost of the creditor, and upon such terms as the court shall order, unless the trustee allows the amendment without application to the court.

3. Where a valuation has been amended in accordance with this section, the creditor shall

- (a) forthwith repay any surplus dividend which he may have received in excess of that to which he would have been entitled on the amended valuation, or
- (b) be entitled to be paid out of any money, for the time being available for dividend, any dividend or share of dividend which he may have

failed to receive by reason of the inaccuracy of the original valuation, before that money is made applicable to the payment of any future dividend, but he shall not be entitled to disturb the distribution of any dividend declared before the date of the amendment. 1919, c. 36, s. 46; 1923, c. 31, s. 28.

112. If a secured creditor does not comply with sections one hundred and six to one hundred and eleven, inclusive, he shall be excluded from all share in any dividend. 1919, c. 36, s. 46.

113. Subject to the provisions of sections one hundred and seven, one hundred and eight and one hundred and nine, a creditor shall in no case receive more than one hundred cents in the dollar and interest as provided by this Act. 1919, c. 36, s. 46.

Proof in respect of Distinct Contracts

114. If a debtor was, at the date of the receiving order or authorized assignment, liable in respect of distinct contracts as a member of two or more distinct firms, or as a sole contractor, and also as member of a firm, the circumstance that the firms are in whole or in part composed of the same individuals, or that the sole contractor is also one of the joint contractors, shall not prevent proof in respect of the contracts, against the properties respectively liable on the contracts. 1919, c. 36, s. 47.

Restricted Creditors

115. Where a married woman has been adjudged bankrupt or has made an authorized assignment, her husband shall not be entitled to claim any dividend as a creditor in respect of any money or other estate lent or entrusted by him to his wife for the purposes of her trade or business, or claim any wages, salary or compensation for work done or services rendered after that date in connection with her trade or business, until all claims of the other creditors of his wife for valuable consideration in money or money's worth have been satisfied. 1919, c. 36, s. 48; 1932, c. 39, s. 37.

116. Where a married man has been adjudged bankrupt or has made an authorized assignment his wife shall not be entitled to claim any dividend as a creditor in respect of any money or other estate lent or entrusted by her to her husband for the purpose of his trade or business, or claim any wages, salary or compensation for work done or services rendered in connection with his trade or business, until all claims of the other creditors of her husband for valuable consideration in money or money's worth have been satisfied. 1919, c. 36, s. 48; 1923, c. 31, s. 29; 1932, c. 39, s. 38.

117. Where any person or firm has been adjudged bankrupt or has made an authorized assignment, a father, son, daughter, mother, brother, sister, uncle or aunt by blood or marriage of any such person or of any member of the said firm shall not be entitled to have his claim preferred as provided by section one hundred and twenty-one of this Act, in respect of any wages, salary or compensation for work done or services rendered to the said person or firm. 1919, c. 36, s. 48; 1932, c. 39, s. 39.

118. Where any corporation has been adjudged bankrupt or has made an authorized assignment, no officer or director thereof shall be entitled to have his claim preferred as provided by section one hundred and twenty-one of this Act, in respect of any wages, salary or compensation for work done or services rendered to the said corporation. 1919, c. 36, s. 48; 1932, c. 39, s. 40.

Interest

119. On any debt or sum certain, payable at a certain time or otherwise, whereon interest is not reserved or agreed for, and which is overdue at the date of the receiving order or authorized assignment and provable under this Act, the creditor may prove for interest at a rate not exceeding six per centum per annum to the date of the receiving order or authorized assignment from the time when the debt or sum was payable, if the debt or sum is payable by virtue of a written instrument at a certain time, and if payable otherwise, then from the time when a demand in writing has been made giving the debtor notice that interest will be claimed from the date of the demand until the time of payment. 1919, c. 36, s. 49.

Debts payable at a future time

120. A creditor may prove for a debt not payable at the date of the receiving order or of the authorized assignment as if it were payable presently and may receive dividends equally with the other creditors, deducting only thereout a rebate of interest at the rate of six per centum per annum computed from the declaration of a dividend to the time when the debt would have become payable according to the terms on which it was contracted. 1919, c. 36, s. 50.

Priority of Claims

121. Subject to the provisions of section one hundred and twenty-six as to rent, in the distribution of the property of the bankrupt or authorized assignor, there shall be paid, in the following order of priority:—

First, the costs and expenses of the custodian and the fees and expenses of the trustee;

Secondly, the costs of the garnishing, attaching, execution or judgment creditor (including sheriff's fees and disbursements) coming within the provisions of subsection one of section twenty-five and subsection three of section twenty-nine and subsection two of section 29A.

Thirdly, all indebtedness of the bankrupt or authorized assignor under any Workman's Compensation Act and all wages, salaries, commissions or compensation of any clerk, servant, travelling salesman, labourer or workman, in respect of services rendered to the bankrupt or assignor during three months before the date of the receiving order or assignment: Provided that any commissions earned more than three months before the date of a receiving order or assignment, but not payable (by the terms of the creditor's agreement) until the shipment, delivery or payment of the goods sold, shall be deemed to have been earned within three months of the date of the receiving order or assignment, when the said goods have been shipped, delivered or paid for within three months of the receiving order or assignment; and provided, moreover, that any advances made on account of such commissions shall be deemed to have been legally paid on account thereof;

Fourthly, claims resulting from injuries to employees of the insolvent debtor to which the provisions of any Workmen's Compensation Act do not apply, but only upon moneys paid or payable to the insolvent estate by persons or companies guaranteeing the insolvent debtor against damages resulting from such injuries.

2. Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the foregoing debts shall be discharged forthwith so far as the property of the debtor is sufficient to meet them. 1919, c. 36, s. 51; 1921, c. 17, s. 39; 1923, c. 31, ss. 30 and 30A; 1931, c. 18, s. 1; 1932, c. 39, s. 41.

122. In the case of partners the joint estate shall be applicable in the first instance in payment of their joint debts, and the separate estate of each partner shall be applicable in the first instance in payment of his separate debts.

2. If there is a surplus of the separate estates it shall be dealt with as part of the joint estate.

3. If there is a surplus of the joint estate, it shall be dealt with as part of the respective separate estates in proportion to the right and interest of each partner in the joint estate. 1920, c. 34, s. 13.

123. Subject to the provisions of this Act, all debts proved in the bankruptcy or under an assignment shall be paid *pari passu*. 1919, c. 36, s. 51.

124. If there is any surplus after payment of the debts, as provided in the three last preceding sections, it shall be applied in payment of interest from the date of the receiving order or assignment at the rate of six per centum per annum on all debts proved in the bankruptcy or under the assignment. 1919, c. 36, s. 51.

125. Nothing in the four last preceding sections shall interfere with the collection of any taxes, rates or assessments payable by or levied or imposed upon the debtor or upon any property of the debtor under any law of the Dominion, or of the province wherein such property is situate, or in which the debtor resides, nor prejudice or affect any lien or charge in respect of such property created by any such laws. 1919, c. 36, s. 51.

125A. Nothing contained in this Act shall affect the right afforded by provincial statute of any person who has a claim against the debtor for damages on account of injury to or death of any person, or injury to property, occasioned by a motor vehicle, or on account of injury to property being carried in or upon a motor vehicle, to have the proceeds of any liability insurance policy applied in or towards the satisfaction of such claim, and the proceeds of any such policy shall be applied to the satisfaction of such claim in the same manner and to the same extent as if the debtor had not made an authorized assignment or been adjudged bankrupt. 1931, c. 17, s. 1.

125B. In the administration of the property of a deceased insolvent debtor, the trustee shall have regard to any claim by the legal personal representative of the deceased debtor to payment of the proper funeral and testamentary expenses incurred by him in or about the estate and such claim shall be preferred and shall notwithstanding anything to the contrary in this Act, be payable out of the debtor's estate in priority to all other debts. 1932, c. 39, s. 42.

Rights of Landlord

126. When a receiving order or an assignment is made against or by any lessee under this Act, the same consequences shall ensue as to the rights and priorities of his landlord as would have ensued under the laws of the province in which the demised premises are situate if the lessee at the time of such receiving order or assignment had been a person entitled to make and had made an abandonment or a voluntary assignment of his property for the benefit of his creditors pursuant to the laws of the province; and nothing in this Act shall be deemed to suspend, limit or affect the legislative authority of any province to enact any law providing for or regulating the rights and priorities of landlords consequent upon any such abandonment or voluntary assignment; nor shall anything in this Act be deemed to interfere or conflict with the operation of any such provincial law heretofore or hereafter enacted in so far as it provides for or regulates the rights and priorities of landlords in such an event. 1923, c. 31, s. 31.

126A. Notwithstanding anything contained in sections one hundred and twenty-one to one hundred and twenty-six, both inclusive, there shall be payable to the Receiver General, for the purpose of defraying the expenses of the supervision by the Superintendent, a levy on all payments made by the trustee, **excepting the costs and expenses of the custodian or interim receiver, and the fees and expenses of the trustee, and the costs of the garnishing, attaching, execution or judgment creditor mentioned in section one hundred and twenty-one, and excepting payments made on account of liabilities incurred after the receiving order or assignment.** The payments subject to the said levy shall include all payments made by way of dividend or otherwise on account of the claims of creditors, whether ordinary, preferred or secured creditors, and including His Majesty in the right of the Dominion or of any province, claiming in respect of taxes or otherwise. Such levy shall be at a rate to be fixed by the Governor in Council from time to time and shall be charged proportionately against all such payments and deducted therefrom by the trustee before payment is made. 1932, c. 39, s. 43.

Disallowance of Claims

127. The trustee shall examine every proof and the grounds of the debt, and may require further evidence in support of it.

2. If he considers the claimant is not entitled to rank on the estate, or not entitled to rank for the full amount of his claim, or if directed by a resolution passed at any meeting of creditors or inspectors, he may disallow the claim in whole or in part, and in such case shall give to the claimant a notice of disallowance.

3. The said notice may be given either by serving the claimant with a copy thereof personally or by mailing such copy in a registered prepaid letter, addressed to the claimant at his last-known address, or at the address shown in or by the claimant's proof.

4. Such disallowance shall be final and conclusive unless within thirty days after the service or mailing of the said notice or such further time as the court may on application made within the same thirty days allow, the claimant appeals to the court in accordance with General Rules from the trustee's decision.

5. The court may also expunge or reduce a proof upon the application of a creditor or of the debtor, if the trustee declines to interfere in the matter. 1919, c. 36, s. 53.

PART VI

DEBTORS

Duties of Debtors

128. Where a receiving order or an authorized assignment is made, the bankrupt or assignor shall present himself before the Official Receiver who shall examine him as to the causes of his insolvency and the disposition of his assets, and shall put to him the questions provided by the General Rules or questions to the like effect.

2. The Official Receiver shall make notes of such examination and shall communicate them to the creditors at their first meeting.

3. If the bankrupt or assignor fails to present himself for such examination within three days from the making of the receiving order or the filing of the assignment, the court may by warrant cause him to be apprehended and brought up for examination, and may order him to be committed to the common gaol of the judicial district in which he resides for a term not exceeding twelve months. 1923, c. 31, s. 32.

129. The bankrupt or assignor shall make out and submit to the Official Receiver a statement of and in relation to his affairs in the prescribed form, verified by affidavit and showing the particulars of the debtor's assets, and liabilities, the names, residences and occupations of his creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed by the court.

2. Such statement shall be submitted within seven days from the date of the receiving order or assignment, but the court may for special reasons extend the time. 1923, c. 31, s. 32.

130. It shall be the duty of the custodian to verify the debtor's statement of affairs and to make an inventory of his assets.

2. Any person stating himself in writing to be a creditor of the bankrupt or assignor, may personally or by agent inspect the statement at all reasonable times and take any copy thereof or extract therefrom, but any person untruthfully so stating himself to be a creditor shall be guilty of a contempt of court, and shall be punishable accordingly on the application of the trustee. 1919, c. 36, s. 54; 1923, c. 31, s. 32.

131. Every debtor against whom a receiving order is made and every assignor who makes an authorized assignment shall, unless prevented by sickness or other sufficient cause, attend the first meeting of his creditors, and shall submit to such examination and give such information as the meeting may require.

2. The debtor shall give such inventory of his property, such list of his creditors and debtors, and of the debts due to and from them respectively, submit to such examination in respect of his property or his creditors, attend such other meetings of his creditors, wait at such times on the trustee, execute such powers of attorney, conveyances, deeds, and instruments, and, generally, do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors, as may be reasonably required by the trustee, or may be prescribed by General Rules, or may be directed by the court by any special order or orders made in reference to any particular case, or made on the occasion of any special application by the trustee, or any creditor or person interested.

3. The debtor shall aid, to the utmost of his power, in the realization of his property and the distribution of the proceeds among his creditors. 1919, c. 36, s. 54.

132. If a debtor wilfully fails to perform the duties imposed on him by the four last preceding sections, or to deliver up possession of any part of his property which is divisible amongst his creditors under this Act and which is for the time being in his possession or under his control, to the trustee, or to any person, authorized by the court to take possession of it, he shall, in addition to any other punishment to which he may be subject, be guilty of a contempt of court, and may be punished accordingly. 1919, c. 36, s. 54.

133. Whenever the bankrupt or authorized assignor is a corporation, the officer executing the assignment or such other officer or officers as the Official Receiver shall direct, shall present himself before the Official Receiver for examination under section one hundred and twenty-eight, and, in case of failure to perform such duty, such officer shall be punishable as if he were the debtor. 1925, c. 31, s. 9; 1932, c. 39, s. 44.

Examination of Debtors and others

134. Where a receiving order or an authorized assignment has been made, the trustee, upon ordinary resolution passed by the creditors present or represented at a meeting regularly called, or upon the written request or resolution of a majority of the inspectors of the estate, may, without an order, examine under oath before the registrar of the court or other prescribed person, the debtor, any person reasonably thought to have knowledge of the affairs of the debtor or any person who is or has been an agent, clerk, servant, officer, director or employee of the debtor, respecting the debtor, his dealings or property.

2. Upon application of any creditor to the court, at any time, upon sufficient cause being shown, an order may be made for the examination under oath before the registrar or other prescribed person, of the trustee or the debtor or of any inspector or creditor, or any other person named in the order for the purpose of investigating the administration of the estate of any bankrupt or authorized assignor, and the court may further order any person liable to be so examined to produce any books, documents, correspondence or papers in his possession or power relating in all or in part to the debtor, the trustee or any creditor, the costs of such examination and investigation to be in the discretion of the court or judge. 1919, c. 36, s. 56; 1923, c. 31, s. 33; 1932, c. 39, s. 45.

135. If the debtor, or any person liable to be examined as provided by the preceding section, is served with an appointment or summons to attend for examination and is paid or tendered the proper conduct money and witness fees, but refuses or neglects to attend as required by such appointment or summons, or, if attending, refuses to make satisfactory answers to any questions asked him or refuses to produce any book, document or other paper, having no lawful impediment made known to the examiner at the time of his sitting for such examination and allowed by him, the court may, by warrant, cause the debtor or other person so in default to be apprehended and brought up for examination, and may order him to be committed to the common gaol of the judicial district in which he resides for any term not exceeding twelve months.

2. The amount of conduct money and witness fee shall be fixed by General Rules. 1919, c. 36, s. 56; 1920, c. 34, s. 14; 1921, c. 17, s. 44.

136. If any person has, or is believed or suspected to have, in his possession or power any of the property of the debtor, or any book, document or paper of any kind relating in whole or in part to the debtor, his dealings or property, or showing that such person is indebted to the debtor, such person may, upon ordinary resolution passed by the creditors present or represented at a regularly called meeting (exclusive of such person, if he is a creditor), or upon the written request or resolution of the majority of the inspectors of the estate, be required by the trustee to produce such book, document or paper for the information of such trustee, or to deliver over to him any such property of the debtor.

2. If such person fails to produce such book, document or other paper, or to deliver over such property, within four days of his being served with a copy of the said resolution and a request of the trustee in that behalf, or if the trustee or the majority of the inspectors is not satisfied that full production or delivery has been made, the trustee may, without an order, examine the said person before the registrar of the court or other prescribed person touching any such property, book, or document or other paper which he is supposed to have in his possession.

3. Any such person may be compelled to attend and testify, and to produce upon his examination any book, document or other paper which under this section he is liable to produce, in the same manner and subject to the same rules of examination, and the same consequences of neglecting to attend or refusing to disclose the matters in respect of which he may be examined, as is provided by section one hundred and thirty-five. 1919, c. 36, s. 56.

137. If any person on the examination provided for in section one hundred and thirty-four admits that he is indebted to the debtor, the court may, on the application of the trustee, order him to pay to the trustee, at such time and in such manner as to the court seems expedient, the amount admitted, or any part thereof, either in full discharge of the whole amount in question or not, as the court thinks fit, with or without costs of the examination.

2. If any person on such examination admits that he has in his possession any property belonging to the debtor, the court may, on the application of the trustee, order him to deliver to the trustee such property, or any part thereof, at such time, and in such manner, and on such terms, as to the court may seem just. 1919, c. 36, s. 56.

138. Any person liable to be examined under the provisions of the ten last preceding sections shall be bound to answer all questions relating to the business or property of the debtor, and as to the causes of his insolvency and the disposition of his assets, and shall not be excused from answering any question on the ground that the answer may tend to criminate the person so examined or to establish his liability in any civil action, and all or any of the questions and answers upon any examination under the four next preceding sections may be given in evidence against the person so examined on any charge of an offence against this Act and in any civil action or proceeding brought by, or on behalf of, the trustee or of any creditor or creditors entitled to take such action or proceedings. 1923. c. 31, s. 33.

Arrest of Debtors

139. The court may, by warrant addressed to any constable or prescribed officer of the court, cause a debtor to be arrested, and any books, papers, money and goods in his possession to be seized, and him and them to be safely kept as prescribed until such time as the court may order under the following circumstances:—

- (a) If, after the presentation of a bankruptcy petition against him, it appears to the court that there is probable reason for believing that he has absconded, or is about to abscond from Canada, with a view of avoiding payment of the debt in respect of which the bankruptcy petition was filed, or of avoiding appearance to any such petition, or of avoiding examination in respect of his affairs or of otherwise avoiding, delaying or embarrassing proceedings in bankruptcy against him;
- (b) If, after presentation of a bankruptcy petition against him or after an authorized assignment has been made by him, it appears to the court that there is probable cause for believing that he is about to remove his goods with a view of preventing or delaying possession being taken of them by the trustee, or that there is probable ground for believing that he has concealed or is about to conceal or destroy any of his goods or any books, documents or writings which might be of use to the trustee or to his creditors in the course of the bankruptcy or authorized assignment proceedings;
- (c) If, after service of a bankruptcy petition on him or after he makes an authorized assignment, he removes any goods in his possession above the value of twenty-five dollars without the leave of the trustee.

2. No payment or composition made or security given after arrest made under this section shall be exempt from the provisions of this Act relating to fraudulent preferences. 1919, c. 36, s. 55.

140. Where a receiving order is made against a debtor or where a debtor makes an authorized assignment, the court, on the application of the trustee, may from time to time order that for such time, not exceeding three months, as the

court thinks fit, post letters, post packets and telegrams addressed to the debtor at any place or places mentioned in the order for redirection, shall be redirected, sent or delivered by the Postmaster General or the officers acting under him, or by the various government and other telegraph and cable systems, operating in Canada, or by the operators thereof, to the trustee, and the same shall be done accordingly. 1919, c. 36, s. 57.

Discharge of Bankrupt or Assignor

141. Any debtor may, at any time after being adjudged bankrupt or making an authorized assignment, apply to the court for an order of discharge, to become effective not sooner than three months next after the date of his being adjudged bankrupt or of his making such assignment, and the court shall appoint a day for hearing the application.

2. A bankrupt or authorized assignor intending to apply for his discharge shall produce to the registrar of the court a certificate from the trustee specifying the names and addresses of his creditors of whom the trustee has notice (whether they have proved or not) and it shall be the duty of the trustee to furnish such certificate upon request therefor by the bankrupt or authorized assignor.

3. The registrar shall, not less than twenty-eight days before the day appointed for hearing the application, give to the trustee notice of the application and of the time and place of hearing of it, and the trustee shall not less than fourteen days before the day appointed for hearing the application give to the Superintendent and to each creditor who has proved his debt like notice.

4. The trustee shall file with the registrar, at least three days before the day appointed for hearing the application, his report as to the conduct and affairs of the bankrupt or assignor (including a report as to the conduct of the bankrupt or assignor during the proceedings under his bankruptcy or assignment). In cases where the final dividend has not been paid, this report shall be accompanied by a resolution of inspectors declaring whether they approve or disapprove the said report, and in the latter case the reasons of this disapproval must be given.

5. If the bankrupt or assignor has been examined, the trustee shall also file such examination, and shall report to the court any fact, matter or circumstance which would, under this Act, justify the court in refusing an unconditional order of discharge.

6. At the hearing of the application, the court may read the examination of the bankrupt or assignor, and may put such further questions to him and receive such evidence as it may think fit.

7. The trustee, the debtor and any creditor may attend and be heard in person or by counsel.

8. For the purposes of this and the next five succeeding sections the report of the trustee shall be *prima facie* evidence of the statements therein contained.

9. The duties imposed upon the trustee under this section shall be carried out by him notwithstanding that he may have been discharged as trustee by the court. 1919, C. 36, ss. 58 and 60; 1932, c. 39, s. 46.

142. On the hearing of the application, the court shall take into consideration the report of the trustee, and the resolution of the inspectors, and may either grant or refuse an absolute order of discharge or suspend the operation of the order for a specified time, or grant an order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the bankrupt or authorized assignor, or with respect to his after-acquired property.

2. The court shall refuse the discharge in all cases where the bankrupt or authorized assignor has committed any offence under this Act or any offence

connected with his bankruptcy or assignment or the proceedings thereunder, and shall on proof of any of the facts mentioned in the next succeeding section, either

- (a) refuse the discharge; or
- (b) suspend the discharge for a period of not less than two years: provided that the period may be less than two years if the only fact proved of those hereinafter mentioned is that his assets are not of a value equal to fifty cents in the dollar on the amount of his unsecured liabilities; or
- (c) suspend the discharge until a dividend of not less than fifty cents in the dollar has been paid to the creditors; or
- (d) require the bankrupt or assignor, as a condition of his discharge, to consent to judgment being entered against him by the trustee for any balance or part of any balance of the debts provable under the bankruptcy or assignment which is not satisfied at the date of the discharge, such balance or part of any balance of the debts to be paid out of the future earnings or after-acquired property of the bankrupt or assignor in such manner and subject to such conditions as the court may direct; but execution shall not be issued on the judgment without leave of the court, which leave may be given on proof that the bankrupt or assignor has, since his discharge, acquired property or income available towards payment of his debts.

3. If at any time after the expiration of one year from the date of any order made under this section the bankrupt or assignor satisfies the court that there is no reasonable probability of his being in a position to comply with the terms of such order the court may modify the terms of the order, or of any substituted order, in such manner and upon such conditions as it may think fit.

4. The powers of suspending and of attaching conditions to the discharge of a bankrupt or authorized assignor may be exercised concurrently. 1919, c. 36, ss. 58 and 60; 1923, c. 31, s. 34; 1932, c. 39, s. 47.

143. The facts referred to in the next preceding section are that the

- (a) assets of the bankrupt or assignor are not of a value equal to fifty cents in the dollar on the amount of his unsecured liabilities, unless he satisfies the court that the fact that the assets are not of a value equal to fifty cents in the dollar on the amount of his unsecured liabilities has arisen from circumstances for which he cannot justly be held responsible;
- (b) bankrupt or assignor has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his bankruptcy or the making of the assignment;
- (c) bankrupt or assignor has continued to trade after knowing himself to be insolvent;
- (d) bankrupt or assignor has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet his liabilities;
- (e) bankrupt or assignor has brought on, or contributed to, his bankruptcy or assignment by rash and hazardous speculations, or by unjustifiable extravagance in living, or by gambling, or by culpable neglect of his business affairs;
- (f) bankrupt or assignor has put any of his creditors to unnecessary expense by a frivolous or vexatious defence to any action properly brought against him;

- (g) bankrupt or assignor has, within three months preceding the date of the receiving order or assignment, incurred unjustifiable expense by bringing a frivolous or vexatious action;
- (h) bankrupt or assignor has, within three months preceding the date of the receiving order or of the making of the assignment, when unable to pay his debts as they became due, given an undue preference to any of his creditors;
- (i) bankrupt or assignor has, within three months preceding the date of the receiving order or of the making of the assignment, incurred liabilities with a view of making his assets equal to fifty cents in the dollar on the amount of his unsecured liabilities;
- (j) bankrupt or assignor has, on any previous occasion, been adjudged bankrupt or has made an authorized assignment or made a composition, extension or arrangement with his creditors;
- (k) bankrupt or assignor has been guilty of any fraud or fraudulent breach of trust.

2. Paragraphs (b) and (c) of subsection one of this section shall not apply in the case of an application for discharge by any assignor who at the time of the authorized assignment was engaged solely in farming or the tillage of the soil. 1919, c. 36, s. 59; 1925, c. 31, s. 10.

144. For the purposes of the preceding section the assets of a bankrupt or authorized assignor shall be deemed of a value equal to fifty cents in the dollar on the amount of his unsecured liabilities when the court is satisfied that the property of the bankrupt or assignor has realized, or is likely to realize, or with due care in realization, might have realized an amount equal to fifty cents in the dollar on his unsecured liabilities.

2. A report by the trustee shall be *prima facie* evidence of the amount of such liabilities. 1919, c. 31, s. 60.

145. Any statutory disqualification on account of bankruptcy shall cease if and when the bankrupt obtains from the court its discharge with a certificate to the effect that the bankruptcy was caused by misfortune without any misconduct on his part.

2. The court may, if it thinks fit, grant such a certificate, and a refusal to grant such a certificate shall be subject to appeal. 1919, c. 31, s. 60.

146. In either of the following cases, that is to say:—

- (a) In the case of a settlement made before and in consideration of marriage where the settlor is not at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement; or
- (b) In the case of any covenant or contract made in consideration of marriage for the future settlement on or for the settlor's wife or children of any money or property wherein he had not at the date of his marriage any estate or interest, not being money or property of or in right of his wife;

if the settlor is adjudged bankrupt or makes an authorized assignment or compounds or arranges with his creditors, and it appears to the court that such settlement, covenant or contract was made in order to defeat or delay creditors, or was unjustifiable having regard to the state of the settlor's affairs at the time when it was made, the court may refuse or suspend an order of discharge or grant an order subject to conditions, or refuse to approve a composition or arrangement, as the case may be, in like manner as in cases where the debtor has been guilty of fraud. 1919, c. 36, s. 60.

147. An order of discharge shall not release the bankrupt or authorized assignor.

- (a) from any debt on a recognizance nor from any debt with which the bankrupt or assignor may be chargeable at the suit of the Crown or of any person for any offence against a statute relating to any branch of the public revenue, or at the suit of the sheriff or other public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence and he shall not be discharged in respect of any such excepted debts unless an order in council proceeding from the Crown in the proper right is filed in court consenting to his being discharged therefrom; or
- (b) from any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party, nor from any debt or liability in respect of which he has obtained forbearance by any fraud to which he was a party; or
- (c) from any liability under a judgment against him in an action for seduction, or under an affiliation order, or for alimony or under a judgment against him as a co-respondent in a matrimonial case except to such an extent and under such conditions as the court expressly orders in respect of such liability; or
- (d) from any debt or liability for necessaries of life, and the court may make such order for payment thereof as it deems just or expedient.

2. An order of discharge shall release the bankrupt or assignor from all other debts provable in bankruptcy or under an authorized assignment. 1919, c. 36, s. 61.

148. An order of discharge shall not release any person who at the date of the receiving order or assignment was a partner or co-trustee with the bankrupt or authorized assignor or was jointly bound or had made any joint contact with him, or any person who was surety or in the nature of a surety for him. 1919, c. 36, s. 61.

149. An order of discharge shall be conclusive evidence of the bankruptcy, and of the validity of the proceedings therein, and in any proceedings that may be instituted against a bankrupt who has obtained an order of discharge in respect of any debt from which he is released by the order, the bankrupt may plead that the cause of action occurred before his discharge. 1919, c. 36, s. 61.

150. Notice of the order of discharge of a bankrupt, or authorized assignor, shall be forthwith gazetted. 1919, c. 36, s. 61.

151. Where, in the opinion of the court, a debtor ought not to have been adjudged bankrupt, or where it is proved to the satisfaction of the court that the debts of the bankrupt are paid in full, the court may, on the application of any person interested, by order annul the adjudication.

2. Where an adjudication is annulled under this section, all sales and dispositions of property and payments duly made, and all acts theretofore done by the trustee, or other person acting under his authority, or by the court, shall be valid, but the property of the debtor who was adjudged bankrupt shall vest in such person as the court may appoint, or, in default of any such appointment, revert to the debtor for all his estate or interest therein on such terms and subject to such conditions, if any, as the court may declare by order.

3. Notice of the order annulling an adjudication shall be forthwith gazetted and published in a local paper.

4. For the purposes of this section any debt disputed by a debtor shall be considered as paid in full if the debtor enters into a bond, in such sum and with such sureties as the court approves, to pay the amount to be recovered in any proceedings for the recovery of or concerning the debt, with costs, and any debt due to a creditor who cannot be found or cannot be identified shall be considered as paid in full if paid into court. 1919, c. 36, s. 62.

PART VII

COURTS AND PROCEDURE

Jurisdiction

152. The following named courts are invested with such jurisdiction at law and in equity as will enable them to exercise original, auxiliary and ancillary jurisdiction in bankruptcy and in other proceedings authorized by this Act during their respective terms, as they are now, or may be hereafter, held, and in vacation and in chambers,—

- (a) In the provinces of Alberta, British Columbia, Nova Scotia, Ontario and Prince Edward Island, the Supreme Court of the province;
- (b) In the provinces of Manitoba and Saskatchewan, the Court of King's Bench of the province;
- (c) In the province of New Brunswick, the King's Bench Division of the Supreme Court of the province;
- (d) In the province of Quebec, the Superior Court of the province; and
- (e) In the Yukon Territory, the Territorial Court of the Yukon Territory.

2. Subject to the provisions of this Act and to General Rules, the judge of the court exercising jurisdiction in bankruptcy or in authorized assignment proceedings may exercise in chambers the whole or any part of his jurisdiction.

3. The courts in the next subsection named are, subject to the provisions of this Act with respect to appeals, invested with power and jurisdiction to make or render on appeal asserted, heard and decided according to their ordinary procedure, except as varied by General Rules, the order or decision which ought to have been made or rendered by the court appealed from.

4. All appeals asserted under authority of this Act shall be made,

- (a) in the provinces of Nova Scotia and Prince Edward Island, to the Supreme Court *en banc* of the province;
- (b) in the provinces of British Columbia, Manitoba and Saskatchewan, to the Court of Appeal of the province;
- (c) in the provinces of Ontario and Alberta, to the Appellate Division of the Supreme Court of the province;
- (d) in the province of New Brunswick, to the Appeal Division of the Supreme Court of the province;
- (e) in the province of Quebec, to the Appeal side of the Court of King's Bench;
- (f) in the Yukon Territory, to the Court of Appeal of the province of British Columbia. 1919, c. 36, s. 63; 1921, c. 17, ss. 45 and 46; 1922, c. 8, s. 8.

153. Where the debtor is a corporation, as defined by this Act, the Winding-up Act shall not, except by leave of the court, extend or apply to it notwithstanding anything in that Act contained, but all proceedings instituted under that Act before this Act comes into force or afterwards, by leave of the court, may and shall be as lawfully and effectually continued under that Act as if the provisions of this section had not been made.

2. An order of the court, granting leave to extend or apply to any such corporation the Winding-up Act shall not be invalid or subject to any objection by reason only that the corporation had previously made an assignment under the provisions of this Act, or that proceedings in bankruptcy under this Act were at the time pending against the corporation, and in any such case the provisions of the Winding-up Act shall apply and prevail, and the bankruptcy proceedings shall abate subject to such disposition of the costs thereof to be made in the winding-up proceedings as the justice of the case may require. 1920, c. 34, s. 2; 1923, c. 31, s. 2.

154. The courts having jurisdiction in bankruptcy under this Act shall not be subject to be restrained in the execution of their powers hereunder by the order of any other court. 1919, c. 36, s. 64.

Sittings and Distribution of Business of Courts

155. Periodical sittings for the transaction of the business of such courts shall be held at such times and places and at such intervals as each of such courts shall for itself prescribe. 1919, c. 36, s. 64.

156. The Chief Justice of the court, and in the province of Ontario the Chief Justice of Ontario, and in the province of Quebec, the Chief Justice or the Acting Chief Justice in the district of appeal in which he has been appointed, may, if in his opinion it be advisable or necessary for the good administration of this Act, nominate or assign one or more of the judges of the court ordinarily to exercise the judicial powers and jurisdiction conferred by this Act, which may be exercised by a single judge, and the judgment, decision or order of any such judge so nominated or assigned shall be deemed to be the judgment, decision or order of the court, and reference in this act to the court shall apply to any such judge exercising the powers and jurisdiction of the court: Provided that nothing in this subsection shall diminish or affect the powers or jurisdiction of the court or of any of the judges thereof not so specially nominated or assigned. 1922, c. 8, s. 9; 1932, c. 39, s. 48.

157. 1. The Chief Justice of each Court upon which the powers and jurisdiction are conferred by this Act shall from time to time appoint and assign such registrars, clerks and other officers in bankruptcy as he deems necessary or expedient for the transaction or disposal of matters in respect of which power or jurisdiction is given by this Act and may prescribe or limit the territorial jurisdiction of any such registrar, clerk or other officer.

2. The Superintendent or any person appointed by him for such purpose shall have access to all books, records, documents and papers connected with the estate of any bankrupt or authorized assignor, kept by any registrar, clerk or officer in bankruptcy. 1919, c. 36, s. 64; 1932, c. 39, s. 49.

158. The Minister may, if in his opinion it be advisable or necessary for the good administration of this Act, authorize any district, county or other judge to exercise any or all of the powers and jurisdiction of the court, or of a judge or

registrar thereof, subject to any limitation or condition, and any such judge so authorized shall be deemed a judge or registrar as the case may be of the court having jurisdiction in bankruptcy, and references to the court or to the judge of the court or to the registrar shall apply to such district, county or other judge according to the terms of his authority. 1925, c. 31, s. 11.

Powers of Registrar

159. The registrars of the several courts exercising bankruptcy jurisdiction under this Act shall have power and jurisdiction subject to General Rules, limiting the powers conferred by this section.

- (a) to hear bankruptcy petitions and to make receiving orders and adjudications thereon, where they are not opposed;
- (b) to hold examinations of debtors;
- (c) to grant orders of discharge where the application is not opposed;
- (d) to approve compositions, extensions or schemes of arrangement where they are not opposed;
- (e) to make interim orders in cases of urgency;
- (f) to make any order or exercise any jurisdiction which by any rule in that behalf is prescribed as proper to be made or exercised in chambers;
- (g) to hear and determine any unopposed or *ex parte* application;
- (h) to summon and examine any person known or suspected to have in his possession effects of the debtor or to be indebted to him, or capable of giving information respecting the debtor, his dealings or property;
- (i) to hear and determine appeals from the decision of a trustee allowing or disallowing a creditor's claim where such claim does not exceed five hundred dollars.

2. A registrar shall not have power to commit for contempt of court.

3. Any person dissatisfied with an order or decision of the registrar may appeal therefrom to a judge, in manner prescribed by General Rules.

4. Any order made or act done by such registrars in the exercise of the said powers and jurisdiction shall be deemed the order or act of the court. 1919, c. 36, s. 65; 1920, c. 34, s. 15.

160. Each province of Canada shall constitute for the purposes of this Act, one bankruptcy district, but the Governor in Council may divide any such bankruptcy district into two or more bankruptcy divisions, and name or number them.

2. There shall be one Official Receiver in each bankruptcy district or division who shall be deemed to be an officer of the court and who as such Official Receiver shall have and perform only such duties and responsibilities as are prescribed by this Act and Rules, and shall be appointed by the Governor in Council. 1919, c. 36, 64; 1922, c. 8, s. 9; 1923, c. 31, s. 35.

General Rules

161. The Governor in Council may make, alter or revoke, and may delegate to the judges of the several courts exercising bankruptcy jurisdiction under this Act the power to make, alter or revoke, General Rules not inconsistent with the terms of this Act for carrying into effect the objects thereof.

2. Such rules shall not extend the jurisdiction of the court, save and except that, for the purpose of enabling the provision of rules having application to corporations, but for such purpose only, the Winding-up Act shall be deemed part of this Act.

3. All General Rules, as from time to time made, shall be laid before Parliament within three weeks after made, or, if Parliament is not then sitting, within three weeks after the beginning of the next session. Such rules shall be judicially noticed, and shall have effect as if enacted by this Act. 1919, c. 36, s. 66.

Fees and Returns

162. All attorneys, solicitors and counsel acting for the trustee or for the estate of a debtor in respect of proceedings under this Act, shall be paid out of the assets of such estate their reasonable costs and fees as fixed in a tariff provided by General Rules.

2. This provision shall not disentitle such attorneys, solicitors and counsel to any costs or fees which may be awarded against or be payable by persons other than the trustee or the estate of the debtor.

3. Notwithstanding anything contained herein, in estates whereof the gross proceeds do not exceed five thousand dollars, the costs or fees payable may, by unanimous vote of the inspectors, be increased to any amount not to exceed ten per centum of the gross proceeds of such estate.

4. Except as herein otherwise provided, the aggregate amount of such costs and fees so payable out of the assets of estates whereof the gross proceeds exceed five thousand dollars shall not exceed five per centum of such gross proceeds except with the approval of the court.

5. The tariff hereinbefore mentioned shall also fix the fees to be paid to the officers of the court and shall direct by whom and in what manner such costs and fees are to be collected and accounted for and to what account they shall be paid.

6. The fees payable to the officers of the court shall belong to the Crown in the right of the province, but the Lieutenant-Governor in Council may allow the same in whole or in part to such officers. 1919, c. 36, s. 67; 1921, c. 17, s. 59; 1922, c. 8, s. 10; 1923, c. 31, s. 36.

Procedure

163. All proceedings in bankruptcy or under authorized assignments subsequent to the presentation of a bankruptcy petition or the making of an authorized assignment shall be entitled "In the matter of the Bankruptcy" of the debtor, or "In the matter of the Authorized Assignment" of the debtor, as the case may be.

2. Subject to the provisions of this Act and to General Rules, the costs of and incidental to any proceedings in court under this Act shall be in the discretion of the court.

3. The court may at any time adjourn any proceedings before it upon such terms, if any, as it may think fit to impose.

4. The court may at any time amend any written process or proceedings under this Act upon such terms, if any, as it may think fit to impose.

5. Where by this Act, or by General Rules, the time for doing any act or thing is limited, the court may extend the time either before or after the expiration thereof, upon such terms if any, as the court may think fit to impose.

6. Subject to General Rules, the court may in any matter take the whole or any part of the evidence either *viva voce*, or by interrogatories, or upon affidavit, or, out of the Dominion of Canada, by commission.

7. Where two or more bankruptcy petitions are presented against the same debtor or against joint debtors, the court may consolidate the proceedings, or any of them on such terms as the court thinks fit.

8. Where the petitioner does not proceed with due diligence on his bankruptcy petition, the court may substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act in the case of the petitioning creditor, or may dismiss the petition.

9. If a debtor by or against whom a bankruptcy petition has been presented dies, the proceedings in the matter shall, unless the court otherwise orders, be continued as if he were alive.

10. The court may at any time, for sufficient reason, make an order staying the proceedings under a bankruptcy petition, either altogether or for a limited time, on such terms and subject to such conditions as the court may think just. 1919, c. 36, s. 68.

164. Every court having jurisdiction in bankruptcy under this Act may review, rescind or vary any order made by it under its bankruptcy jurisdiction. 1919, c. 36, s. 74.

165. Any creditor whose debt is sufficient to entitle him to present a bankruptcy petition against all the partners of a firm may present a petition against any one or more partners of the firm, without including the others.

2. Where a receiving order has been made on a bankruptcy petition by or against one member of a partnership, any other bankruptcy petition by or against a member of the same partnership shall be filed in or transferred to the court in which the first-mentioned petition is in course of prosecution, and unless the court otherwise directs, the same trustee shall be appointed as may have been appointed in respect of the property of the first mentioned member of the partnership, and the court may give such directions for consolidating the proceedings under the petitions as it thinks just. 1919, c. 36, s. 69.

166. Where there are more respondents than one to a bankruptcy petition the court may dismiss the petition as to one or more of them, without prejudice to the effect of the petition as against the other or others of them. 1919, c. 36, s. 69.

167. Where a member of a partnership is adjudged bankrupt, the court may authorize the trustee to commence and prosecute any action in the names of the trustee and of the bankrupt's partner.

2. Any release by such partner of the debt or demand to which the action relates shall be void.

3. Notice of the application for authority to commence the action shall be given to the bankrupt's partner, and he may show cause against it, and on his application, the court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of the action, and, if he does not claim any benefit therefrom, he shall be indemnified against costs in respect thereof as the court directs. 1919, c. 36, s. 70.

168. Any two or more persons, being partners, or any person carrying on business under a partnership name, may take proceedings or be proceeded against under this Act in the name of the firm, but in such case the court may, on application by any person interested, order the names of the persons who are partners in such firm or the name of such person to be disclosed in such manner, and verified on oath or otherwise, as the court may direct. 1919, c. 36, s. 70.

169. Where a bankrupt or authorized assignor is a contractor in respect of any contract jointly with any person or persons, such person or persons may sue or be sued in respect of the contract without the joinder of the bankrupt or authorized assignor. 1919, c. 36, s. 70.

170. Any order made by a court exercising jurisdiction in bankruptcy under this Act shall be enforced in the courts having jurisdiction in bankruptcy elsewhere in Canada in the same manner in all respects as if the order had been made by the Court hereby required to enforce it.

2. All courts having jurisdiction in bankruptcy and the officers of such courts respectively shall severally act in aid of and be auxiliary to each other in all matters of bankruptcy and in proceedings under authorized assignments, and an order of the court seeking aid, with a request to another of the said courts, shall be deemed sufficient to enable the latter court to exercise, in regard to the matters directed by the order, such jurisdiction as either the court which made the request or the court to which the request is made, could exercise in regard to similar matters within their respective jurisdictions.

3. Any warrant of a court having jurisdiction in bankruptcy may be enforced in any part of the Dominion of Canada in the manner prescribed or in the same manner and subject to the same privileges in, and subject to which, a warrant issued by any justice of the peace under or in pursuance of the Criminal Code may be executed against a person for an indictable offence. 1919, c. 36, s. 71; 1921, c. 17, s. 47.

171. The court may direct any issue to be tried or inquiry to be made by any judge or officer of any of the courts of the province, and the decision of such judge or officer shall be subject to appeal to a judge in bankruptcy, unless the judge is a judge of a superior court when the appeal shall be under section one hundred and seventy-four. 1920, c. 34, s. 16.

172. The court may by warrant direct the seizure or search on behalf of the trustee, custodian or interim receiver under a receiving order or authorized assignment, of or for any part of the property of the debtor, whether in possession of the debtor or of any other person, and for that purpose may order the breaking open of any building or place where the debtor or any part of his property is believed to be. 1921, c. 17, s. 47.

173. Where the court commits any person to prison, the commitment may be to such convenient prison as the court thinks expedient, and if the gaoler of any prison refuses to receive any prisoner so committed, he shall be liable for every such refusal to a fine not exceeding five hundred dollars. 1919, c. 36, s. 73.

Appeals

174. Any person dissatisfied with an order or decision of the court or a judge in any proceedings under this Act may appeal to the Appeal Court if the

- (a) question to be raised on the appeal involves future rights; or
- (b) order or decision is likely to affect other cases of a similar nature in the bankruptcy or authorized assignment proceedings; or
- (c) amount involved in the appeal exceeds five hundred dollars; or
- (d) appeal is from the grant or refusal to grant a discharge and the aggregate of the unpaid claims of creditors exceeds five hundred dollars.

2. The decision of the Appeal Court upon any such appeal shall be final and conclusive unless special leave to appeal therefrom to the Supreme Court of Canada is obtained from a judge of that court.

3. The Supreme Court of Canada shall have jurisdiction to hear and to decide according to its ordinary procedure any appeal so permitted and to award costs.

4. No such appeal to the Supreme Court of Canada shall operate as a stay of proceedings unless the judge who permits such appeal shall so order, and to the extent to which he shall order, and the appellant shall not be required to provide any security for costs, but unless he provides security for costs, in an amount to be fixed by the judge permitting the appeal, he shall not be awarded costs in the event of his success upon such appeal.

5. The decision of the Supreme Court of Canada on any such appeal shall be final and conclusive. 1919, c. 36, s. 74.

PART VIII

SUPPLEMENTAL PROVISIONS

175. Every married woman who carries on a trade or business, whether separately from her husband or not, shall be subject to the provisions of this Act as if she were a *feme sole*, and for all the purposes of this Act any judgment or order obtained against her, whether or not expressed to be payable out of her separate property shall have effect as though she were personally bound to pay the judgment debt or sum ordered to be paid. 1919, c. 36, s. 75.

176. Subject to such modifications as may be made by General Rules, the provisions of this Act shall apply to limited partnerships in like manner as if limited partnerships were ordinary partnerships, and, on all the general partners of a limited partnership being adjudged bankrupt or making an authorized assignment, the assets of the limited partnership shall vest in the trustee. 1919, c. 36, s. 76.

177. A minute of proceedings at a meeting of creditors under this Act, signed at the same or the next ensuing meeting by a person describing himself as or appearing to be chairman of the meeting at which the minute is signed, shall be received in evidence without further proof.

2. Until the contrary is proved, every meeting of creditors in respect to the proceedings whereof a minute has been so signed, shall be deemed to have been duly convened and held and all resolutions passed or proceedings thereat to have been duly passed or had. 1919, c. 36, s. 77.

178. A copy of the *Canada Gazette* containing any notice inserted therein in pursuance of this Act, shall be evidence of the facts stated in the notice. 1919, c. 36, s. 77.

179. The production of a copy of the *Canada Gazette* containing any notice of a receiving order adjudging a debtor bankrupt, shall be conclusive evidence in all legal proceedings of the order having been duly made, and of its date. 1919, c. 36, s. 77.

180. Any petition or copy of a petition in bankruptcy, any order or certificate or copy of an order or certificate, made by any court having jurisdiction in bankruptcy, any instrument or copy of an instrument, affidavit or document made or used in the course of any bankruptcy proceedings or other proceedings had under this Act shall if it appears to be sealed with the seal of any court having jurisdiction in bankruptcy, or purports to be signed by any judge thereof, or is certified as a true copy by any registrar thereof, be receivable in evidence in all legal proceedings whatever. 1919, c. 36, s. 78.

181. Subject to General Rules, any affidavit to be used in a court exercising jurisdiction in bankruptcy under this Act may be sworn before any person authorized to administer oaths in the court having jurisdiction or before any registrar of the court or before any officer of a court having jurisdiction in

bankruptcy authorized in writing in that behalf by the court, or before a justice of the peace for the province, county or place where it is sworn, or, in the case of a person who is out of Canada, before a notary public, a magistrate or justice of the peace or other person qualified to administer oaths in the country where he resides, he being certified to be a magistrate or justice of the peace or qualified as aforesaid by a British consul or vice-consul or by a notary public. 1919, c. 36, s. 79.

182. Every court having jurisdiction in bankruptcy under this Act shall have a seal describing the court, and judicial notice shall be taken of the seal and of the signature of the judge or registrar of any such court in all legal proceedings. 1919, c. 36, s. 80.

183. In case of the death of the debtor or his wife, or of a witness whose evidence has been received by any court in any proceedings under this Act, the deposition of the person so deceased, purporting to be sealed with the seal of the court or a copy thereof purporting to be so sealed, shall be admitted as evidence of the matters therein deposed to. 1919, c. 36, s. 81.

184. Where by this Act any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, then in the computation of that limited time the same shall be taken as exclusive of the day of that date or of the happening of that event, and as commencing at the beginning of the next following day; and the act or proceeding shall be done or taken at latest on the last day of that limited time as so computed, unless the last day is a Sunday or a statutory holiday throughout the province where the act or proceeding is to be done or taken on a day on which the court does not sit, in which case any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards which is not one of the days in this section specified.

2. Where by this Act any act or proceeding is directed to be done or taken on a certain day, then, if that day happens to be one of the days in this section specified, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards which shall not be one of the days in this section specified. 1919, c. 36, s. 82.

185. All notices and other documents for the service of which no special mode is directed may be sent by registered and prepaid post to the last known address of the person to be served therewith. 1919, c. 36, s. 83.

186. No proceeding in bankruptcy or under an authorized assignment shall be invalidated by any formal defect or by any irregularity, unless the court before which an objection is made to the proceeding is of opinion that substantial injustice has been caused by the defect or irregularity and that the injustice cannot be remedied by any order of that court.

2. No defect or irregularity in the appointment of a trustee or an inspector shall vitiate any act done by him in good faith. 1919, c. 36, s. 84.

187. For all or any of the purposes of this Act, an incorporated company may act by any of its officers or employees authorized in that behalf, a firm may act by any of its members, and a lunatic may act by his committee or curator or by the guardian or curator of his property. 1921, c. 17, s. 48.

188. Save as provided in this Act, the provisions of this Act relating to the remedies against the property of a debtor, the priorities of debts, the effect of a composition or scheme of arrangement, and the effect of a discharge, shall bind the Crown. 1919, c. 36, s. 86.

189. Nothing in the provisions of this Act shall interfere with, or restrict the rights and privileges conferred on banks and banking corporations by the Bank Act. 1919, c. 36, s. 88.

190. Where by this Act any body of persons is given power or authority to permit, consent or approve, and the court is given like power or authority alternatively, or otherwise than on appeal, and such body of persons has been constituted or convened, the court shall not act except upon satisfactory proof of prior application to such body of persons and its refusal of such application or its omission to announce its conclusion thereon within what the Court shall deem, according to the circumstances, a reasonable time. 1921, c. 17, s. 49.

PART IX

Bankruptcy Offences

191. Any person who has been adjudged bankrupt or in respect of whose estate a receiving order has been made, or who has made an authorized assignment under this Act, shall in each of the cases following be guilty of an indictable offence and liable to a fine not exceeding one thousand dollars or to a term not exceeding two years' imprisonment or to both such fine and such imprisonment:—

- (a) If he does not, to the best of his knowledge and belief, fully and truly discover to the trustee, custodian or interim receiver, all his property, real and personal, and how and to whom and for what consideration and when he disposed of any part thereof, except such part as has been disposed of in the ordinary way of his trade (if any) or laid out in the ordinary expense of his family, unless he proves that he had no intent to defraud;
- (b) If he does not deliver up to the trustee, custodian or interim receiver, or as he directs, all such part of his real and personal property as is in his custody or under his control, and which he is required by law to deliver up, unless he proves that he had no intent to defraud;
- (c) If he does not deliver up to the trustee, custodian or interim receiver, or as he directs, all books, documents, papers and writings in his custody, or under his control, relating to his property or affairs, unless he proves that he had no intent to defraud;
- (d) If after the presentation of a bankruptcy petition against him or within six months next before such presentation or if after making an authorized assignment or within six months next before the date of making thereof, he conceals any part of his property to the value of fifty dollars or upwards or conceals any debt due to or from him, unless he proves that he had no intent to defraud;
- (e) If after the presentation of a bankruptcy petition against him or within six months next before such presentation or if after making an authorized assignment or within six months next before the date of making thereof, he fraudulently removes any part of his property to the value of fifty dollars or upwards;
- (f) If he makes any material omission in any statement relating to his affairs, unless he proves that he had no intent to defraud;
- (g) If, knowing or believing that a false debt has been proved by any person under the bankruptcy or authorized assignment, he fails for the period of a month to inform the trustee thereof;

- (h) If, after the presentation of a bankruptcy petition against him or after he makes an authorized assignment, he prevents the production of any book, document, paper or writing, affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law;
- (i) If, after the presentation of a bankruptcy petition against him or within six months next before such presentation or if after making an authorized assignment or within six months next before the date of making thereof, he conceals, destroys, mutilates, or falsifies, or is privy to the concealment, destruction, mutilation or falsification of any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law;
- (j) If, after the presentation of a bankruptcy petition against him or within six months next before such presentation or if after making an authorized assignment or within six months next before the date of making thereof, he makes or is privy to the making of any false entry in any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law;
- (k) If, after the presentation of a bankruptcy petition against him or within six months next before such presentation or if after the making of an authorized assignment by him or within six months next before the date of making thereof, he fraudulently parts with, alters or makes any omission in, or is privy to the fraudulently parting with, altering or making any omission in, any document affecting or relating to his property or affairs;
- (l) If, after the presentation of a bankruptcy petition against him or after the making of an authorized assignment by him or at any meeting of his creditors within six months next before such presentation or assignment, he attempts to account for any part of his property by fictitious losses or expenses;
- (m) If, within six months next before the presentation of a bankruptcy petition against him or next before the date of the making of an authorized assignment by him, he, by any false representation or other fraud, has obtained any property on credit and has not paid for the same;
- (n) If, within six months next before the presentation of a bankruptcy petition against him or next before the date of the making of an authorized assignment by him he obtains, under the false pretense of carrying on business and, if a trader, of dealing in the ordinary way of his trade, any property on credit and has not paid for the same, unless he proves that he had no intent to defraud;
- (o) If within six months next before the presentation of a bankruptcy petition against him, or next before the date of the making of an authorized assignment by him or after the presentation of a bankruptcy petition against him or the making of an authorized assignment by him he pawns, pledges or disposes of any property which he has obtained on credit and has not paid for, unless in the case of a trader such pawning, pledging or disposing is in the ordinary way of his trade and unless in any case he proves that he had no intent to defraud;
- (p) If he is guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors or any of them to an agreement with reference to his affairs or to his bankruptcy;

- (q) If he knowingly makes or causes to be made, either directly or indirectly, or through any agency whatsoever, any false statement in writing, with intent that it shall be relied upon respecting the financial condition or means or ability to pay of himself or any other person, firm or corporation in whom or in which he is interested, or for whom or for which he is acting, for the purpose of procuring in any form whatsoever, either the delivery of personal property, the payment of cash, the making of a loan, or credit, the extension of a credit, the discount of any account receivable, or the making, acceptance, discount or endorsement of a bill of exchange, cheque, draft or promissory note, either for the benefit of himself or such person, firm or corporation;
- (r) If he, knowing that a false statement in writing has been made respecting the financial condition or means or ability to pay of himself or any other person, firm or corporation in whom or in which he is interested or for whom or for which he is acting, procures upon the faith thereof, either for the benefit of himself or such person, firm or corporation, any of the benefits mentioned in the preceding paragraph. 1919, c. 36, s. 89; 1932, c. 39, s. 50.

192. Where an undischarged bankrupt or an undischarged authorized assignor,

- (a) either alone or jointly with any other person, obtains credit to the extent of five hundred dollars or upwards from any person without informing that person that he is an undischarged bankrupt or an undischarged authorized assignor; or
- (b) engages in any trade or business under a name other than that under which he was adjudicated bankrupt or made such authorized assignment without disclosing to all persons with whom he enters into any business transaction the name under which he was adjudicated bankrupt or made such authorized assignment;

he shall be guilty of an indictable offence and liable to a fine not exceeding five hundred dollars, or to a term not exceeding one year's imprisonment, or to both such fine and such imprisonment. 1920, c. 34, s. 17.

193. If any person, who has on any previous occasion been adjudged bankrupt or made an authorized assignment or extension or arrangement with his creditors, is adjudged bankrupt, makes an authorized assignment or secures or asks for a composition, extension or arrangement with his creditors, he shall be guilty of an indictable offence and liable to a fine of one thousand dollars and to one year's imprisonment if having, during the whole or any part of the two years immediately preceding the date of the presentation of the bankruptcy petition or of the making of the authorized assignment or of the securing or asking for the composition, extension or arrangement, been engaged in any trade or business, he has not kept proper books of account throughout those two years or such part thereof, as aforesaid, and if so engaged at the date of presentation of the petition or the making of the assignment or the securing or asking for the composition, extension or arrangement, thereafter, whilst so engaged, up to the date of the receiving order, or the making of the assignment or the securing or asking for the composition, extension or arrangement, or has not preserved all books of account so kept.

2. A person who has not kept or has not preserved such books of account shall not be convicted of an offence under this section if his unsecured liabilities at the date of the making of the receiving order, or the assignment or of the securing or asking for the composition, extension or arrangement did not exceed five hundred dollars or if he proves that in the circumstances in which he traded or carried on business the omission was honest and excusable.

3. For the purposes of this section, a person shall be deemed not to have kept proper books of account if he has not kept such books or accounts as are necessary to exhibit or explain his transactions and financial position in his trade or business, including a book or books containing entries from day to day in sufficient detail of all cash received and cash paid, and, where the trade or business has involved dealings in goods, also accounts of all goods sold and purchased, and statements of annual and other stock-takings.

4. Paragraphs (i), (j) and (k) of section one hundred and ninety-one of this Act shall, in their application to the books mentioned therein, as aforesaid, have effect as if "two years next before the presentation of the bankruptcy petition" and "two years next before the date of the making of an authorized assignment" were substituted for the time mentioned in those paragraphs as the time prior to such presentation or making within which the acts or omissions specified in those paragraphs constitute an offence. 1919, c. 36, s. 91.

194. If any creditor, or any person claiming to be a creditor, in any bankruptcy proceedings, or in any proceedings pursuant to the provisions of Part II of this Act for obtaining a composition, extension or arrangement of a debtor's debts or of his affairs, or in any proceedings under an authorized assignment, wilfully and with intent to defraud makes any false claim, or any proof, declaration or statement of account, which is untrue in any material particular, shall be guilty of an indictable offence, and shall on conviction on indictment be liable to imprisonment with or without hard labour for a term not exceeding one year.

2. If any inspector accepts from the bankrupt or authorized assignor or from any person, firm, or corporation on his behalf or from the trustee, any fee, commission or emolument of any kind other than, or in addition to the regular fees provided for by this Act, he shall be guilty of an indictable offence and shall on conviction be liable to a fine, not exceeding one thousand dollars, or to imprisonment for a term not exceeding one year, or to both said fine and imprisonment. 919, c. 36, s. 92; 1932, c. 39, s. 51.

195. Whenever the court is satisfied, upon the representation of the Superintendent or any one on his behalf, or of the trustee, or of any creditor, inspector, or other interested person, that there is ground to believe that any person has been guilty of an offence under this Act or under any statute, whether Dominion or Provincial, in connection with the estate of the debtor, his dealings or property, the court may order that such person be prosecuted for such offence.

2. Whenever any Official Receiver, custodian or trustee has grounds for believing that any offence under this Act, or under any other statute, whether Dominion or Provincial, has been committed with respect to any insolvent estate in connection with which he has been acting under this Act, or that for some special reason an investigation should be had in connection with such estate, it shall be the duty of such Official Receiver, custodian or trustee to report such matter to the court, including in such report a statement of all the facts or circumstances of the case within his knowledge, and the names of the witnesses who should in his opinion be examined, and a statement as to the offence or offences believed to have been committed, and to forward a copy of such report forthwith to the Superintendent.

3. Except by leave of the court no action shall lie against the Superintendent or any other person with respect to any representation or report made under, or any action taken pursuant to the provisions of this Act. 1919, c. 36, s. 93; 1932, c. 39, s. 52.

196. Where a debtor has been guilty of any criminal offence, he shall not be exempt from being proceeded against therefor by reason that he has obtained his discharge or that a composition, extension or scheme of arrangement has been accepted or approved.

2. Any composition, extension or scheme of arrangement, although accepted or approved, may be annulled at the request of the trustee or of any creditor whenever the debtor is afterwards convicted of any offence mentioned in section one hundred and ninety-one of this Act. 1919, c. 36, s. 94; 1923, c. 31, s. 37.

197. Any registrar or other officer, who upon tender of any receiving order or assignment or a copy thereof, certified as aforesaid, with the proper fees, and with the request that such document be registered or filed as aforesaid, shall refuse or omit to forthwith register or file the same in manner hereinbefore indicated or who shall omit or refuse to comply with the provisions of subsection two of section twenty-eight in so far as they are applicable to him, shall be guilty of an indictable offence punishable upon indictment or summary conviction by a fine not exceeding one thousand dollars or by imprisonment for a term not exceeding one year or to both such fine and such imprisonment. 1919, c. 36, s. 11.

198. Where there is, in the opinion of the court, ground to believe that the bankrupt or any other person has been guilty of any offence under this Act, the court may commit the bankrupt or such other person for trial.

2. For the purpose of committing the bankrupt or such other person for trial, the court shall have power to take depositions, bind over witnesses to appear, admit the accused to bail, or otherwise.

3. In an indictment for an offence under this Act, it shall be sufficient to set forth the substance of the offence charged in the words of this Act specifying the offence or as near thereto as circumstances admit, without alleging or setting forth any debt, act of bankruptcy, trading, adjudication, or any proceedings in, or order, warrant or document of, any court acting under this Act.

4. Where any person is prosecuted for an offence under this Act no other prosecution shall be instituted against him for the same offence under any other Act. 1919, c. 36, s. 95.

199. Any person who,

- (a) not being a licensed trustee, does any act as, or represents himself to be a licensed trustee; or
- (b) being a trustee, either before providing the bond required by subsection eight of section thirty-seven of this Act, or after providing the same but at any time while the said bond is not in force, acts as or exercises any of the powers of trustee; or
- (c) having been appointed a trustee, with intent to defraud fails to observe or to comply with any of the provisions of this Act, or fails duly to do, observe or perform any act or duty which he may be ordered to do, observe or perform by the court, pursuant to any of the provisions of this Act; or
- (d) having been appointed a trustee, without reasonable excuse, fails to observe or to comply with any of the provisions of this Act, or fails duly to do, observe or perform any act or duty which he may be ordered to do, observe or perform by the court pursuant to any of the provisions of this Act; or
- (e) solicits or canvasses any person to make an assignment under this Act,

shall be guilty of an indictable offence and liable to a fine not exceeding one thousand dollars or to a term not exceeding two years' imprisonment or to both such fine and such imprisonment. 1920, c. 34, s. 18; 1922, c. 8, s. 11; 1925, c. 31, s. 13; 1932, c. 39, s. 53.

200. Any person, except the trustee hereinafter mentioned, who, before the elapse of fifteen days after delivery to the trustee of the notice in writing mentioned in section fifty-four of this Act, or in case no such notice has been delivered, shall remove or attempt to remove the goods or any thereof mentioned in such section out of the charge or possession of the debtor or of the trustee or other actual custodian of such goods, unless with the written permission of the trustee, shall be guilty of an indictable offence and liable to a fine not exceeding five thousand dollars, or to a term not exceeding two years' imprisonment, or to both such fine and such imprisonment. 1921, c. 17, s. 50.

201. Where any offence against this Act has been committed by an incorporated company every officer, director or agent of the company who directs, authorizes, condones, or participates in the commission of the offence, shall be liable to the like penalties as such company and as if he had committed the like offence personally, and he shall be so liable cumulatively with the company and with such officers, directors or agents of the company as may likewise be liable hereunder. 1921, c. 17, s. 51.

202. Repealed by 1932, c. 39, s. 54.

NOTE.—Section 55 of 22-23, George V, chap. 39 provides that the amendments made by this Act shall come into force on a date to be fixed by proclamation of the Governor-in-Council, but shall not operate to disqualify any trustee appointed before that date. By Proclamation dated September 20, 1932 (published in the *Canada Gazette* of September 24, 1932) the said Act was proclaimed to come into effect on the first day of December, 1932.

SCHEDULE

FORM 1

“ In the matter of the Bankruptcy of.....Debtor.
 “ Canada
 “ Province of
 “ I of in the province of
 , make oath and say—
 “ That the hereunto annexed document is tendered for registration (or filing)
 “ under the authority and direction of of
 in the Province of
 “ a duly appointed trustee under the Bankruptcy Act.
 “ Sworn before me at.....
 “ In the Province of.....
 “ this day of.....19....”
 1919, c. 36, s. 11.

FORM 2

“ The annexed document affects the title to (or constitutes a lien or liens or a charge or charges upon or against, as the case may be) the following described (real or immovable) property; (add such reasonable description of each parcel affected, stating how it is affected, as may enable the registrar or other officer for the time being in charge of the proper office to identify the affected property and to discover how it is affected).” 1921, c. 17, s. 11.

GENERAL RULES UNDER THE BANKRUPTCY ACT

PART I

PRELIMINARY

1. These Rules may be cited as “the Bankruptcy Rules”.

2. (1) In these Rules, unless the context or subject matter otherwise requires,—

“The Act” means “The Bankruptcy Act” and amendments thereto for the time being in force.

“The Court” means the Court as defined by The Bankruptcy Act and includes a Registrar when exercising the powers of the Court pursuant to the Act or these rules.

“Creditor” includes a corporation and a firm of creditors in partnership.

“Contributory” means a contributory as defined by Section 73 (2) of the Act.

“Judge” means the Judge to whom bankruptcy business is for the time being assigned in any Court having jurisdiction under the Act, or any other judge having authority under the Act or these rules to act.

“Proceeding or proceedings” shall mean matters commenced by the filing of a petition or an authorized assignment or such other applications as may properly be brought before the Court under the Act or Rules.

“Proper Officer” means the officer appointed by the Chief Justice of the Court for the transaction or disposal of the particular matter in question.

“Province” includes Territory.

“Registrar” means a registrar, deputy registrar or local registrar having jurisdiction in bankruptcy.

“Seal” shall mean the seal ordinarily used in civil actions and matters before it by the Court having jurisdiction, and the words “Sealed” or “and Sealed” where used shall refer to such seal.

“Taxing Officer” means and includes the officer of the Court whose duty it is to the tax costs in bankruptcy proceedings or in pursuance of an authorized assignment or a composition, extension or scheme of arrangement.

“Trustee” means a trustee or a licensed trustee as defined by the Bankruptcy Act, and the word “authorized” wherever it is used in these rules to qualify the word “trustee” is struck out.

“Written,” “writing” and any like expression shall include typewriting, printing or mimeographing, or partly one and partly another.

“Chief Justice” means, in the provinces other than Ontario, the Chief Justice of the Court and in the Province of Ontario, the Chief Justice of Ontario.

(2) The definitions contained in section two of the Act shall, where applicable and unless the context or subject matter otherwise requires, apply to and be part of these rules.

3. (1) The forms in the Appendix, where applicable, or forms to the like effect with such variations as circumstances may require, shall be used. Where such forms are applicable any costs occasioned by the use of any other or more prolix forms shall be borne by or disallowed to the party using the same, unless the Court shall otherwise direct.

(2) The provisions contained in the forms prescribed shall be deemed to be authorized by these rules.

PART II

GENERAL PROCEDURE

4. All matters and applications may be heard and determined in chambers unless the Court or a judge shall in the particular matter or application otherwise direct.

5. A Registrar may without any general or special directions of the judge hear and determine any matter or application referred to in Section 159 (1) of the Act.

5A. An interim receiver, custodian or trustee shall be entitled to appear in person before a Registrar on any application or proceeding.

6. Any matter or application pending before a Registrar which under the Act, or the Bankruptcy Rules for the time being in force, a Registrar has jurisdiction to determine, shall be adjourned to be heard before the Judge, if the Judge shall, either specially or by any general direction applicable to the particular case, so direct.

PROCEEDINGS

7. (1) Every proceeding in Court under the Act shall be dated, and shall be intitled in the name of the Court in which it is taken "In Bankruptcy," and then in the matter to which it relates. Numbers and dates may be denoted by figures.

(a) All proceedings commenced by the filing of a petition or after the filing and acceptance of an authorized assignment shall be entitled "In the matter of the bankruptcy of debtor."

(2) Unless otherwise provided, or unless it is otherwise directed by the Chief Justice, all proceedings and documents required, under the Act or these Rules, to be filed in Court or with the proper officer, shall be filed with the registrar.

8. All proceedings in Court shall be written on sheets of paper of the size ordinarily used in civil actions or matters before it by the Court; but no objection shall be allowed to any proof, affidavit, or other proceedings on account of its being written or printed on paper of other size.

9. All proceedings of the Court shall remain of record in the Court, but they may at all reasonable times be inspected by any person.

10. All petitions, and warrants and subpoenas issued by the Court, shall be sealed.

11. (1) The judge may at any time, for good cause shown, order the proceedings in any matter under the Act to be transferred to the Court in another bankruptcy district or division.

(2) Where the proceedings in any matter are transferred to the Court in another bankruptcy district or division the proper officer of the first Court shall send by post the records of proceedings transferred, to the Registrar of the Court in the bankruptcy district or division to which the transfer is made and shall include with such records a copy of the order of transfer.

12. When any bankruptcy proceeding has been commenced in a bankruptcy district or division in which it should not have been commenced, the Judge of the Court of such bankruptcy district or division may order that the proceeding shall be transferred to the court in the bankruptcy district or division in which the same should have been commenced, or that it be continued in the Court in which it was commenced; but, unless and until a transfer is made under these Rules, the proceeding shall continue in the Court in which it was commenced.

13. Where any proceedings in bankruptcy have been commenced against a corporation or where a corporation has made an authorized assignment, the Court may on the application of the Trustee or any creditor or shareholder, and on proof that it is to the interest of the creditors that the order be made, grant leave to extend or apply to such corporation the Winding-up Act subject to such disposition of the costs thereof to be made in the winding-up proceedings as the justice of the case may require.

13A. Where a Caution has been registered pursuant to Section 29A (1) the said Caution may be removed or cancelled by the proper Master (or Registrar) upon receiving a notice of withdrawal in the prescribed form duly executed by the trustee, or upon such notice and in such manner as any Caution or Caveat lodged against any land (or charge) may be removed or cancelled under the provisions of the Land Titles Act under which such land (or charge) is registered.

MOTIONS AND PRACTICE

14. Every application (unless otherwise provided by these Rules, or the Court shall in any particular case otherwise direct) shall be made by motion.

15. Where any party, other than the applicant, is affected by the motion, no order shall be made, unless upon the consent of such party duly shown to the Court, or upon proof to the satisfaction of the Court that notice of the intended motion has been duly served upon such party; provided that the Court, if satisfied that the delay caused by serving notice would or might entail serious mischief, may make any order *ex parte* upon such terms as to cost and otherwise, and subject to such undertaking, if any, as the Court may think just; and any party affected by such order may move to set it aside.

16. Unless the Court gives leave to the contrary, notice of motion shall be served on any party to be affected thereby not less than four days before the day named in the notice for hearing the motion. An application for leave to serve short notice of motion may be made *ex parte*.

17. In cases in which personal service of any notice of motion, order, or other proceeding is required the same may be effected by delivering to each party to be served a copy of the notice of motion, order, or other proceeding, as the case may be.

18. Every affidavit to be used in supporting or opposing any motion or application shall be filed with the proper officer not later than the day before the day of the hearing.

19. A party intending to move shall, not later than the day before the day of the hearing, file with the proper officer a copy of his notice of motion.

SETTLEMENT OF ORDER

20. All orders made by a Judge in Chambers shall be settled and signed by him or by the Registrar or proper officer. All orders made by the Registrar shall be settled and signed by the Registrar. The person who has the carriage

of any order which in the opinion of the Judge or Registrar requires to be settled shall obtain from the Judge or Registrar, as the case may be, an appointment to settle the order and give reasonable notice of the appointment to all persons who may be affected by the order, or to their solicitors.

SECURITY IN COURT

21. (1) Except where otherwise provided any security required to be given shall be by bond of a guarantee company or corporation approved by the Court.

(2) Provided, however, that the Court may in its discretion permit the security to be given by bond with one or more surety or sureties to the Registrar of the Court or to the person proposed to be secured and in such case the Court may require the surety or sureties to make an affidavit of justification and may also require such notice to be given to the person proposed to be secured as the Court deems advisable or expedient.

22. The bond shall be taken in a penal sum, which shall be not less than the sum for which security is to be given, and probable costs to be estimated by the Court, unless the opposite party consents to it being taken for a less sum.

23. Where a person is required to give security he may, in lieu thereof, lodge in Court a sum equal to the sum in question in respect of which security is to be given and the probable costs to be estimated as aforesaid of the trial of the question, together with a memorandum to be approved of by the Registrar and to be signed by such person, his solicitor, or agent, setting forth the conditions on which the money is deposited.

24. Where a person gives security by bond or makes a deposit of money in lieu of giving a bond, he shall forthwith before being entitled to proceed give notice in writing to the person to whom the security is to be given.

25. Except as in the Act or these rules otherwise provided the Rules for the time being in force in civil actions or matters before it of the Court relating to payment into or out of Court of moneys shall apply to moneys lodged in Court or to be paid out of Court under these Rules.

AFFIDAVITS

26. Every affidavit shall be drawn up in the first person, and shall state the description and true place of abode of its deponent, and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and as nearly as may be shall be confined to a distinct portion of the subject. No costs shall be allowed for any part of an affidavit containing unnecessary matters or which in the opinion of the taxing officer is unduly prolix.

27. The Court may order to be struck out from any affidavit any matter which is scandalous, and may order the costs of any application to strike out such matter to be paid as between solicitor and client.

28. No affidavit having in the jurat or body thereof, any interlineation, alteration, or erasure shall, without leave of the Court, be read or made use of in any matter depending in Court unless the interlineation, alteration or erasure is authenticated by the initials of the officer or person taking the affidavit.

29. Where an affidavit is sworn by any person who appears to the person taking the affidavit to be illiterate or blind, the person taking the affidavit shall certify in the jurat that the affidavit was read in his presence to the deponent, that the deponent seemed perfectly to understand it, and that the deponent made

his signature or declared his inability to sign in the presence of such person. No such affidavit shall be used in evidence in the absence of this certificate, unless the Court is otherwise satisfied that the affidavit was read over to and appeared to be perfectly understood by the deponent.

30. The Court may receive any affidavit sworn for the purpose of being used in any matter notwithstanding any defect by misdescription of parties or otherwise in the title or jurat, or any other irregularity in the form thereof, and may direct a memorandum to be made on the document that it has been so received.

31. No affidavit (other than a proof of debt) shall be sufficient if sworn before the solicitor acting for the party on whose behalf the affidavit is to be used, or before any agent, clerk or partner of such solicitor, or before the party himself.

32. Where by this Act or in these Rules it is provided that an affidavit or declaration be made by a debtor, authorized trustee or any other person and such debtor, authorized trustee or other person is a corporation, such affidavit or declaration may be made by the manager or by any officer or employee of the corporation, who has knowledge of the facts deposed to providing that he states therein that he has such knowledge.

33. The Court shall take judicial notice of the seal and/or signature of any person authorized by or under the Act or these rules to take affidavits or to certify to such authority.

WITNESSES AND DEPOSITIONS

34. Any party to any proceeding in Court may by a writ of subpoena in the prescribed form, with or without a clause requiring the production of books, deeds, papers, documents and writings, require the attendance of a witness for the purpose of using his evidence upon any motion, petition or other proceeding before the Court or any judge or registrar. The name of one or more witnesses may be inserted in the subpoena.

35. A copy of the subpoena shall be served, personally, on the witness, within a reasonable time before the time of the return thereof, and service of the subpoena may, where required, be proved by affidavit.

36. The costs of witnesses, whether they have been examined or not, may, in the discretion of the Court or taxing officer, be allowed; provided, however, that the Court may at any time limit the number of witnesses to be allowed on taxation of costs.

37. The Court may, in any matter where it shall appear necessary for the purpose of justice, make an order for the examination upon oath before the Court or any officer, or other person, and at any place, of any witness or person, and may empower any party to any such matter to give such depositions in evidence therein on such terms (if any) as the Court may direct.

38. (1) Where the evidence of any person is taken on or for use on the hearing of any motion, application or issue or in pursuance of an order for examination, commission or letters of request or where the debtor or any other person is examined under sections 134 to 138 of the Act, or otherwise under the Act or these Rules, such evidence or examination may be taken in shorthand by a shorthand writer approved and duly sworn by the judge, registrar, or person before whom the examination is taken. A shorthand writer who has been duly appointed to report trials at sittings of the Court need not be sworn.

(2) When taken in shorthand the evidence or examination may be taken down by question and answer; and unless otherwise ordered it shall not be necessary for the depositions to be read over to or signed by the persons examined, unless the judge or registrar so directs, when the examination is taken before a judge or registrar, or in other cases unless any of the parties so desire.

(3) A copy of the depositions so taken, certified by the judge, registrar or person before whom the same were taken as correct, shall for all purposes have the same effect as the original depositions in ordinary cases.

39. An order for examination, commission or letters of request to examine witnesses, and the writ, order, commission or request, shall follow the forms for the time being in use in the Court in civil actions or matters before it with such variations as circumstances may require.

40. The Court, may in any matter, at any stage of the proceedings, order the attendance of any person for the purpose of producing any writings or other documents named in the order, which the Court may think fit to be produced.

41. Any person wilfully disobeying any subpoena or order requiring his attendance for the purpose of being examined or producing any object, book or document shall be deemed guilty of contempt of Court, and may be dealt with accordingly.

42. Any witness required to attend for the purpose of being examined, or to produce any document, or to give evidence, shall be entitled to the witness fees and conduct money provided by the tariff costs in the appendix hereto.

DISCOVERY AND EXAMINATION

43. Any party to any proceeding in Court may, with leave of the Court, administer interrogatories to or obtain discovery of documents or examination for discovery from any other party to such proceeding, or any other person as authorized by the Court, and may also cross-examine any person upon an affidavit made by him in such a proceeding. Proceedings under this Rule shall be regulated as nearly as may be by the Rules of the Court for the time being in force in relation to like matters in civil actions or matters in such Court. An application for leave under this Rule may be made *ex parte*.

WARRANTS, ARRESTS AND COMMITMENTS

44. A warrant of seizure, or a search warrant, or any other warrant issued under the provisions of the Act, or these rules shall be addressed to the Sheriff or such other officer or person as the Court may in each case direct.

45. When a debtor is arrested under a warrant issued under section 139 of the Act, he shall be given into custody of the Governor or Keeper of the prison or gaol mentioned in the warrant, who shall produce such debtor before the Court as it may from time to time direct, and shall safely keep him until such time as the Court shall otherwise order; and any books, papers, moneys, goods and chattels in the possession of the debtor, which may be seized, shall forthwith be lodged with the custodian or trustee as the case may be.

46. Where a person is apprehended under a warrant issued under section 128 (3) or 135 (1), the officer apprehending him shall forthwith bring him before the Court to the end that he may be examined; and if he cannot be immediately brought up for examination or examined, the officer shall deliver him into the custody of the Governor or Keeper of the prison or gaol mentioned in the

warrant, and the said Governor or Keeper shall receive him into custody and shall produce him before the Court or Official Receiver as the Court may from time to time direct or order, and subject to such direction or order shall safely keep him.

47. The Officer executing a warrant issued under section 128 (3) or 135 (1) of the Act shall forthwith after apprehending the person named in the warrant and bringing him before the Court as in the last preceding rule mentioned, or after delivering him to the Governor or Keeper of the prison or gaol, as in the last preceding rule mentioned, as the case may be, report such apprehension or delivery to the Court issuing the warrant and apply to the Court to appoint a day and time for the examination of the person so apprehended, and the Court shall thereupon appoint the earliest practicable day for the examination, and shall issue its direction or order to the said Governor or Keeper to produce him for examination at a time and place to be mentioned in such direction or order. Notice of any such appointment shall forthwith be given by the Registrar to the Official Receiver and to the Custodian or trustee as the case may be and to any other person who shall have applied for the examination or warrant.

48. Where an order of committal is made against any person, for disobeying any order of the Court, to do some particular act or thing, the Court may direct that the order of committal shall not be issued, provided that such person complies with the previous order within a specified time.

49. Where a debtor or witness refuses or neglects to attend at the time and place appointed for his examination or, if attending, refuses to be sworn, or to answer any lawful question, the rules of practice for the time being in force in similar or analogous proceedings in civil actions or matters before the Court shall in so far as the same are applicable, and not inconsistent with the Act or these Rules, apply.

SERVICE AND EXECUTION OF PROCESS

50. Every solicitor suing out, filing or serving any petition, notice, summons, order, or other document, shall indorse thereon his name or firm and place of business, which shall be called his address for service. All notices, orders, documents, and other written communications which do not require personal service shall be deemed to be sufficiently served on such solicitor if left for him at his address for service.

51. Service of notices, orders, or other proceedings shall be effected before the hour of five in the afternoon, except on Saturdays, when it shall be effected before the hour of one in the afternoon. Service effected after five in the afternoon on any week day, except Saturday, shall for the purpose of computing any period of time subsequent to such service be deemed to have been effected on the next following day which is not a legal holiday. Service effected after one in the afternoon on Saturday shall for the like purpose be deemed to have been effected on the next following day which is not a legal holiday.

52. It shall be the duty of the sheriff or bailiff of the Court having jurisdiction or such officer or officers as the Court may direct, to serve such orders, summonses, petitions and notices as the Court may require him to serve; to execute warrants and other process; and to do and perform all such things as may be required of him by the Court. Where any notice or other proceeding may be served by post it shall be sent by registered letter.

53. Every order of the Court may be enforced as if it were a judgment of the Court.

COSTS AND TAXATION

54. (1) The Court in awarding costs may direct that the same shall be taxed and paid as between party and party or as between solicitor and client, or the Court may fix a sum to be paid in lieu of taxed costs.

(2) In the absence of any express direction costs of an opposed motion shall follow the event, and shall be taxed as between party and party.

(3) Where an action is brought by or against a custodian or trustee as representing the estate of the debtor, or where a custodian or trustee is made a party to a cause or matter, on his application or on the application of any other party thereto, he shall not be personally liable for costs unless the judge before whom the action, cause or matter is tried for some special reason otherwise directs.

54a. The Court may direct a solicitor to bring in his bill to be taxed within such time as to the Court seems just, in default of which the Court may thereupon direct the trustee to proceed to distribute the proceeds in his hands without regard to the claim of any such solicitor.

55. (1) When receiving order is made on a creditor's petition the costs of the petitioning creditor shall be taxed and be payable out of the estate.

(2) When the proceeds of the estate are not sufficient for the payment of the petitioning creditor's costs and of any costs necessarily incurred by the custodian or trustee down to the conclusion of the first meeting of creditors, the Court may order such costs to be paid by the petitioning creditor.

56. The costs directed by any order to be paid shall be taxed on production of a copy of such order, and the allocatur or certificate of taxation shall be signed and dated by the taxing master or officer and delivered to the person who presented such bill for taxation.

56a. A direction in writing by the trustee or the production of a written retainer shall be sufficient authority for the taxation of a bill of the solicitor to the trustee.

57. (1) The tariff of costs set forth in the Appendix and the regulations contained in such tariff, shall, subject to these Rules, apply to the taxation and allowance of costs and charges in all proceedings.

(2) Where the value of the assets of the debtor estimated or realized as the case may be is according to the certificate of the trustee less than fifteen hundred dollars, the scale of fees, other than disbursements, payable in all proceedings under the Act shall be reduced by one-third.

58. Every person whose bill or charges is or are to be taxed shall in all cases give not less than two days' notice of the appointment to tax the same to the Trustee, or to the opposite party or his solicitor, as the case may be.

59. Every person whose bill or charges is or are to be taxed shall on application of the trustee furnish to the trustee a copy of his bill or charges so to be taxed on payment at the rate of fifteen cents per folio, which payment may be charged to the estate.

60. Where the joint estate of any co-debtors is insufficient to defray any costs or charges properly incurred, the trustee may pay such costs and charges as cannot be paid out of the joint estate out of the separate estate of such co-debtors or one or more of them in such proportion as he may determine, with the consent of the inspectors of the estates out of which the payment is intended to be made, or, if such inspectors withhold or refuse their consent, then with the approval of the Court.

61. Subject to the provisions of the Act, no costs shall be paid out of the estate or assets of the debtor, excepting the costs of the solicitor or solicitors employed by the trustee and such costs as have been awarded against the trustee or the estate of the debtor by order of the Court in any action or proceeding under the Act or these Rules.

FEEES

62. The fees to be charged in respect of proceedings under this Act shall be as fixed by Part 3 of the tariff, and shall be collected in cash or in such manner as the Lieutenant-Governor in Council provides, by the officers who perform the duties under the Act or Rules in respect of which such fees are payable and shall be accounted for by such officers to the Crown in the right of the province. In case of any proceedings not covered by the tariff a fee may be charged of an amount equal to the tariff fee for the proceeding most nearly resembling the one in question. In case of any dispute as to the amount of fees chargeable the judge shall fix and settle the amount.

RULES RELATING TO THE BUSINESS OF THE COURT

63. The Chief Justice shall regulate the bankruptcy sittings and vacations of the Court.

64. Any Registrar in bankruptcy may act for any other Registrar.

65. Writs of execution shall issue from the proper office of the Court and all proceedings thereon and in relation thereto shall be regulated as nearly as may be by the Rules of the Court for the time being in force in relation to executions in civil actions or matters before such Court.

66. Where any registrar, clerk or other officer in bankruptcy refuses or neglects to act as such registrar, clerk or other officer or to perform or carry out any act, matter or thing connected with the office to which he has been appointed or assigned for the transaction or disposal of any matter in respect of which power or jurisdiction is given by "The Bankruptcy Act" or by these Rules, then, and in every such case, the registrar, clerk or other officer so neglecting or refusing, shall be guilty of contempt of court and be liable to be punished accordingly.

APPEALS FROM REGISTRAR

67. An appeal from the registrar shall be by ordinary notice or motion to the judge of the bankruptcy district or division in which the proceedings are pending. No appeal shall be brought unless the notice thereof is filed with the registrar and served within ten days after the pronouncing of the order or decision complained of, or within such further time as may be allowed by the judge. The notice shall set forth fully the grounds of appeal. No security for the costs of the appeal need be given by the appellant.

APPEALS TO APPEAL COURT

68. (1) No appeal from a judge to the Appeal Court shall be brought unless notice thereof is filed with the registrar and served within ten days after the pronouncing of the order or decision complained of or within such further time as may be allowed by a judge.

(2) At or before the time of entering an appeal the party intending to appeal shall lodge in the court the sum of one hundred dollars to satisfy, in so far as the same may extend, any costs that the appellant may be ordered to pay. Provided that the Appeal Court may in any special case increase or diminish the amount of such security or dispense therewith.

69. The proper officer of the Court appealed from shall upon receiving a copy of the notice of appeal promptly transmit to the Registrar of the Appeal Court the notice of appeal and the file of proceedings in the matter under appeal.

70. Where an issue or question is, under the provisions of section 170 of the Act, tried by a Court other than the Court in which the bankruptcy proceedings are pending, any appeal from the decision of such Court shall be made to and be heard by the Appeal Court of the province in which the bankruptcy proceedings are pending, unless the last-mentioned Appeal Court otherwise orders.

71. Subject to the foregoing Rules, appeals to the Appeal Court in any bankruptcy district or division shall be regulated by the Rules of such Court, for the time being in force in relation to appeals in civil actions or matters.

APPEALS TO SUPREME COURT

72. (1) An application for special leave to appeal from a decision of the Appeal Court and to fix the security for costs, if any, shall be made to a Judge of the Supreme Court of Canada within thirty days after the pronouncing of the decision complained of and notice of such application shall be served on the other party at least fourteen days before the hearing thereof.

(2) Where any security for the costs of such appeal is fixed the same shall be given to the Registrar in the manner and form prescribed by the rules and practice of the Supreme Court of Canada, or in a manner and form to like effect.

73. Subject to the foregoing rules, appeals to the Supreme Court of Canada shall, as nearly as possible, be regulated by the rules of such Court for the time being in force in relation to appeals in civil matters or actions.

PART III

PETITION IN BANKRUPTCY

74. Every petition shall be fairly written and no alteration, interlineations, or erasures shall be made therein, after the same has been filed, without the leave of the Registrar.

75. A petitioning creditor who is resident abroad, or whose estate is vested in a trustee under any law relating to bankruptcy, or against whom a petition is pending under any such law, or who has made default in payment of any judgment, order for payment of money or of any costs ordered by any Court to be paid by him to the debtor, may be ordered to give security for costs to the debtor and proceedings under the petition may be stayed until such security is furnished.

76. With every creditor's petition when filed there shall be lodged a copy to be sealed and issued to the petitioner. The petition shall be deemed to have been presented to the Court on the day of the filing thereof.

77. A true copy of the creditor's petition together with a notice of the time and place of the presentation and hearing thereof shall be personally served upon the debtor at least eight days before the presentation and hearing; provided that where it is proved to the satisfaction of the Court that the debtor has absconded, or in any other case for good cause shown, the Court may, on such terms, if any, as the Court may think fit to impose, hear the petition at such earlier date and without such service as the Court may deem expedient.

78. If the Court is satisfied by affidavit or other evidence that the debtor is keeping out of the way to avoid service of the petition or any other document, or service of any other legal process, or that for any other cause prompt personal service cannot be effected, it may order substituted service to be made by delivery of the petition or such other document to some adult inmate at his usual or last known residence or place of business, or by registered letter, or in such other manner as the Court may direct, and such petition or other document shall then be deemed to have been duly served on the debtor.

79. Service of the petition may be proved by affidavit, with a sealed copy of the petition attached, and the same shall be filed in Court as soon as practicable after the service.

80. Any notice, petition or other document for which personal service is necessary shall be deemed to be duly served on all the members of a firm if it is served at the principal place or one of the principal places of business of the firm in the province wherein the proceedings are taken, or if there is no such place then at the principal place of business of the firm in Canada, or any one of the partners, or upon any person having at the time of service the control or management of the partnership business there.

81. The provisions of the last preceding rule shall so far as the nature of the case will admit apply in the case of any person carrying on business within the jurisdiction in a name or style other than his own.

82. Any notice, petition or other document for which personal service is necessary shall be deemed to be duly served on a corporation if it is served at the head office or principal place, or one of the principal places of business of a corporation in the province wherein the proceedings are taken or if there is no such place at the head office or principal place of business of the corporation in Canada, on the president, vice-president, secretary, treasurer, manager or upon any officer of the corporation or upon any person having at the time of service the control or management of the business of the corporation at the place of such service.

83. Where a debtor is not in Canada, the Court may order service of the petition or any other document to be made within such time and in such manner and form as it shall think fit.

84. If a debtor against whom a bankruptcy petition has been filed dies before service thereof, the Court may order service to be effected on the personal representatives of the debtor, or on such other person as the Court may think fit.

OFFICIAL RECEIVER

85. When a debtor has failed to present himself before the Official Receiver within the time mentioned in section 128 (3) the Official Receiver shall communicate with the custodian who shall forthwith make application to the Court for a warrant for the arrest of the debtor.

86. (1) An authorized assignment shall be offered to the Official Receiver in the form prescribed and with the name of the grantee or assignee left blank.

(2) When the trustee has been duly appointed, the Official Receiver shall insert the name of such trustee as the grantee or assignee and shall certify that such trustee has been duly appointed.

(3) Upon the appointment of a trustee following the making of a Receiving Order, the Official Receiver shall endorse or attach to the certified copy of the Receiving Order filed with him a certificate in the prescribed form, and on the

same being filed with the Court, the registrar or other officer authorized to make a certified copy of any order shall be entitled to endorse or attach to any certified copy of a Receiving Order made by him a copy of the certificate of the Official Receiver to all intents and purposes as if the same were endorsed or attached to the original Receiving Order.

87. When an Official Receiver appoints a custodian he shall certify to the appointment in the prescribed form; and shall mail the same to the custodian by registered letter. Where the Official Receiver considers it advisable he shall also notify the custodian by telegraph or telephone of his appointment.

88. On the appointment of a trustee one duplicate each of the authorized assignment, Forms 50, 53 and 54 duly attested by the debtor and all proofs of debts, proxies and voting letters shall be handed over by the Official Receiver and the Custodian, as the case may be, to the Trustee, who shall give receipts therefor to the Official Receiver and the Custodian. The other duplicate of the Authorized Assignment or the certified copy of the Receiving Order, with the certificate of appointment of trustee endorsed thereon, or attached thereto, together with Forms 50, 53 and 54 shall be deposited by the Official Receiver in the Court having jurisdiction in the locality of the debtor.

89. The Official Receiver may apply to the Court for directions in case of doubt or difficulty or in any matter not provided for by the Act or Rules.

90. Judicial notice shall be taken of any certificate or other document of any Official Receiver made or given pursuant to the Act or Rules.

90A. In the absence or illness of the Official Receiver his duties may be performed by the Registrar or by an assistant or deputy registrar duly authorized to perform the duties of the Registrar.

INTERIM RECEIVER

91. After the presentation of a petition, upon the application of a creditor or a debtor and upon proof by affidavit or sufficient grounds for the appointment of an Interim Receiver of the property of the debtor or any part thereof, the Court may, if it thinks fit and upon such terms as may be just, make such appointment; such order may be made *ex parte*.

92. Where, after an order has been made appointing an Interim Receiver, the petition is dismissed, the Court shall, upon application to be made within twenty-one days from the date of the dismissal thereof, adjudicate with respect to any damages or claim thereto arising out of the appointment, including the proper remuneration of the Interim Receiver, and shall make such order as the Court thinks fit.

CUSTODIAN

93. Every custodian shall within three days from his appointment deposit with the Official Receiver such security for the proper performance of his duties as shall be directed by the Court or the Official Receiver which appointed him. If the security is given by bond the costs of such bond shall be an expense of the custodian payable out of the estate.

94. Any custodian who neglects or refuses to perform the duties imposed on him by the Act and Rules shall be guilty of contempt of Court and may be punished accordingly.

95. A custodian may be removed and another substituted for cause by the Official Receiver or the Court.

96. The fees of the custodian shall, unless the Court otherwise orders, be as set out in the Tariff.

97. In the case of a receiving order, the custodian appointed by the Court shall forthwith transmit to the proper Official Receiver a certified copy of such receiving order.

98. The custodian may apply to the Court for directions in case of doubt or difficulty or in a matter not provided for by the Act or Rules.

HEARING OF PETITION

99. Where a debtor intends to show cause against a petition he shall file a notice with the proper officer, specifying the statements in the petition which he intends to deny or dispute, and shall transmit by post to the solicitor of the petitioning creditor a copy of the notice three days before the day on which the petition is to be heard.

100. If the debtor does not appear at the hearing, the Court may make a receiving order and adjudge the debtor bankrupt on such proof of the statements in the petition as the Court shall think sufficient.

101. On the appearance of the debtor to show cause against the petition, the petitioning creditor's debt, and the act of bankruptcy, or such of those matters as the debtor shall have given notice that he intends to dispute, shall be proved to the satisfaction of the Court by affidavit or by any evidence which would be admissible to prove the facts in a civil action in the Court.

102. Where proceedings on a petition have been stayed for the determination of the question of the validity of the petitioning creditor's debt, which question may be determined in such manner as the Court may direct, and such question has been decided in favour of the validity of the debt, the registrar shall, on production of the judgment of the Court, or a copy thereof, and on the application of the petitioning creditor, fix a day on which further proceedings on the petition may be had. The petitioning creditor shall within forty-eight hours of the date of said appointment mail or deliver to the debtor, at the address given in his notice of dispute, a notice in writing of such appointment, and a like notice to his solicitor, if known.

103. Where proceedings on a petition have been stayed for the determination of the question of the validity of the petitioning creditor's debt, and such question has been decided against the validity of the debt, the registrar shall on the production of the judgment of the Court or a copy thereof, and on application of the debtor, fix a day on which he may apply to the Court for the dismissal of the petition with costs. The debtor shall within forty-eight hours of the date of the appointment mail or deliver to the petitioner (and to his solicitor, if known) notice in writing of the time and place fixed for the hearing of the application.

RECEIVING ORDER

104. When a receiving order is made on a creditor's petition there shall be stated in the receiving order the nature and date, or dates, of the act, or acts, of bankruptcy upon which the order has been made.

105. The custodian shall cause a copy of the receiving order to be served upon the debtor. The said copy so served shall bear the endorsements set out in Form 13.

106. A receiving order against a firm shall operate as a receiving order not only against the firm, but also against each person who at the date of the order is a partner in that firm.

107. The rights or liabilities of any past or present limited partner of a limited partnership, against which a receiving order has been made or which has made an authorized assignment, as such rights or liabilities are fixed or defined by the statutory provision (if any) of the province wherein the partnership business is or has been carried on, shall not in any way be prejudiced or affected by these Rules.

108. An application to the Court to rescind a receiving order or to stay proceedings thereunder, or to annul an adjudication, shall not be heard except upon proof that notice of the intended application and a copy of the affidavits in support thereof have been duly served upon the petitioning creditor or creditors and the custodian or trustee as the case may be. Unless the Court gives leave to the contrary, notice of any such application together with copies of such affidavits shall be served on the petitioning creditor or creditors and the custodian or trustee as the case may be, not less than four days before the day named in the notice for hearing the application. Pending the hearing of the application, the Court may make an interim order staying such of the proceedings as it thinks fit

DUTIES OF DEBTORS

109. (1) The Official Receiver shall require the debtor to answer the questions set out in Form 50 or questions to the like effect; and shall cause the debtor's answers to be taken down. The form shall be completed or the answers transcribed, as the case may be, in duplicate.

(2) The Official Receiver may direct the debtor to attest two copies of the form as so completed, or the answers as so transcribed, and to verify the correctness of the same by oath, or statutory declaration; and it shall be the duty of the debtor to comply with such direction of the Official Receiver; and in default thereof he shall be guilty of contempt of court.

(3) Whenever the authorized assignor is a corporation, the Official Receiver shall require the officer executing the assignment, or such other officer as he shall direct, to answer the questions set out in Form 50, and such officer shall for the purposes of such examination be deemed to be the debtor.

STATEMENT OF AFFAIRS

110. (1) The sworn statement required by section 9 (2) shall be according to Form 53 or to the like effect, and the sworn statement required by section 128 (3) shall be according to Form 54 or to the like effect. The statement shall be completed and sworn in duplicate. Where the debtor is able at the time of the making of the authorized assignment to supply the information required by Form 54, that form may be completed in lieu of Form 53.

(2) Where the debtor is a partnership it shall submit a statement in duplicate, of its partnership affairs verified by one of the partners or by the manager in charge of the business and each partner shall submit a statement, in duplicate, of his separate affairs verified personally.

(3) Where the debtor is a corporation the statement of affairs, in duplicate, shall be verified by the president, vice-president, secretary, treasurer or manager.

(4) If within the time mentioned in section 128 (3), the corporation has not submitted its statement verified as provided by the next preceding subsection of this Rule, each of the officers therein mentioned shall be deemed guilty of contempt of court and shall be punishable accordingly.

COMPOSITION, EXTENSION OR SCHEME OF ARRANGEMENT

111. Where a debtor intends to submit a proposal for a composition, extension or scheme of arrangement the prescribed forms in the appendix of proposal and notice shall be used by the trustee for the purpose of meetings of creditors for consideration of the proposal.

112. Whenever an application is made to the court to approve of a composition, extension or scheme, the trustee shall, not less than seven days before the hearing of the application, send notice by registered mail of the application to the debtor and to every creditor who has proved his debt; and the trustee shall file his report not less than two days before the time fixed for hearing the application

113. In any case in which an application is made to the court to approve a composition, extension or scheme and the trustee reports to the court any fact, matter, or circumstance which would justify the court in refusing to approve of the composition, extension or scheme, such application shall be deemed to be an opposed application within the meaning of section 159 (1) (d) of the Act.

114. On the hearing of any application to the court to approve of a composition, extension or scheme the court shall in addition to considering the report of the trustee hear the trustee, the debtor and/or any opposing, objecting or dissenting creditor thereon, and an appeal to the Court of Appeal shall lie at the instance of the trustee, the debtor or any such creditor from any order of the court made upon such application.

115. No costs incurred by a debtor, of or incidental to an application to approve a composition, extension or scheme, other than the costs incurred by the trustee, shall be allowed out of the estate if the court refuses to approve the composition, extension or scheme.

116. The court before making an order approving a composition, extension or scheme shall, in addition to investigating the other matters as required by the Acts, require proof that the provisions of section 11 (eleven) of the Act have been complied with.

117. At the time a composition, extension or scheme is approved, the court may correct or supply any accidental or formal slip, error, or omission therein, but no alteration in the substance of the composition, extension or scheme shall be made.

118. Where a composition, extension or scheme is annulled, the property of the debtor shall, unless the court otherwise directs, forthwith re-vest in the trustee, if any, in whom the estate was originally vested without any special order being made or necessary.

119. Every person claiming to be a creditor under any composition, extension or scheme, who has not proved his debt before the approval of such composition, extension or scheme, shall lodge his proof with the trustee thereunder, who shall admit or disallow the same. And no creditor shall be entitled to enforce payment of any part of the sums payable under a composition, extension or scheme unless and until he has proved his debt and his proof has been admitted or allowed.

TRUSTEE

120. When a trustee has been appointed he shall forthwith gazette notice of his appointment and shall forward a notice of his appointment in the prescribed form to the registrar.

121. (1) If within seven days after his appointment the trustee has not deposited with the Official Receiver the security required by section 37 (8), the trustee shall report that fact to the court, and the court may thereupon give such directions as the case may require. In case the trustee does not report as by this rule provided he shall be guilty of contempt of court may be punished accordingly.

(2) If any trustee fails to deposit with the Official Receiver within the time mentioned in section 37 (8) the security therein referred to it shall be the duty of the Official Receiver to report the fact to the court. The report shall be made within two days after the expiration of the time therein referred to; and may be made by registered prepaid letter addressed to the registrar.

(3) On receipt of such report the court may give such directions as the case may require.

122. Any creditor who has proved his debt may apply to the trustee for a copy of the accounts or any part thereof relating to the estate as shown by the cash book up to date, and on paying for the same at the rate of fifteen cents a folio he shall be entitled to have such copy accordingly.

123. (1) Whenever a period of two years has elapsed from the date of the Receiving Order or Authorized Assignment and no final dividend has been declared it shall be the duty of the trustee after ten days' notice to the creditors to report to the court and to pass his accounts to date.

2. If the trustee does not report to the Court as provided by this rule the trustee may be removed on application of any creditor.

3. The notice to creditors and the report to the Court shall be according to the prescribed forms; and there shall accompany them an abstract of all receipts and expenditures of the trustee.

DISCHARGE OF TRUSTEE

124. The application of a trustee for grant of discharge (whether full or partial) shall be made in the prescribed form to the Registrar and shall be verified by the affidavit of such trustee. Such application shall contain or have attached thereto a complete and itemized statement showing all moneys realized by such trustee from and out of the property of the bankrupt or assignor and of all moneys disbursed and expenses incurred and the remuneration claimed by such trustee; and full particulars, description and value of all property belonging to the estate which has not been sold or realized upon, setting out the reasons why such property has not been sold or realized upon; and full particulars and information with regard to any unsettled disputes, actions or proceedings between such trustee and either the debtor or any creditor or creditors or any other person connected with the estate.

125. The Trustee shall, unless otherwise ordered by the Court on an *ex parte* application, at least ten days prior to the hearing of the application send notice in writing by registered mail to the debtor and to each of the creditors and to the superintendent.

126. On an application by a trustee for his discharge, the following rules shall be applied:

1. Unless the Court otherwise orders the fee of the trustee shall be deemed to cover all services performed by the trustee, his partners and employees; he shall in no case include any remuneration for services performed by the Official Receiver or Custodian, and in any case where the remuneration has not been fixed by the creditors, pursuant to subsection 1 of section 85, the Court shall con-

sider whether the fee charged by the trustee is reasonable, having regard to the services actually performed by him and by the Custodian and Official Receiver, respectively, and may adjourn the application for discharge in order to enable any creditor or the debtor to make application for a reduction of such remuneration.

2. In taxing the disbursements of a trustee pursuant to the provisions of subsection 5 of section 85 of the Act, the taxing officer may allow as disbursements, in addition to other actual disbursements of the trustee the items set out in the "Scale of Trustee's Disbursements" in Part III of the Tariff attached to the General Rules. The disbursements of a trustee shall not include rent of trustee's office nor storing books or records.

3. Subject to the provisions of the Act and of this Rule the Court shall determine what fees and disbursements are properly chargeable by the trustee.

127. 1. If the debtor or any creditor desires to oppose the application for discharge he shall file with the Registrar, at least two days prior to the hearing or within such further time as the Court may allow, a notice in writing of his intention to oppose the application setting out his reasons therefor and shall serve a copy of the said notice on the trustee, within the time aforesaid.

2. If the application for discharge is not opposed the Registrar may either grant or refuse the same. If the application is opposed the same shall be adjourned for hearing before a judge.

128. The trustee shall keep for a period of at least six years from the date of declaring a final dividend all current books of record and important documents of the estate of the bankrupt or authorized assignor. After the expiration of such period the trustee may destroy unimportant books and documents but shall continue to keep for a further period of fourteen years from the date thereof all title papers relating to real or immovable estate, important documents under seal and such other books and papers which in the judgment of the trustee should be kept. During the said periods the trustee shall at all times produce and dispose of all books and papers in his possession as ordered by the Court.

128A. A certificate of an Official Receiver or of the Court that a person has been appointed trustee at the first meeting of creditors or subsequently thereto on the removal or displacement of a trustee, or a certified copy of an order or a certificate of such an order appointing a trustee in the place and stead of any former trustee, shall be conclusive evidence for any purpose of his appointment.

129. In the case of the sale of immovable property in the Province of Quebec by the trustee, if the purchaser has not paid the whole of the purchase price or given security when he may lawfully do so under the provisions of the Code of Civil Procedure for the Province of Quebec, the trustee may obtain from the Court an order for the resale of the property; the purchaser may however prevent the resale for false bidding by paying to the trustee, before such resale, the amount of his bid with the interest accrued by reason of his default and all costs incurred thereby, if a resale takes place the false bidder is liable to the trustee for the difference between the amount of his bid and the price brought on the resale with all costs incurred by reason of his default for the payment of which on application of the trustee, the Court may make an order against the false bidder; if the price obtained on the resale is greater, it goes to the benefit of the estate.

MEETING OF CREDITORS

130. The custodian shall give three days' notice to the debtor of the time and place appointed for the first meeting of creditors. The notice may be either delivered to him personally or sent to him by registered prepaid post. It shall

be the duty of the debtor to attend such first meeting, although the notice is not sent to or does not reach him. In the case of a debtor corporation the directors shall attend the first meeting.

131. Notices of meetings of creditors shall be mailed not less than three days before the day appointed for the meeting.

132. Where a Receiving Order is made against, or an Authorized Assignment by a partnership firm, the joint and separate creditors shall collectively be convened for the first meeting of creditors.

133. (1) Where a meeting of creditors is called by notice, the proceedings had and resolutions passed at such meeting shall, unless the Court otherwise orders, be valid, notwithstanding that some creditors shall not have received the notice sent to them and notwithstanding the inadvertent omission to send such notice to one or more creditors.

(2) Where a meeting of creditors is adjourned, the adjourned meeting shall be held at the same place as the original place of meeting, unless in the resolution for adjournment another place is specified.

134. Proofs intended to be used at the first meeting of creditors shall be lodged with the custodian not later than the time mentioned for that purpose in the notice convening the meeting. A proof intended to be used at an adjournment of a first meeting (if not lodged in time for the first meeting) must be lodged not less than twenty-four hours before the time for holding the adjourned meeting.

135. A debtor who is required by a trustee to attend any meeting of creditors (other than the first meeting) and who resides at a distance of more than ten miles from the place of such meeting, shall be entitled to be paid for such attendance the like conduct money and expenses as if he were a witness required to attend in Court or for the purpose of being examined.

136. Every class of creditors shall express its views and wishes separately from every other class and the effect to be given to such views and wishes shall, in case of any dispute and subject to the provisions of the Act, be in the discretion of the Court having regard to the financial condition of the debtor.

PROOF OF CLAIMS

137. In any case in which it shall appear from the debtor's statement of affairs that there are numerous claims for wages by workmen and others employed by the debtor, it shall be sufficient if one proof for all such claims is made either by the debtor, or his foreman, or the book-keeper of the debtor, or some other person on behalf of all such creditors. Such proof shall have annexed thereto, as forming part thereof, a schedule setting forth the names of the workmen and others, and the amounts severally due to them. Any proof made in compliance with this Rule shall have the same effect as if separate proofs had been made by each of the said workmen and others.

138. Where a creditor's proof has been admitted the notice of dividend shall be sufficient notification to such creditor of such admission.

DISALLOWANCE OF CLAIMS

139. The appeal of a claimant from the decision of the trustee under Section 84 or 127 shall be by notice of motion and the trustee shall be served with a copy in the ordinary manner provided by these rules. The Court shall dispose of the appeal summarily on affidavits or such oral evidence or both as to the Court

shall seem just, except where, in the opinion of the Court, it is desirable or expedient because of the importance or complications of the matter in dispute or the amount involved the Court may direct an issue.

139A. Where a claimant desires to recover goods referred to in Section 54, he shall file with the custodian or trustee, as the case may be, a notice of his claim verified by affidavit, giving the grounds on which the claim is based and sufficient particulars to enable the goods to be identified, and the trustee when appointed shall after investigating the claim either return the said goods or give notice that the right of the claimant thereto is disputed, whereupon the claimant may within ten days thereafter appeal therefrom in the manner provided for in Rule 139. The trustee shall in no case be liable for the costs of such appeal, or any loss occasioned by such dispute made in good faith.

139B. Where an issue is directed on any matter before the Court any of the parties thereto shall be entitled as of right, unless the Court otherwise orders, to discovery and production of documents and to examination for discovery, and where on examination for discovery the trustee is unable of his own knowledge to make discovery of all the facts at issue, the debtor or debtors, or in the case of a debtor corporation any officer or servant thereof may be examined as to the facts in accordance with the rules provided for in the general practice of the Court in civil actions.

140. The trustee shall in no case be personally liable for costs in relation to an appeal from his decision rejecting or disallowing any proof wholly or in part.

CONTINGENT OR UNLIQUIDATED CLAIMS

141. Where a contingent claim has been filed with a trustee, or one in the nature of unliquidated damages arising by reason of a contract, promise or breach of trust, and the trustee under the provisions of section 43 of the Act has been unable to make a compromise or other arrangement satisfactory to the inspectors in respect thereto, the trustee shall apply to a judge, by way of notice of motion, to value the claim, serving the claimant with a copy of the notice of motion in the ordinary manner provided by these rules. The trustee shall prior to the hearing of the motion file with the registrar a copy of the claim in question and an affidavit or affidavits by the trustee, the debtor or by some other person having knowledge of the claim setting out as full particulars and information as to the claim as have been ascertained, also setting out what steps (if any) were taken to make a compromise or other arrangement in respect of the claim, and particulars of any offer of compromise or arrangement made by the trustee with the permission of the inspectors, and such other facts as the trustee deems advisable. The judge shall hear and dispose of the matter summarily and either on affidavits or viva voce evidence or both as to the judge shall seem best.

SETTLEMENT AND PREFERENCES

142. Applications by a trustee, or any person, to set aside or avoid under the Act, or any other Act or law, any settlement, conveyance, transfer, security or payment, or to declare for or against the title of the trustee to any property adversely claimed, and any proceedings under "The Winding-up Act" against any past or present director, manager, liquidator, receiver, employee, or officer of any company, against whom a receiving order has been made, or which has made an authorized assignment, shall be to a Judge in chambers by notice of motion served in the ordinary manner as provided by these rules. The Judge

may proceed in a summary manner to try the question or issue in the case or may adjourn the hearing, or may direct or settle any question or issue to be tried, or may give such directions for the preparation and filing of pleadings and for the trial of such question or issue, or may make such other order in the premises as to the judge shall seem best.

143. Any application or notice of motion under the preceding rule may contain a description of the land (if any) in question, and upon filing the same or a copy thereof, signed by the solicitor of the applicant, with the proper officer, a certificate of *lis pendens* may be issued for registration, and in case the said application or motion is refused in whole or in part, a certificate of such order may be issued for registration.

CONTRIBUTORIES TO INSOLVENT CORPORATIONS

144. The demand of a trustee on any contributory shall be in the prescribed form and there shall be no duty imposed on the trustee to make demands on a *pro rata* basis so far as the contributories of a debtor are concerned or to adjust rights as between contributories.

145. If a contributory does not pay the trustee the amount demanded and does not give notice in writing, to the trustee, disputing the demand within the time and in the manner provided by the Act, the trustee may from and after the expiration of thirty days from the date of service of the demand, make an *ex parte* application to the Court in the prescribed form for judgment against the contributory and the Court may on such application, without further notice to the contributory, give judgment in favour of the trustee for the amount demanded or such amount as the Court finds justly owing and for the costs of the application.

146. In the case where a contributory has given notice in writing to the trustee disputing the demand, within the time and in the manner provided by the Act, the trustee may, from and after the expiration of thirty days from the date of service of the demand, make application to the Court in the prescribed form for judgment against the contributory, giving the contributory at least four days' notice of such application, and the Court on the hearing of the application may proceed in a summary way to try the question or issue in the case or may adjourn the hearing or may direct and settle any question or issue to be tried between the trustee and the contributory or may give such directions for the preparation and filing of pleadings or for the trial of such question or issue or may make such other order in the premises as to the Court shall seem best.

147. The trustee may include in any application more than one contributory.

148. At least two days before the hearing of any such application the trustee shall file with the proper officer the verified statement of the affairs of the debtor; an estimate of the trustee as to the realizable value of all property of the debtor, and a list of all proved or provable claims against the estate of the debtor in so far as the trustee is able to ascertain.

149. If it should appear to the Court that the issue of immediate execution under any judgment recovered or entered by a trustee against a contributory would be an undoubted hardship on the contributory, or would be unjust or inequitable, the Court may, on the application or request of the contributory and on such terms as to security or otherwise as the Court deems advisable, order that execution be stayed pending the adjustment of rights between contributories or for such period as to the Court shall seem best.

150. In case a contributory desires to have the Court adjust rights and liabilities as between contributories he may make application to the Court in the prescribed form setting out his grounds in an affidavit in the prescribed form. He shall give at least four days' notice of such application to all other contributories from whom he claims contributions. The Court may on an *ex parte* application direct the method of service of said notice, whether by personal service, mail or otherwise, as to the Court may seem best.

151. The Court may on any such application order any one or more of the contributories of the debtor to pay into Court such amounts as may be found by the judge to be just and equitable and in default of payment of the amount so found the Court may give judgment against any defaulting contributory directing payment of such amount to the applicant or to the trustee or otherwise and may dispose of the costs of such application.

152. All moneys paid into Court shall be adjusted, divided and paid out according to the directions of the judge and where the judge deems advisable such moneys or any portion thereof may be paid out to the authorized trustee.

EXAMINATION OF DEBTOR AND OTHERS

153. Examinations under sections 134 to 138 of the Act or any other examination may be held before a Registrar or before any person or officer who is qualified or authorized to hold examinations for discovery or of judgment debtors in accordance with the Rules, for the time being in force in civil actions or matters of the Court in the bankruptcy district or division in which the examination is held or to be held or before such other person as the Court on an *ex parte* application therefor may order.

154. Such examination may be held in the bankruptcy district or division in which the debtor or other person to be examined resides or in which he is served with the appointment for examination, or in which the debtor, or such other person, resided or carried on business at the date of the receiving order or authorized assignment, notwithstanding that such bankruptcy district or division may not be the same district or division in which the bankruptcy of the debtor occurred or in which the debtor made an authorized assignment or in which the proceedings are being carried on; or the examination may be held at such time and place and in such bankruptcy district or division in Canada as the Court on application may order. Such application, unless the Court otherwise directs, may be made *ex parte*.

155. Any such registrar, person or officer empowered to hold examinations may grant, in duplicate, an appointment for examination in the form provided by the Appendix or in form to like effect.

156. A duplicate of such appointment shall be served upon the debtor or person to be examined at least forty-eight hours before the time of examination.

DISCHARGE

157. (1) In any case in which an application is made to the Court by a debtor for his discharge and the trustee reports to the Court any fact, matter or circumstance which would, under the Act, justify the Court in refusing an unconditional order of discharge, such application shall be deemed to be an opposed application within the meaning of section 159 (1) (c) of the Act.

(2) The Court may, on the application by a debtor for his discharge, cause the debtor to be brought before the Court for examination or further examination.

158. An appeal to the Appeal Court shall lie at the instance of the trustee, the debtor and or at the instance of any creditor or creditors, who oppose the discharge, from any order of the Court made upon the application for discharge.

159. When a debtor intends to dispute any statement with regard to his conduct and affairs contained in the trustee's report he shall at or before the time appointed for hearing the application for discharge give notice in writing to the trustee specifying the statements in the report, if any, which he proposes at the hearing to dispute. Any creditor who intends to oppose the discharge of a debtor on grounds other than those mentioned in the trustee's report shall give notice of the intended opposition, stating the grounds thereof, to the trustee and to the debtor at or before the time appointed for the hearing of the application. In either of such cases the judge or registrar may enlarge the hearing of the application as deemed advisable.

160. (1) A debtor shall not be entitled to have any of the costs of or incidental to his application for discharge allowed to him out of his estate.

(2) If the debtor does not make his application for discharge until after the trustee has paid the final dividend, he shall, before the order of discharge is signed or delivered out, pay to the trustee such remuneration and solicitor's costs as the Court may allow.

161. (1) Where the Court grants an order of discharge conditionally upon the debtor consenting to judgment being entered against him by the trustee for the balance or any part of the balance of the debts provable under the bankruptcy or authorized assignment which is not satisfied at the date of his discharge, the order of discharge shall not be signed, completed or delivered out until the debtor has given the required consent. The judgment shall be entered in the Court having jurisdiction in bankruptcy in the district or division in which the order of discharge is granted.

(2) If the debtor does not give the required consent within ten days of the making of the conditional order the Court may, on the application of the trustee, revoke the order or make such other order as the Court may think fit.

162. The order of the Court made on an application for discharge shall be dated on the day on which it is made, and shall take effect from the day on which the order is drawn up and signed; but such order shall not be delivered out or gazetted until after the expiration of the time allowed for appeal, or, if an appeal be entered, until after the decision of the Appeal Court thereon.

163. (1) An application by the trustee for leave to issue execution on a judgment entered pursuant to a conditional order of discharge shall be made to the Court in writing, and shall state shortly the grounds on which the application is made.

(2) The trustee shall give not less than four day's notice of the application to the debtor, and shall at the same time furnish him with a copy of the application.

164. Where a debtor is discharged subject to the condition that judgment shall be entered against him, or subject to any other condition as to his future earnings or after-acquired property, it shall be his duty until such judgment or condition is satisfied, from time to time, to give the trustee such information as he may require with respect to his earnings and after-acquired property and income, and not less than once a year to file in the Court and with the trustee a statement showing the particulars of any property or income he may have acquired subsequent to his discharge.

165. Any statement of after-acquired property or income filed by a debtor whose discharge has been granted subject to conditions, shall be verified by affidavit, and the trustee may require the debtor to attend before an examiner to be examined on oath with reference to the statements contained in such affidavit, or as to his earnings, income, after-acquired property, or dealings. Where a debtor neglects to file such affidavit or to attend for examination when required so to do, or properly to answer all such questions as the Court may decide to be proper, the Court may, on the application of the trustee, rescind the order of discharge.

166. Where after the expiration of one year from the date of any order made upon a debtor's application for a discharge, the debtor applies to the Court to modify the terms of the order on the ground that there is no reasonable probability of his being in a position to comply with the terms of such order, he shall give 14 days' notice by mail of the hearing of the application to the trustee and to all his creditors.

MISCELLANEOUS

167. No person shall, as against the trustee, be entitled to withhold possession of the books of account belonging to the debtor or to set up any lien thereon.

168. Non-compliance with any of these Rules, or with any rule of practice for the time being in force, shall not render any proceeding void unless the Court shall so direct, but such proceeding may be set aside, either wholly or in part, as irregular, or amended or otherwise dealt with in such manner and upon such terms as the Court may think fit.

169. In all cases in which any number of days not directed to be clear days as prescribed by the Act or by these rules, or by any notice or order in reference to any proceeding under the Act, the same shall be reckoned exclusively of the date from which the computation is made, but inclusively of the day on which the act or proceeding referred to is to be done or taken.

170. Where notice is to be given or service is required to be made a certain number of days before the day on which something is to be done, if the words "clear days" or "at least" or "not less than" are used, both the day of service or of giving notice and the day on which such thing is to be done shall be excluded from the computation.

171. Where any limited time less than six days from or after any date or event is appointed or allowed for doing any act or taking any proceeding, days on which the offices of the court are closed shall not be reckoned in the computation of such limited time.

172. Where the time for doing any act or taking any proceeding expires on a Sunday or other day on which the offices of the Court are closed, and by reason thereof such act or proceeding cannot be done or taken on that day, such act or proceeding shall, so far as regards the time of doing or taking same, be held to be duly done or taken on the next day on which the said offices are open.

173. The general practice of the Court in civil actions or matters before it, including the course of proceedings and practice in judges' chambers, shall in cases not provided for by the Act and amendments thereto, or these rules, and so far as the same are applicable and not inconsistent with the said Act or these rules, apply to all proceedings under the said Act.

174. The Superintendent may engage such chartered accountants or other persons as he may deem advisable to conduct any inspection or investigation or to take any other necessary action outside of the office of the Superintendent, and the cost and expenses thereof shall, when certified by the Superintendent, be payable out of the appropriation for the office of the Superintendent of Bankruptcy.

175. The Superintendent may at any time require a trustee to furnish him with copies of all notices, statements or reports sent by the trustee to creditors, also copies of all examinations of debtors and others made under the provisions of the Bankruptcy Act.

APPENDIX

PART I—FORMS

No. 1

General Title

In the matter of the Bankruptcy

of

.....Debtor

FORM 1A

Title for Court Proceedings

In the.....Court of.....

In Bankruptcy

In the matter of the bankruptcy of.....debtor.

FORM 1B

Title for Court Orders

In the.....Court of.....

In Bankruptcy

The Hon. Mr. Justice
or
The Registrar
(as the case may be)

}

day the
day of 19..

In the matter of the bankruptcy of.....debtor.

No. 2

Creditors' Petition

(Title) [Form 1A]

I, C. D. of.....

(or we), C. D. of.....
hereby petition the Court that (a).....
of the.....of.....
in the Province of.....lately carrying
on business at (or residing at) the.....
of.....in the.....
of.....be adjudged bankrupt
and that a receiving order may be made in respect of his estate, and say:—

1. That the said A. B. has at some time during the six months next preceding the presentation of this petition carried on business (or now resides) at..... within the jurisdiction of this Court or (1) The greater portion of the property of the said A. B. is situate at..... within the jurisdiction of this Court.

2. That the said A. B. is justly and truly indebted to me (or us in the aggregate) in the sum of.....(set out the amount of the debt or debts and the consideration).

3. That I (or we) do not, nor does any person on my (or our) behalf hold any security on the said debtor's estate, or on any part thereof, for the payment of the said sum.

or

That I hold security for the payment of (or part of) the said sum (but that I will give up such security for the benefit of the creditors of A. B. in the event of his being adjudged bankrupt) (or and I estimate the value of such security at the sum of \$.....).

or

That I, C. D., one of your petitioners, hold security for the payment of, etc. That I, E. F., another of your petitioners, hold security for the payment of, etc.

4. That A. B., within six months before the date of the presentation of this petition, has committed the following act (or acts) of bankruptcy, namely: (here set out the nature and date or dates of the act or acts of bankruptcy relied on).

5. Thatof.....is a person qualified to act as custodian in respect to the estate of the said debtor and is acceptable to the undermentioned creditors:—

Creditor	Address	Amount of debt.
Dated this .....	.....day of.....	19....
(Signed)		C. D. E. F.

Signed by the petitioner in my presence.
Signature of witness,
Address,
Description.

No. 3

Notice of Hearing

(Title may be omitted if notice endorsed on Petition.)

Take notice that a Petition that you, A. B., of..... be adjudged bankrupt and that a receiving order may be made in respect of your estate will be presented and heard before the Honourable Mr. Justicein Chambers (or if unopposed before the Registrar in Chambers), at.....on.....theday of.....19,.., in the.....of at the hour of.....o'clock in the.....noon or so thereafter as the Petition can be heard.

If you do not appear at the hearing the Court may make a receiving order and adjudge you bankrupt on such proof of the statements in the Petition as the Court shall think sufficient.

Dated atthis.....day of.....19...
To A. B. (name of debtor).

Petitioner (or Solicitor for Petitioner).

No. 4

Affidavit of Truth of Statements in Joint Petition

(Title) [Form 1A]

We, C.D., E.F., G.H., etc., the petitioners named in the petition hereunto annexed, severally make oath and say:—

And first I, the said C.D., for myself say:—

1. That A.B. is justly and truly indebted to me in the sum of.....
.....dollars, as stated in the before-mentioned petition.

2. That I do not nor does any person on my behalf hold any security (or as the case may be, verifying the facts set out in paragraphs 3 of the petition).

3. That such of the statements in the said petition as relate to the acts and deeds of other persons I believe to be true upon the following grounds (here set out reasons for believing that the debtor has committed, within the preceding six months, the act or acts of bankruptcy mentioned in the petition and any other matters requiring proof, such as the residence of the debtor or the place where he has carried on business).

And I, the said E. F., for myself say:—

4. That A. B. is justly and truly indebted to me in the sum of.....
.....dollars as stated in the said aforementioned petition

5. That I do not.....(here follow paragraph 2).

And I, the said G. H., for myself say:—

6. That A. B. is.....(here follow paragraph 4).

7. That I do not.....(here follow paragraph 2).

Sworn by the deponents C. D., E. F., G. H., etc.

C. D.
E. F.
G. H.

No. 5

Affidavit of Service of Petition

(Title) [Form 1A]

I, L. M., of.....make oath and say:—

1. That I did onday theday of19...., serve the above-named A. B. (or the partners of the above-mentioned firm of with a copy of the above-mentioned petition, notice of hearing and affidavit of truth, by delivering the same personally to the said A. B. (or C. D., a partner, or E. F., a person having at the time of service the control or management of the partnership business there) (or the President, Vice-President, Secretary, Treasurer, Manager or other officer of the debtor if a corporation, or upon E. F., the person having at the time of service the control or management of the business of the Corporation) at (place)before the hour of..... in the.....noon.

2. A sealed copy of the said petition is hereunto annexed.

Sworn at, etc.

NOTE: If the service is effected on one partner on behalf of his firm, or on a person having at the time of service the control and management of the partnership business there or of a business carried on by any person in a name or style other than his own, the affidavit must after the word "at" contain the words "being the principal place of business of the said"

No. 6

Notice of Substituted Service of Petition

(Title) [Form 1 A]

To A.B.

Take notice that a bankruptcy petition has been presented against you in this Court by.....of..... and that the Court has ordered that the sending of a copy of the petition together with a copy of the order for substituted service by registered post addressed toand/or the publication of this notice in theGazette and/or in the..... newspapers (following the terms of the order for substituted service) shall be deemed to be service of the petition upon you; and further take notice that the said petition will be heard by this Court on the..... day of.....19...., at.....o'clock in the..... noon on which day you are required to appear, and if you do not appear the Court may adjudge you bankrupt and may make a receiving order against you in your absence, on such proof of the statements in the petition as the Court shall think sufficient.

The Petition can be inspected by you on application at my office.

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

No. 7

Order of Substituted Service of a Petition

(Title) [Form 1 B]

Upon the application of..... and upon reading the affidavit of.....of..... in the.....of..... and the Bankruptcy Petition filed the.....day ofA.D., 19.....

It is ordered that the sending of a copy of the above-mentioned petition, together with a copy of this order by registered post, addressed to..... at.....and/or by publication in theGazette and/or in the newspapers of the presentation of such petition and the time and place fixed for hearing the petition shall be deemed to be good and sufficient service of the said petition on the said

And that the costs of this application be.....

No. 8

Notice by Debtor of Intention to Oppose Petition

(Title) [Form 1 A]

I, the above A. B., do hereby give you notice that I intend to oppose my being adjudged bankrupt and the making of a receiving order as prayed, and that I intend to dispute the petitioning creditor's debt (or the act of Bankruptcy, or to contend that or as the case may be) (specifying the statements in the petition which he intends to deny or dispute).

Dated this.....day of.....19.... A. B.

To C. D. of..... and to..... and to the Registrar in Bankruptcy of the said Court.

No. 9

Order to Stay Proceedings on Petition

(Title) [Form 1 B]

Upon the hearing of the Bankruptcy petition against A.B. of..... this day, and the said A.B. appearing and denying that he is indebted to the petitioner (*when petition presented by more than one creditor, add the name of the creditor whose debt is denied*) in the sum stated in the petition (*or alleging that he is indebted to the petitioner in a sum of a less amount than five hundred dollars (\$500) (or alleging that he is indebted to C. D., one of the petitioners, in a sum less than the sum stated to be due from him in the petition)*) it is ordered that the said A.B. shall within.....days enter into a bond in the penal sum of (*the amount of the alleged debt and probable costs or such other sum as the Court may direct*) with such sufficient surety or sureties as the Court shall approve of to pay (*or deposit with the Registrar the sum of \$.....as security for the payment of*) such sum or sums as shall be recovered against the said A.B. by C.D. the petitioner (*or one of the petitioners*) in any proceeding taken or continued by him against the said A.B. together with such costs as shall be given by the Court in which the proceedings are had.

And it is further ordered, that upon the said A.B. entering into the bond aforesaid with such surety or sureties, all proceedings on this petition shall be stayed until after the Court in which the proceedings shall be taken shall have come to a decision thereon.

No. 10

Bond on Stay of Proceedings, Security, etc.

(Title) [Form 1 A]

Know all men by these presents, that we, A. B. of etc. and C. D. of etc. and E. F. of etc. (*or some Guaranty Company approved by Court*) are jointly and severally held and firmly bound to L. M. of etc., indollars to be paid to the said L. M. or his certain attorney, executors, administrators or assigns. For which payment to be made we bind ourselves and each and every of us, our and each of our heirs, executors and administrators (*or our successors and assigns*) jointly and severally, firmly by these presents.

Sealed with our seals, and dated this.....day of.....one thousand nine hundred and.....

Whereas a Bankruptcy petition against the said A. B. having been presented to the.....Court of....., he did appear at the hearing of the said petition and deny that he was indebted to the petitioner (*or to one or more of the petitioners*) (*or allege that he was indebted to the petitioner in the sum of.....dollars only or as the case may be*).

Now, therefore, the condition of this obligation is such that if the above-bounden A. B., or the said C. D. or E. F., (*or Guaranty Company*) shall on demand well and truly pay or cause to be paid to L. M., his attorney or agent, such sum or sums as shall be recovered against the said A. B. by any proceedings taken or continued in any competent Court by the said L. M. for the

payment of the debt claimed by him in the said petition, together with such costs as shall be given to the said L. M. by such Court (*or whatever the condition of the bond is*), this obligation shall be void, otherwise it shall remain in full force.

- A. B. (L.S.)
- C. D. (L.S.)
- E. F. (L.S.)

Signed, sealed and delivered by the above bounden in the presence of—

NOTE.—If a deposit of money be made the memorandum should follow the terms of the conditions of the bond. This form may be adapted to other cases.

No. 11

Affidavit of Justification (a)

(Title) [Form 1A]

I, E. F. of....., one of the sureties for....., make oath and say:—

1. That I am a householder (*or as the case may be*) residing (*describing particularly the county or city, the street or place, and the number of the house, if any*).

2. That I am worth property to the amount of \$..... (*the amount required*) over and above what will pay my just debts (*if security in any other action or for any other purpose, add, and every other sum for which I am now security*).

3. That I am not bail or security in any other matter, action, or proceeding, or for any other person except for C. D., at the suit of E. F., in the Court of.....in the sum of \$.....; for G. H., at the suit of I. K., in the Court of..... in the sum of \$..... (*specifying the several actions in which he has become bound*).

4. That my property, to the amount of the said sum of \$..... (*and if security in any other action, etc.*) over and above all other sums for which I am now security as aforesaid, consists of (*here specify the nature and value of the property in respect of which the deponent proposes to become bondsman, as follows*, stock in trade, in my business of.....carried on by me at.....of the value of \$..... of good book debts owing to me to the amount of \$..... of furniture in my house at.....of the value of \$..... of a freehold (*or leasehold*) farm of the value of \$.....situate at..... occupied by..... or of a dwelling-house of the value of \$.....situate at..... occupied by....., or of other property, particularizing each description of property with the value thereof).

5. That I have for the last six months resided at..... (*describing the place of such residence, or if he has had more than one residence during that period, state it in the same manner as above directed*).

Sworn at, etc.....E.F.

(a) This affidavit not necessary if surety is an approved Guaranty Co.

No. 12

Dismissal of Petition

(Title) [Form 1B]

Upon hearing the petition of.....filed the
.....day of..... 19...., and upon reading
.....and hearing.....

It is ordered that the said petition be dismissed (and that the petitioner do pay to the said A. B. the taxed costs thereof).

No. 13

Receiving Order

(Title) [Form 1B]

On the petition of J. S. of..... a creditor,
filed the (insert date).....and on reading.....
and hearing.....and its appearing to the Court
that the following act or acts of bankruptcy has or have been committed, viz:—
(set out the nature and date or dates of the act or acts of bankruptcy on which
the Order is made).

1. It is ordered that the said A. B. be and he is hereby adjudged bankrupt and a receiving order is hereby made against A. B. (insert name, address and description of debtor as set out in petition or proof to the Court).

2. And it is further ordered that.....of.....
be and he is hereby constituted custodian of the estate of the said debtor, he giving security for the proper performance of his duties in the sum of..... dollars pursuant to the Rules in that behalf.

3. And it is further ordered that the costs of and incidental to this petition and order be paid the petitioner out of the assets of the estate forthwith after taxation thereof.

Endorsements on Order

You.....the within named debtor are required to attend at the office of.....the Official Receiver at the Courthouse..... Street.....immediately after the service of this order upon you, there to answer such questions with respect to your insolvency and assets as may be put by the said Official Receiver, and take notice that if you fail to present yourself for such examination within three days from the date of the making of the receiving order, the Court may by warrant cause you to be apprehended and brought up for examination and may order you to be committed to the Common Gaol for a term not exceeding twelve months.

(Signed)

Official Receiver.

The name and address of the solicitor to the petitioning creditor are (insert name and address).

Or in the case of Corporation Debtors

You.....being the.....of the within named corporation debtor are required pursuant to section 133 of the Bankruptcy Act, to attend at the office of.....the

Official Receiver in and for the Bankruptcy Division No.....of the Bankruptcy District of the Province of.....(*insert street address*)..... at..... immediately after the service of this order upon you, there to answer such questions with respect to the causes of the insolvency of the aforesaid debtor and the disposition of its assets as may be put by the said Official Receiver, and take notice that if you fail to present yourself for such examination within three days from the date of the making of the receiving order, the Court may by warrant cause you to be apprehended and brought up for examination and may order you to be committed to the Common Gaol for a term not exceeding twelve months.

(Signed)

Official Receiver.

The name and address of the solicitor to the petitioning creditor are (*insert name and address*).

No. 14

Order Appointing Interim Receiver

(Title) [Form 1B]

Upon the application of....., upon reading the affidavit ofand the petition herein with the affidavit in support thereto attached, and upon hearing what was alleged by counsel for the applicant, and the applicant undertaking to abide by any order this Court may make as to damages, in case it shall hereafter appear to the Court that the debtor has sustained any damages by reason of this order which the applicant ought to pay and to be responsible for the proper performance of his duties by the Interim Receiver hereinafter named.

It is ordered that.....of..... in the Province ofbe and he is hereby constituted Interim Receiver of the property of the said A.B. and the said Interim Receiver is hereby directed to take immediate possession of the property (or any particular part thereof) of the said A.B., control receipts and disbursements thereof but otherwise shall not interfere with the debtor carrying on his business in the ordinary manner of trade until the hearing of the petition herein or until this Court shall make further order.

No. 15

Order of Transfer of Proceedings

(Title) [Form 1B]

Upon application of A. B. and upon reading.....and hearingand it appearing to the Court that (*state here special reason or reasons why order is made*), that the proceedings in the above matter should be transferred from.....to..... (*or, as the case may be*).

It is hereby ordered that the said proceedings in the above named matter be transferred from the above Court to the Court of the Bankruptcy division of.....

No. 16

Assignment for the General Benefit of Creditors

THIS INDENTURE made in (duplicate) this.....day of.....
....., A.D. 19....

IN PURSUANCE OF "THE BANKRUPTCY ACT"

BETWEEN

hereinafter called "the Debtor" of the first part;

and

hereinafter called "the Trustee" of the second part.

Whereas the Debtor is insolvent and desires to assign and abandon all his
property for distribution among his creditors in pursuance of the said Act.

NOW THEREFORE THIS INDENTURE WITNESSETH that the debtor doth hereby
assign, convey and assure unto.....Trustee, and to
his successors and assigns forever, all his property which is divisible among his
creditors under and by virtue of the said act.

To have and to hold all the said property unto and to the use of the said
Trustee his successors and assigns on the trusts and to and for the uses, intents
and purposes provided by the said Act.

Signed and sealed at the City of.....in the Province of
.....in the presence of.....
Witness:—.....

No. 16A

Certificate of Appointment of Trustee

General Title

I,....., official receiver of the.....
ofhereby certify
that.....of the.....of.....was at
a meeting of the creditors held on the.....day of.....
19...., duly appointed trustee of the estate of.....

No. 17

Certificate of Official Receiver of an Appointment of Custodian

Whereas A. B. of.....did on the.....
day of.....19...., make an authorized assignment, and whereas
it appears by the sworn statement of affairs filed that R. S. of.....is one
of the most interested creditors of the debtor;

Now, therefore, this is to certify that:—

(1) The said R. S. is appointed custodian of the estate of the said A. B.;

(2) The said R. S. is required within three days from the date thereof,
pursuant to the provisions of Rule 93, to deposit with the Official Receiver
at....., security for the proper performance of his duties
in the sum of.....dollars.

(3) The said R. S. is required pursuant to the provisions of section 34 of the Bankruptcy Act to take immediate possession of the books and all property of the said A. B. liable to seizure; and to remain in possession until a trustee is appointed;

(4) The said R. S. is required pursuant to the provisions of section 88 (1) of the Bankruptcy Act within five days from this date to mail notices summoning a meeting of all the creditors of the said A. B. which meeting shall be held atin the..... of

Dated at.....thisday of19....

Official Receiver.

No. 18

Affidavit of Execution of Authorized Assignment

Canada } I,.....
Province of } of the..... of
} in the Province of.....

To Wit: make oath and say:

1. That I was present and saw the within Indenture and the duplicate thereof, duly signed, sealed and executed by..... the parties thereto at the.....of.....in the Province of.....

2. That I know the said part and of the full age of twenty-one years.

3. That I am a subscribing witness to the said Indenture and duplicate.

Sworn before me at the }
..... of }
in the Province of }
..... }
thisday of }
.....A.D. 19.. }

A Commissioner, etc.,
or A Notary Public in and for the Province of
.....

No. 19

Notice to Creditors of First Meeting where Receiving Order or Assignment made

General Title

Notice is hereby given that A. B. of.....was adjudged bankrupt (or made an assignment) on the..... day of19....; and that the first meeting of creditors will be held on the..... day of19...., at the hour.....in the.....noon, at..... in the..... of.....

To vote thereat proofs of claims and proxies must be filed with me prior thereto.

Those having claims against the estate must file the same with the custodian or the trustee when appointed before distribution is made, otherwise the proceeds of the estate will be distributed among the parties entitled thereto, without regard to such claims.

Dated atthisday of19....

Address of Custodian
.....

.....
Custodian.

NOTE: When mailing this notice to creditors a form of proof and a form of proxy must be enclosed with each notice.

No. 19A

Caution under Section 29A

General Title

I, A. B. of.....being interested as Custodian (or Trustee) of the property of G. H. a Bankrupt (or Authorized Assignor) in the land registered in the name of the said G. H. as..... in the Register for.....(or in the Charge registered as No.....in the name of the said G. H. as owner and being on.....in the Register for.....) (or otherwise as the case may be) require that no registration shall hereafter be made in respect of such land (or charge) on behalf of the said registered owner unless this Caution is removed.

Notices of proceedings relating to the removal of this Caution may be served upon me at (give city and street address).

Dated this.....day of19.... (to be signed by the Custodian, or Trustee).

No. 19B

Authority to Notify Withdrawal of Caution

General Title

I, A. B. of.....being interested as the Trustee in regard to registered Caution No..... in respect of the land registered as.....in the Register for..... (or in respect of a Charge registered as No..... and being on..... in the Register for.....) (or otherwise as the case may be) hereby authorize the Master of Titles (or Registrar) to enter in the Register a withdrawal of the said Caution and to cancel and remove the same.

Dated the.....day of19....
Trustee.

No. 20

Notice to Creditors where Debtor submits offer of Composition, Extension or Scheme

General Title

Take notice that.....of theofin the Province of....., has submitted to me for the consideration of his creditors a proposal for a composition (*or extension of time for payment of his debts*).

Particulars of the Debtor's proposal and a summary of his statement of affairs are enclosed herewith.

A general meeting of the creditors of the debtor will be held at..... on the.....day of.....19.... at the hour of.....o'clock in the.....noon.

The creditors qualified to vote at such meeting may, by resolution passed by a majority of all the creditors and holding three-fourths of the amount of proved debts, accept the proposal made by the debtor either as made or as altered or modified at the request of the meeting. If so accepted and if approved by the Court such proposal shall be binding on all the creditors.

Proof of debts, proxies and voting letters intended to be used at the meeting must be lodged with me prior thereto.

Dated at..... thisday of..... 19....

Trustee.

No 21

Voting Letter

General Title

I, of a creditor in the above matter for the sum of \$..... hereby request the authorized trustee of the said estate to record my vote (a)..... the acceptance of the proposal of the said debtor a copy of which is hereto annexed (*or as altered or modified at the request of the meeting*).

Dated thisday of19....

.....
(Signature of Witness.)

.....
(Signature of Creditor.)

No. 22.

Proposal for a Composition

General Title

I,, the above named debtor, hereby submit the following proposal for composition in satisfaction in my debts:—

1. That payment in priority to all other of my debts of all debts directed to be so paid in the distribution of the property of a bankrupt (*or authorized assignor*) shall be provided for as follows:—

(Set out terms of proposal so far as relate to preferential claims.)

(a) Insert here the word "for" or the word "against" as the case may be.

2. That provision for payment of all proper costs, charges and expenses of and incidental to the proceedings and all fees and percentages payable to the trustee shall be made in the following manner:—

(Set out proposal for provisions for fees, charges, costs, etc.)

3. That the following composition shall be paid as hereinafter mentioned on all provable debts:—

(Set out terms of composition.)

4. That the payment of the composition be secured in the following manner:

(Set out full names and addresses of sureties (if any) and complete particulars of all securities intended to be given.)

Dated atthisday ofA.D. 19....

(Signed)

No. 23.

Proposal for an Extension of Time or Scheme

General Title

I, the above named debtor, hereby submit the following proposal for an extension of time from my creditors for payment of my debts (or for a scheme of arrangement of my affairs in satisfaction of my debts.)

1. That

(Set out terms of extension or scheme.)

2. That payment in priority to all other of my debts of all debts directed to be so paid in the distribution of the property of a bankruptcy (or authorized assignor) is provided for as follows:—

(Set out or indicate by reference to the extension or scheme how it is proposed to satisfy preferential claims.)

3. That provision for payment of all the proper costs, charges, and expenses of and incidental to the proceedings, and all fees and percentages payable to the trustee is provided for as follows:—

(Set out or indicate by reference to the scheme how it is proposed to provide for fees, costs, charges, etc.)

4. That the payment of the terms of the said extension (or scheme) is to be secured in the following manner.

(Set out full names and addresses of sureties and give particulars of all securities.)

Dated atthisday ofA.D. 19....

(Signed)

No. 24

Resolution Accepting the Composition

General Title

Minutes of resolution come to and proceedings had at a meeting of creditors held at.....in the Province of.....this day of.....19....

Chairman.

Resolved as follows:—(a)

That the debtor's proposal for a composition as set forth in the annexed paper writing marked "A" be accepted.

..... Chairman.

(a) Insert "unanimously" where the resolution is so carried.

Number	Assenting Creditors' Signatures	Amount of Proof	Number	Dissenting Creditors' Signatures	Amount of Proof

NOTE.—When a resolution is carried unanimously the creditors need not sign but when a division is taken all creditors and holders of proxies voting should sign. The signatures must be attached at the meeting. Resolutions should be put separately.

No. 25.

Resolution Accepting Extension or Scheme of Arrangement

General Title

Minutes of resolution come to and proceedings had at the first meeting of creditors held at in the Province of thisday of19....

Chairman.

Resolved as follows:—(a)

That the debtor's proposal for an extension of time (or scheme of arrangement) as set forth in the paper writing hereto annexed and marked with the letter "A" be accepted.

..... Chairman.

Number	Assenting Creditors' Signatures	Amount of Proof	Number	Dissenting Creditors' Signatures	Amount of Proof

NOTE.—When a resolution is carried unanimously the creditors need not sign but when a division is taken all creditors and holders of proxies voting should sign. The signatures must be attached at the meeting. Resolutions should be put separately.

No. 26.

Order Appointing Day for Hearing

(Title) [Form 1 B]

Upon the application of the Trustee.....it is ordered that the application for (the approval by the Court of the composition (or extension or scheme) in this matter shall be heard before me at my Chambers in the..... ofin theofon theday of19...., at the hour ofo'clock in thenoon.

(a) Insert "unanimously" where the resolution is so carried.

No. 27.

Notice to Creditors of Application to Court to Approve Composition, Extension or Scheme

(Title) [Form 1 A]

Take notice that application will be made to.....in Chambers aton theday of19...., ato'clock in the.....noon, to approve the composition (or extension or scheme of arrangement) as proposed by the debtor and duly accepted by the statutory majority of creditors at a meeting held on.....the.....day of.....19....

Dated this.....day of.....19...

Trustee.

No. 28

Report to the Court of Trustee on Proposal for Composition, Extension or Scheme

(Title) [Form 1A]

I,of.....the trustee of the Estate of.....debtor hereby respectfully report to the Court as follows:—

(1) That on the.....day of.....the said debtor did make an authorized assignment (or a receiving order was on the.....day of.....made against the said debtor.) That.....was appointed custodian of the estate of the said debtor and that at a meeting of creditors duly held on the.....day of.....I was appointed trustee of the estate of the said debtor.

(2) That the above named debtor did on the.....day of.....19..., lodge with me a proposal for a composition (extension or scheme) a true copy whereof appears as Exhibit A to this report.

(3) That on the.....day of.....19..., I did give due notice by registered mail to every known creditor (the name of whom and whose addresses are shown in Exhibit B to this my report) of the calling of a meeting of creditors to be held on the.....day of.....19..., to consider the said proposal. With the said notice was included a condensed statement of the assets and liabilities of the debtor, a list of his creditors and a copy of his proposal. True copies of the said notice, condensed statement of assets and liabilities, and list of creditors are attached hereto and marked Exhibits, C1, C2 and C3 to this my report.

(4) That prior to the said meeting I made detailed and careful inquiry into the liabilities of the said debtor, his assets and the value thereof, the causes of the bankruptcy of the said debtor and the conduct of the said debtor.

(5) That the said meeting of creditors was duly held on the.....day of.....and was presided over by.....

(6) That the said proposal was accepted by the required majority of creditors (or that the said proposal was amended by.....at the said meeting and as so amended was accepted by the required majority of creditors).

(7) That a true copy of the minutes of the said meeting is attached hereto and marked Exhibit D to this my report.

(8) That after hearing the discussion of the creditors at the said meeting and what was alleged by the debtor, and after further inquiry I am now of the opinion that:—

(a) The assets of the debtor and the fair realizable value thereof are as follows:—

(Here set out assets in detail, giving the value as carried on the books of the debtor and the trustee's estimate in each case of the realizable value thereof.)

(b) The liabilities of the debtor are as follows:—

(Here set out the liabilities of the debtor.)

(c) The causes of the bankruptcy of the debtor are as follows:—

(Here set out fully the causes of the bankruptcy of the debtor as the trustee has been able to ascertain them after careful inquiry.)

(d) That the conduct of the debtor is subject to censure in the following respects *(or otherwise as the case may be, treating the matter fully.)*

(9) That I am of the opinion that the debtor's proposal is (an advantageous one for the creditors or otherwise as the case may be, treating the matter fully) for the following reasons:—

(Here set out fully the reasons of the trustee.)

No. 29

Order Approving Composition or Scheme

(Title) [Form 1B]

On the application of the trustee..... and on reading the report of the trustee filed on the..... day of.....19... , and hearing....., and the Court being satisfied that the required majority of creditors under the said Act have duly accepted the composition *(or extension or scheme)* in the terms contained in the paper writing marked "A" annexed hereto and being satisfied that the said terms are reasonable and calculated to benefit the general body of creditors and that no facts have been proved which would justify the Court in withholding its approval the said composition *(or extension or scheme)* is hereby approved.

No. 30

Order Refusing to Approve Composition, Extension or Scheme

(Title) [Form 1B]

On the application of the trustee..... and on reading the report of the trustee filed on the..... day of.....19... , and hearing....., and the Court being satisfied that the required majority of creditors under the said Act have duly accepted the composition *(or extension or scheme)* in the terms contained in the paper writing marked "A" annexed hereto, and being satisfied that the said terms are not reasonable or calculated to benefit the general body of creditors *(or it being established that the debtor has committed the following offence mentioned in Section 191, of the said Act...)* *(or the Court being satisfied that the following fact mentioned in Section 143 of the said Act has been proved against the debtor...; and that the debtor's proposal does not provide reasonable security for the payment of fifty cents in the dollar on all unsecured debts provable against the debtor's estate)* *(or the Court being satisfied that the proposal does not provide for the payment of debts in the priority required by the said Act).*

The Court doth refuse to approve the said composition *(or extension or scheme)*.

No. 31

*Resolution to Appoint or Substitute Another Trustee**General Title*

Minutes of Resolution come to and proceedings had at a meeting of creditors held at.....in the.....of.....this.....day of.....19....

Chairman.

(a) Resolved as follows:—

That (b).....of the.....of.....be hereby appointed (or substituted) as the trustee in the above estate for and in the place of.....the trustee appointed by the creditors at their first meeting.

.....Chairman.

Number	Assenting Creditors' Signatures	Amount of Proof	Number	Dissenting Creditors' Signatures	Amount of Proof

NOTE.—When a resolution is carried unanimously the creditors need not sign but when a division is taken all creditors and holders of proxies voting should sign. The signatures must be attached at the meeting. Resolutions should be put separately.

No. 32

*Notice of New or Substituted Trustee**General Title*

Take notice that the undersigned has been appointed (or substituted) as the trustee of the above estate for and in the place of.....the trustee appointed by the creditors at their first meeting.

Dated at.....this.....day of.....19....

Trustee.

No. 33

Affidavit of New or Substituted Trustee

(Title) [Form 1A]

(c).....of the.....of.....in the Province of.....Trustee, make oath and say:—

2. That pursuant to the provisions of Section 37 (2) or (7) of the said Act, I have been appointed (or substituted) as the Trustee of the above estate for and in the place of.....the Trustee appointed at the first meeting of creditors (or as the case may be.)

(a) Insert "unanimously" where the resolution is so carried.

(b) Insert name of new.

(c) Name of new trustee.

2. That hereto annexed and marked with the letter "A" is a true copy of the resolution of the creditors (or order of the Court) so appointing (or substituting) me trustee, which resolution was passed (or order was pronounced) on theday of.....19....

Sworn before me the..... }
 of..... }
 in theof..... }
 thisday of.....19.... }

No. 34

Form of Bond of Trustee

General Title

KNOW all men by these presents that I (name and address of Trustee) and (name of approved guarantee Company) are jointly and severally bound to the creditors of the Estate of A. B. Bankrupt and their and each of their heirs, executors, administrators and assigns in the sum of..... dollars to be paid to the said creditors, for which payment well and truly to be made I, the said (Trustee) bind myself, my heirs, executors, administrators and assigns and the said (Company) binds itself, its successors and assigns, jointly and severally, firmly by these presents.

Sealed with my seal and the Corporate Seal of the said (Company) and dated this.....day of.....19....

Whereas the said (Name of Trustee) is the Trustee of the Estate of..... of.....debtor having been duly thereunto appointed by a resolution of the creditors passed at a meeting held the.....day of.....19....

And whereas the estimated value of the estate of the said debtor as shown by the statement of affairs filed is the sum of.....

Now therefore the condition of this obligation is such that if the above bounden Trustee do duly account and pay over and transfer all moneys and property received or to be received by him as trustee in respect of the estate of the debtor then this obligation shall be void, otherwise it shall remain in full force and effect.

No. 35

Demand by Trustee on Contributory under Sec. 71 (1)

General Title

It appears from the records of.....the above named corporation that you are a shareholder of such corporation and the amount unpaid on your shares of the capital of the said corporation is \$.....

I accordingly demand, pursuant to section 71 of The Bankruptcy Act that you pay me, for the benefit of the estate of the corporation debtor, within thirty days from and after the date of the service of this demand on you (or the mailing of a copy of this demand in a registered letter addressed to you), the sum of \$.....being (the whole or a certain proportion of) your liability in respect of your said shares.

I hereby notify you that unless payment is made, or notice given in writing to me disputing this demand, within thirty days, I will make an application to the Court *ex parte* for judgment against you and the court may, pur-

suant to the provisions of section 71 of The Bankruptcy Act and General Rule 145 without notice to you, give judgment for the amount demanded, or such amount as the Court finds justly owing, and for the costs of the application.

I notify you further that if you propose to dispute liability you must do so within fifteen days from the service of this demand and you will not be permitted to plead any grounds of defence which are not notified to me within the said fifteen days.

Datedthisday of.....19....

Trustee.

To.....

Contributory.

No. 36

Application of Trustee for Judgment against Contributories of Insolvent Corporation

(Title) [Form 1A]

The trustee reports to the Court:—

That a receiving order was made against the above named debtor on the day of.....19...., (or that the above named debtor made an authorized assignment to the trustee on the..... day of.....19...).

That the debtor is a corporation and that the following persons (*among others*) appear to be contributories under The Bankruptcy Act, namely—

(*Here give names and addresses of contributories against whom judgment is asked*)

That the trustee has demanded payment from each of the said contributories of the amount set opposite each of their respective names, namely—

Name of Contributory.	Amount Demanded.
-----------------------	------------------

That the amounts so demanded are for the purpose of paying the liabilities of the debtor.

That none of the said contributories have paid the amounts demanded, although more than thirty days have elapsed since each of said contributories have been served with the demand and evidence of such service is filed on this application.

That the following contributories have not disputed the said demand or any part thereof, namely:—

That the following contributories have disputed the said demand, namely— and a true copy of each notice of dispute given to the trustee is filed on this application.

The verified statement of affairs of the debtor, the trustee's estimate of the realizable value of the property of the debtor, and a list of proved or provable claims against the estate of the debtor so far as can be ascertained, are filed on this application.

The trustee accordingly, in pursuance of the said Act makes application to the Court for judgment against each of said contributories for the amount demanded from each thereof and the costs of this application or for such other order as the Court may deem advisable or expedient.

Dated thisday19....

Trustee.

No. 37

Application of Contributory to Adjust Rights of Contributories

(Title) [Form 1A]

I, L. M. of.....do apply to this Court under the provisions of Section 72 (1) of The Bankruptcy Act to adjust the rights of the contributories of the above named debtor among themselves on the grounds set forth in the annexed affidavit.

Dated thisday19....

L. M.

No. 38.

Affidavit in Support of Application to Adjust Rights of Contributories

(Title) [Form 1 A]

I, L. M., of theofin the Province ofmake oath and say:—

1. That a receiving order was made against the above named debtor on theday of.....A.D. 19....(or that the above named debtor made an authorized assignment to.....a trustee, on theday of19....).

2. That the debtor is a corporation and that I am one of the contributories and pursuant to a demand made upon me by the said trustee, I did pay him on the..... day of19...., the sum of \$..... (or the trustee has made application to this Court for judgment against me for \$.....).

is a list of all the contributories from whom I claim contribution.

3. Set out in the Schedule hereto annexed marked "Schedule A" is a list of all the contributories of the said debtor with their addresses and the estimated amounts for which they are liable as contributories set opposite each respective name, so far as I have been able to ascertain the same.

4. That set out in the Schedule hereto annexed and marked "Schedule B"

5. That my grounds for claiming such contribution are as follows (*here set out grounds and any pertinent facts*).

SWORN before me at the }
..... of }
in the Province of }
..... this }
day of }
A.D. 19.... }

A Commissioner, etc.
or A notary Public in and for.....

No. 39.

Notice by Trustee to Creditors of Application to Pass Accounts

General Title

Take notice:

(1) The undersigned trustee of the estate of is unable at the present time to declare a final dividend for the following reasons:—

(2) The Trustee estimates that he will be able to declare a final dividend in months from this date.

(3) The said Trustee will on the ... day of19...., at the hour of.....o'clock in the.....noon apply to the Registrar of the Court at to pass his accounts to date. Enclosed herewith is a complete and itemized statement of all moneys realized from or out of the property of the bankrupt or assignor, and all moneys disbursed, including expenses incurred and remuneration received or claimed by the undersigned.

(4) That all the property of the debtor or bankrupt has been sold or realized upon by the undersigned with the exception of the following: (*Here give full particulars, description and value of all property not sold or realized upon and reasons why not so.*)

(5) You are at liberty to attend in person or by solicitor at the passing of the said accounts and to be heard in respect of the same.

Dated thisday of19....

Trustee.

No. 40.

Application of the Trustee to the Court to Pass Accounts

(Title) [*Form 1 A*]

The undersigned Trustee hereby applies to the Court for the passing of his accounts to date.

(1) The Trustee is unable at the present time to declare a final dividend for the following reasons:—

(2) The Trustee estimates that he will be able to declare a final dividend in months from this date. Attached hereto and marked with the letter "A" is a complete and itemized statement of all moneys realized from or out of the property of the bankrupt or assignor, and of all moneys disbursed, including expenses incurred and remuneration received or claimed by the undersigned.

(3) All the property of the bankrupt or assignor has been sold or realized upon by the undersigned with the exception of the following: (*Here give full particulars, description and value of all property not sold or realized upon and reasons why not sold.*)

(4) Notices in the form attached hereto and marked with the letter "B" were on the.....day of.....19..., mailed to all creditors of the debtor.

Dated thisday of19....

Trustee.

No. 41

Notice to persons claiming to be creditors of Intention to declare dividend (or final dividend) and requiring them to establish claim

General Title

Take notice that a dividend (or final dividend) is intended to be declared in the above matter, and that if you do not prove your debt on or before the day of19...., or within such further time as the Court may allow, I shall proceed to make a dividend (or final dividend) without regard to such claim.

Dated thisday of.....19....

Trustee.

To. X. Y.

Address.

Notice to be sent to every creditor of final dividend and application for discharge of trustee

General Title

1. A final dividend sheet has been prepared. There is enclosed herewith (a) a copy of the dividend sheet with notice thereon of the claims objected to and whether any reservation has been made therefor. (b) An abstract of the receipts and expenditures of the trustee which abstract indicates what amount of interest has been received by the trustee for moneys in his hands.

2. After the expiry of fifteen days from the date of the mailing of this notice, dividends on all debts not objected to up to the time of payment will be paid.

3. That the undersigned trustee of the property of the debtor will apply to the Registrar in Bankruptcy on the.....day of.....19...., at the hour of 11 o'clock in the forenoon or so soon thereafter as the motion can be heard for an order fully discharging him from any further duties and obligations with respect to the above estate and for a release of the security provided by the undersigned.

And further take notice that any objection you may have to the granting of the release of the undersigned must be filed with the Registrar at least two days prior to the date of hearing together with your reasons therefor and a copy thereof served on the undersigned within the time aforesaid.

Dated this.....day of.....19....

A. B. Trustee.

(Address.)

Application of Trustee for his Discharge

(Title) [Form 1A]

The undersigned trustee hereby applies to the Court for an order fully (or partially) discharging him from the performance of any further duties and obligations with respect to the above estate and for a release of the special security provided by the undersigned.

Attached hereto is a complete and itemized statement of all moneys realized by the undersigned from or out of the property of the bankrupt or assignor and of all moneys disbursed including expenses incurred and remuneration received or claimed by the undersigned.

That all of the property of the bankrupt or assignor has been sold or realized upon by the undersigned, with the exception of the following:—

(Here give full particulars, description and value of all property not sold or realized upon and reasons why not sold.)

That there are no disputes, actions or proceedings unsettled or pending between the trustee and the debtor or any creditor or creditors of the estate or any other persons whatsoever except the following:—

(Here give particulars, if any.)

Dated this.....day of.....19....

Trustee.

No. 44

Affidavit Verifying Application of Trustee for his Discharge

(Title) [Form 1A]

I,the trustee named in the application hereto annexed make oath and say:—

That the several statements in the said application are within my own knowledge true.

That the statement of receipts and disbursements attached to the said application and marked "Exhibit A" hereto is an accurate and correct statement of the administration of the above mentioned estate.

That all the assets disposed of which came into my hands have been realized upon in a proper manner and have not otherwise been improperly disposed of to the best of my knowledge and belief.

That all claims filed were properly examined and that to the best of my knowledge and belief, except where disputed claims were compromised or otherwise allowed by the inspectors, the dividend sheet hereto attached and marked "Exhibit B" contains a true and correct list of the claims of creditors entitled to share in the estate.

That every disbursement in the said statement was a proper and correct one to be made.

That I have not received, nor do I hope nor expect to receive, nor have I been promised any other consideration or remuneration than as appears in the said statement.

That I have not been a party to nor have I any knowledge of any undisposed arrangement with the debtor or with any other person, wherein any creditor received any consideration or payment in excess of that to which he was properly entitled out of the assets or proceeds of the estate.

Sworn at, etc.

C. D.

No. 45

Order Discharging Trustee

(Title) [Form 1B]

Upon the Application of C. D., Trustee of the property of A. B., Bankrupt or Authorized Assignor (as the case may be); upon reading the application of the said Trustee and exhibits thereto filed; upon hearing what was alleged by counsel for the said Trustee, and upon the said Trustee, C. D., by his counsel, undertaking to forward to the Dominion Statistician a copy of the order of this Court made on any application for discharging the Authorized Assignor if and when the same is made, and further undertaking to keep all books and papers as provided by Rule 128 of the General Rules under The Bankruptcy Act, and no one appearing for the debtor or any creditor although duly notified.

1. It is ordered that the said Trustee be and he is hereby fully discharged from the performance of any further duties and obligations with respect to the said estate, and that the bond given by the Trustee as security herein be and the same is hereby released.

No. 46

General Proxy

General Title

I, (or We) of the of a creditor hereby appoint of the of to be my (or our) general proxy in the above matter (excepting only as to the receipt of dividends).

Dated at this day A.D. 19....

(Signed)

Signature of witness. Address.

No. 47

Special Proxy

General Title

I, of the of a creditor, hereby appoint of the of as my proxy at the meeting of creditors to be held on the day of 19...., or any adjournment thereof, to vote.

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

(Signed)

Signature of witness.

No. 48

Proof of Debt

General Title

I, of the of in the Province of do solemnly declare and say:—

1. That I am the of the under-mentioned creditor and have knowledge of all circumstances connected with the debt hereinafter referred to.

2. That the said was at the date of the authorized assignment (or receiving order) namely: the day of 19 , and still is justly and truly indebted to in the sum of as shown by the account hereto annexed and marked "A."

(a)

3. That the said has not, nor has any person by his order to my knowledge or belief for his use, had or received any manner of satisfaction or security whatsoever save and except the following:—

(b)

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

A Commissioner, etc., or A Notary Public in and for.

No. 49

Proof of Debt of Workmen or Others

General Title

I, of the
 of

DO SOLEMNLY DECLARE AND SAY:—

1. That I was the foreman (*or book-keeper or as the case may be*) of the above named debtor at the date of the receiving order (*or at the date of the authorized assignment*) namely—the.....day of.....19.... and I have knowledge of the facts and matters hereinafter referred to.

2. That the said debtor was at the said date and still is justly and truly indebted to the several persons whose names, addresses and descriptions appear in the schedule endorsed hereon in the sums severally set against their names in the sixth column of such schedule for wages due to them respectively as workmen or employees in the employ of the said debtor in respect of services rendered by them respectively to the debtor during such period before the date of the receiving order (*or authorized assignment*) as are set out against their respective names in the fifth column of such schedule for which said sums, or any part thereof, I say that they have not, nor has any of them, had or received any manner of satisfaction or security whatsoever.

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 Province of.....
 this.....day ofA.D. 19....

A Commissioner, etc.

SCHEDULE

1	2	3	4	5	6
No.	Full Name of Workman	Address	Description	Period over which wages due	Amount due

Questions to be put to the debtor by the Official Receiver

General Title

NOTE.—In the case of a corporation debtor, the questions marked with an asterisk should be answered in addition to all other questions.
In the matter of the—

1. What is your full name and age?
2. What is your occupation, trade or business?
3. Where do you now reside?
Where else have you resided during the last six years or during the period in which your present debts have been contracted?
4. Where do you carry on business?
Under what name?
When did you commence such business?
What capital (if any) had you at that time after providing for any debts you then had, and of what did such capital consist?
If any of your capital was borrowed, give particulars.
Have you personally superintended your business or delegated that duty to others?
5. Have you had any other occupation or been engaged in any other business during the last six years?
If so, give particulars of date, place and nature of same.
Have you carried on business under any name or style other than your own name?
If so, give particulars.
6. Have you been in partnership with any one during the last six years?
If so, when did it commence, with whom, under what name, and in what business?
Have any changes since taken place in the constitution of the firm?
If so, state particulars.
What capital did you put into the business, and what is now your interest in the partnership?
If the partnership has determined, when was it dissolved, and upon what terms?
Was the dissolution filed or gazetted?
Are you under any liability in respect of outstanding debts of the partnership?
If so, state particulars.
7. Have you individually, or as a member of a firm, previously been bankrupt or insolvent, made any assignment for the benefit of your creditors, or effected any statutory or other composition?
If so, give particulars.
8. Has any meeting of your creditors been held within the past three months?
If so, by whom summoned, and in what manner? (If by notice produce copy.)
Give details.
Was a statement of affairs presented to such meeting?
Has any money been paid out of your estate in connection therewith; if so, when and to whom?
What proposal was made to the creditors?
What was the result?

9. Have you any files or bundles of paid and unpaid invoices or accounts?
If so, where are they?
10. What money had you in your possession or under your control at the date of the authorized assignment or receiving order?
Had you at the date aforesaid in your possession or under your control any jewellery, deeds, leases, bonds, share certificates, policies, agreements, bills of exchange, promissory notes, bills of lading, dock warrants, delivery orders, or other documents of title or securities of any description?
If so, give particulars.
11. Have you had any account in your own name or in that of any person on your behalf at any time during the last three years at any:
(a) Bank; or
(b) Post Office?
If so, what is the present state of your account with each such bank or post office?
Where are the pass books?
12. In what courts (if any) have you sued book debtors from whom amounts are still due you?
13. Are the above assets, where insurable,
(a) Fully insured against loss by fire?
(b) If so, in what office?
(c) To what date?
14. Have you any property or interest in any property in reversion, remainder or expectancy under any will, settlement, or otherwise?
If so, give particulars.
15. Do you hold any property in trust for any person?
If so, state for whom and the nature and estimated value of the property.
16. Is your life insured?
If so, in what office or offices, and for what sum or sums?
When were the policies effected?
What is the annual premium upon each policy, and when is it payable?
Are there any loans against the policies, if so, of what amounts and when effected?
Are the policies in your possession?
If not, who holds them, and what claim, charge, or lien has the holder upon them?
When were the beneficiaries named and notice thereof given to the company or companies?
Is there any policy on the life of your wife or of any person in which you have any interest?
If so, state particulars, as above.
17. What tenancy have you in:
(a) Your dwelling house?
(b) Your business premises?
Who is respectively the landlord of the same, and what is his address?
What rent is now due and distrainable?
When did such rent accrue due?
Has any distress been levied for it?
If your wife or some other person is tenant of the dwelling-house or place of business used by you, explain under what circumstances such is the case.

18. Do you let any premises or any portion of any premises of which you are owner, tenant, or lessee?

If so, to whom, and upon what terms?

What is the rent, and is any part of it owing?

19. Have you entered into any contracts for the purchase of land, or any other contracts which are not completed?

20. Are you interested in any freehold property or in any leasehold property other than that already mentioned, either as owner, lessor, mortgagor, or otherwise?

If so, state particulars.

21. Give particulars of any taxes now owing by you in respect of your dwelling-house and business premises or of any other property in which you have an interest.

22. Have you or any other person on your behalf within the last three months paid any money or delivered any property to any other person other than in the ordinary course of your business?

If so, give names and addresses and state when and for what purpose?

23. Have you executed any bill of sale or chattel mortgage of your stock-in-trade, furniture or other personal effects?

If so, at what date?

To whom?

What is the consideration stated in the bill of sale or chattel mortgage?

What did you actually receive at the time of its execution?

What is the nature of the property, covered by the bill of sale or chattel mortgage?

Where is the property situated?

Is the bill of sale or chattel mortgage registered?

Had the goods comprised therein been paid for before the execution thereof?

How did you apply the money received by you?

Does your cash book show such receipt and application?

What portion of the principal have you repaid?

What amount is now due and owing in respect to the bill of sale or chattel mortgage?

Has possession been taken by the holder or anyone on his behalf, and, if so, when?

Is the holder related to you in any way?

Are there now in your possession any goods that were not comprised in such bill of sale or chattel mortgage or that have been acquired since the date thereof?

24. Have you made, or were you a party to, any marriage settlement or a post-nuptial or any other settlement of property within the last five years?

If so, what property was comprised therein, and how and when did you acquire it?

Give the dates of your marriage and of the settlement?

Who are the trustees of the settlement?

What interest in such property is reserved to yourself?

25. Have you within the last twelve months, sold, removed, or disposed of any portion of your stock, furniture, or effects, otherwise than in the ordinary course of your business?

If so, state the date of such sale, removal, or disposal, the name of the purchaser, and the amount realized, or if removed, the place to which such goods were removed.

26. Have you within the last twelve months pledged any stock-in-trade or other personal property?

If so, give particulars as to dates, property pledged and amount obtained thereby.

Where are the tickets now?

Was the property paid for?

If not from whom had you obtained it?

27. Was any petition in bankruptcy presented against you during the three months preceding the date of the act of bankruptcy on which the present receiving order was made?

If so, state particulars, and whether any payments were made by you with a view of obtaining the dismissal of the petition or the postponement of the making of a receiving order.

28. Have you incurred any losses other than losses in your own trade or business, such as by speculation on the Stock Exchange, or by betting or gambling?

Give details thereof.

29. Have you any property which will deteriorate in value if not realized until after the first meeting of creditors?

If so, state particulars and reasons.

30. Have you made a full disclosure, so far as you know, of the whole of you estate and effects?

31. What are the causes of your insolvency?

32. As regards books of account:—

(a) Have you kept a cash book?

(b) Does it contain a full and true account of (1) all your receipts in cheques and cash; (2) all your payments by cheques and cash?

(c) What period does it cover?

(d) Have you kept a ledger showing your accounts (1) with all your your debtors, and (2) with your creditors?

(e) What other books have you kept?

(f) To what date are your books posted?

(g) Do they contain (1) a capital account; (2) a trading account; (3) a profit and loss account?

(h) Are your trade expenses and drawings for household and personal expenses posted to the respective ledger accounts?

(i) Have they been balanced at any time during the last three years? If so, when?

(j) Have any balance sheets been made out during that period?

When was the last made out?

Where is it and what results does it show?

(k) Have you from time to time taken stock? If so, where are the stock sheets?

(l) Have you within the last three years destroyed any book, papers, or documents relating to your affairs?

If so, state circumstances.

Have you at any time during the last three years made out a statement of your assets and liabilities?

If so, at what dates and where are such statements?

33. When did you first become aware that you had not sufficient property to pay all your debts in full?

34. Have you contracted any debts since that time which are now owing?

If so, to whom?

35. Have you made any payments or given any security to any of your creditors other than in the ordinary course of business during the last three months, or since you knew yourself to be insolvent, or found you were unable to pay your debts as they became due out of your own money?

If so, state the names of such creditors, and the amounts paid, or the security given them.

Do your books show these transactions?

36. What has been the amount of your income or profits for each year of the past three years?

From what sources has it been derived?

37. How much have you drawn from your business for household and personal expenses each year for the past three years?

Does your cash book show all your drawings?

*38. Upon what date were you incorporated?

Under what law (or Act of Parliament)?

Have you the Letters Patent (or other instrument of incorporation) the by-laws, the incorporation and other minutes of the debtor?

Where are they?

*39. Have you a share register or other book containing particulars of shares?

Where is it?

Does it contain a full and true record of the allotment issue and transfer of all shares?

Does it contain a true record of all those who are or have been shareholders in the corporation?

Does it disclose the true amount paid on each share of the corporation whether by cash or otherwise?

If not, what records, if any, of the corporation do disclose the amounts so paid?

What is the total amount, if any, unpaid on the shares of the debtor?

I,.....of the.....of..... Province of..... make oath and say:—

I am the above named debtor (or the president, or..... of the above named debtor).

That the answers made to the aforementioned questions numbered 1 to 39, have been made by me and that the said answers are true in every respect, and give a correct account and full disclosure of all my assets (or all the assets of the above named debtor), whether within Canada or elsewhere.

SWORN before me..... }
at the.....of..... }
in the..... of..... }
this.....day of.....19.... }

No. 51

Form of bond where custodian is required to deposit bond for the performance of his duties

General Title

KNOW ALL MEN BY THESE PRESENTS, that we (name and address of custodian) and (name and description of guarantor required) are jointly and severally held and firmly bound to..... Official Receiver of the..... Court and to his successor or successors in office for the sum of..... dollars, to be paid to the said Official Receiver, or to his successor or successors

in office, for which payment well and truly to be made we bind ourselves, and each and every of us, our and each of our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

Sealed with our seal and dated this.....day of.....
.....19....

WHEREAS the said (*name of custodian*) is the custodian of the estate of
..... of
.....having been thereunto duly appointed by
.....of the.....bearing
date.....of the.....day of
.....19....

AND WHEREAS the estimated value of the estate of the said debtor as shown by the statement of affairs filed by this Court is the sum of.....

NOW THEREFORE the condition of this obligation is such that if the above bounden custodian do properly take possession of and preserve the books and all the property of the above named debtor and do duly account and pay over and transfer all moneys and properties received or to be received by him as custodian in respect of the estate of the said debtor, then this obligation shall be void; otherwise it shall remain in full force.

No. 52.

Notice of Disallowance of Claim.

General Title

Take notice, that, as trustee of the above estate, I have this day disallowed your claim against such estate (a) (to the extent of \$.....) on the following grounds:—

And further take notice that if you are dissatisfied with my decision in respect of your proof, you may apply to the Court to reverse or vary the same, but, subject to the power of the Court to extend the time, no application to revise or vary my decision in disallowing your proof will be entertained after the expiration of thirty days from this date.

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

Trustee.

No. 53.

Preliminary Short Statement of Affairs under Section 9

General Title

To the Debtor

You are required to fill up this sheet carefully and accurately, answering the questions therein set out to the best of your ability.

1. Give the names, addresses and amounts of the claims of your creditors.

<i>Name</i>	<i>Address</i>	<i>Amounts</i>
-------------	----------------	----------------

Are any of the above creditors secured creditors?

If so, indicate which creditors are secured creditors and the nature and value of their security.

Which are your six principal unsecured trade creditors?

Were the debts of the principal unsecured trade creditors whom you have named incurred in the ordinary course of business?

Have you preferred or made any payment to any of the said principal unsecured trade creditors within the last three months?

If so, give particulars.

- 2. What is the fair market value of your stock in trade at cost price?
Is there any encumbrance or lien against it or any part thereof?
Give particulars.
- 3. What is the fair value of your trade fixtures?
Are they free from encumbrance or lien?
Give particulars.
- 4. What is the amount of book debts owing to you and what proportion of this sum should be collectible?
- 5. What is the amount of cash in the bank?
Give name of the bank or banks.
- 6. What cash have you on hand?
- 7. What cattle, horses, or farming stock do you own and what is the fair value of same, less any encumbrance?
Give particulars of encumbrances.
- 8. What is the fair value of your machinery, equipment, and plant, less any encumbrances?
Give particulars of encumbrances.
- 9. What is the fair value of your real estate, less encumbrances?
Give particulars of encumbrances.
- 10. What other property have you of value? (stocks, bonds, jewellery, promissory notes, etc.)
Give particulars of the property sufficient to enable it to be identified; and of any encumbrances.
- 11. Are you entitled to or have you any interest in any other property?
(a) Jointly or in common with any other person or persons.
(b) Under any will.
(c) Under any marriage or other settlement.
(d) In any other way.

I, of of
Province of.....make oath and say that the above statement
gives to the best of my knowledge and belief a full, true and complete statement
of my affairs on this.....day of.....19.... and
fully discloses all my property of every description in possession and reversion
as defined by section 23 of the Bankruptcy Act.

SWORN before me at the..... }
of.....in the Province..... }
of this }
day of: 19..... }

STATEMENT OF AFFAIRS

(Title) [Form 1A]

To the Debtor:—

You are required to fill up, carefully and accurately, this sheet and such of the several sheets attached hereto as are applicable showing the state of your affairs on the day on which the receiving order was made against you (or the authorized assignment was made by you) viz.: theday of, 19.., such sheets when filled up will constitute your Statement of Affairs and must be verified by oath or declaration.

LIABILITIES

(as stated and estimated by debtor.)

1. Unsecured liabilities as per List "A"
2. Secured creditors as per List "B"
3. Expected to rank for
4. Preferred creditors as per List "D"
5. Contingent or other liabilities as per list "E" estimated to rank for

Total liabilities

Surplus

I,, of the, make oath and say that the above statement and the several Lists hereunto annexed and marked A.B.C., etc., are to the best of my knowledge and belief a full, true and complete statement of my affairs on theday of, A.D. 19.., and fully disclose all my property of every description in possession and reversion as defined by Section 23 of the Act.

Sworn before me at the of in the province of thisday of A.D. 19..

ASSETS

(as stated and estimated by debtor.)

- (a) Stocks-in-trade at cost price not exceeding fair market value
- (b) Trade Fixtures, fittings, utensils, etc.
- (c) Book Debts, etc., as per List "F"
- Good
- Doubtful
- Bad
- (d) Bills of exchange, promissory notes, etc., as per List "F.I."

Estimated to produce

Cash in Bank of

Cash on Hand

(g) Farming Stock

(h) Machinery, equipment and plant

(i) Real Estate as per List "G"

(j) Surplus from securities in hands of creditors fully secured

(k) Furniture

(l) Life policies

(m) Stocks and shares

(n) Reversionary or other interests under wills

(o) Other property, viz.:—

If Debtor is a Corporation, add:—

Amount of capital subscribed

Amount paid thereon

Balance subscribed and unpaid

Estimated to produce

Total assets

Deficiency

Forms

"A"

Unsecured Creditors

(The names to be arranged in alphabetical order and numbered consecutively.)

No.	Name	Address	Amount of Claim

Signature

Dated 19 .

"B"

Secured Creditors

No.	Name of Creditor	Address	Amount of Debt	Particulars of Security	When given	Estimated Value of Security	Estimated Surplus from Security	Balance of Debt Unsecured

Signature

Dated 19 .

"C"

Liabilities on Bills or Notes endorsed or given for accommodation

No.	Name of Acceptor or Maker	Address	Date when Due	Amount	Holder's name and address	Amount expected to rank against estate for dividend

Signature

Dated 19 .

"D"

Preferential Creditors for Wages, Rent, etc.

No.	Name of Creditor.	Address and Occupation.	Nature of Claim.	Period during which Claim accrued due.	Amount of Claim.	Amount payable in full.	Difference ranking for Dividends.

Signature

Dated 19 .

"E"

Contingent or Other Liabilities

(Full particulars of all liabilities not otherwise scheduled to be given here.)

No.	Name of creditor or claimant.	Address and Occupation.	Amount of liability or claim.		Amount expected to rank for dividend.		Date when liability incurred		Nature of liability.
			\$	c.	\$	c.	Month.	Year.	

Signature

Dated 19 .

"F"

Debts due to the Estate, including book Debts

No.	Name of debtor.	Residence and occupation.	Nature of debt.	Amount of debt.			Folio of ledger or other book where particulars to be found.	When contracted.		Estimated to Produce.	Particulars of any Securities held for Debt.
				Good.	Doubtful.	Bad.		Month.	Year.		

Signature

Dated 19 .

"F 1"

Bills of Exchange, Promissory Notes, Lien Notes, Chattel Mortgages, etc., available as Assets

No.	Names of all promissors, acceptors, mortgagors and guarantors	P.O. Addresses	Occupation	Amount of Bill or Note, etc.	Date when due	Estimated to produce	Particulars of any property held as security for payment of bill note

Signature

Dated

19

"G"

Real Estate or Immovable Property owned by Debtor

Description of property	Nature of debtor's interest	In whose Name does title stand	Total value	Particulars of Mortgages Hypothecs or other encumbrances			Equity or Surplus
				Name	Address	Amount	

Signature

Dated

19

"H"

Property

NOTE.—Full particulars of every description of property in possession and in reversion as defined by Section 23 of the Act, not included in any other list, are to be set forth in this list.

FULL STATEMENT AND NATURE OF PROPERTY

Nature of property	Location	Details of property	Original cost	Estimated to produce	
(a) Stock-in trade at cost price not exceeding fair market value.....				\$	c.
(b) Trade fixtures, fittings, utensils, etc.....					
(c) Cash in Bank of..... at.....					
(d) Cash on hand.....					
(e) Farming stock at.....					
(f) Machinery, equipment and plant at.....					
(g) Household furniture and effects at.....					
(h) Life policies.....					
(i) Stocks and shares.....					
(j) Reversionary or other interests under wills, etc.					
(k) Other property (state particulars), viz.:.....					

Signature

Dated

19

No. 55

Notice to Debtor of Meeting of Creditors

General Title

Take notice that a meeting of your creditors will be held at..... on theday of19...., at the hour of..... o'clock in thenoon at and that you are required to attend thereat and submit to such examination and give such information as the meeting may require.

And further take notice that if you fail to comply with the requirements of this notice you will be guilty of contempt of Court and may be punished accordingly.

Dated this day of19....

..... Trustee.

To

..... The above named debtor.

No. 56

Affidavit of Person in support of Order of Committal

(Title) [Form 1 A]

I, of the of make oath and say:—

1.—That of was at the order of this Court made on.....the day of.....19...., ordered to.

(Here set out the order.)

2.—That a copy of the said order was duly served on the said.....

3.—That the said has failed to obey such order.

SWORN at, etc.

L. M.

No. 57

Affidavit in support of Application for Committal of Debtor for Contempt under Section 128

(Title) [Form 1 A]

I, the trustee of the estate of the said Debtor make oath and say:—

1.—(That the said debtor did attend at the first meeting of his creditors held on theday of19.., at..... and wilfully refused to submit to be examined at such meeting in respect of his property (or his creditors), the submitting to examination being a duty imposed upon him by The Bankruptcy Act.)

(1.—(a) that the said debtor did wilfully fail to attend a meeting of his held on the.....day of.....19...., at at..... (or to wait on me at my office on the..... day of.....19....), the attending such meeting (or waiting on me) being a duty imposed upon him by The Bankruptcy Act).

(or 1.—That the said debtor has wilfully failed to execute (*here describe the deed, etc., that he has failed to execute*), the execution of such deed when required by me being a duty imposed upon him by The Bankruptcy Act).

2.—(That the said debtor was on the.....day of..... 19...., duly served with a notice, a copy of which is hereunto annexed, by leaving the same at his usual place of residence, requiring him to attend the said meeting (*or to execute the above-mentioned deed, etc.*).

(or 1.—That the said debtor has wilfully failed to perform the duty imposed upon him by The Bankruptcy Act, section 128 (*here insert any act he has been required to do by any special order of the Court, stating the day on which the order was made*).

(2.—That the said debtor was duly served with a copy of such order by leaving the same at his usual place of residence on the..... day of.....19....).

(or 1.—That the said debtor has failed to deliver up possession of (*here state the property he has failed to deliver up*) which property is divisible amongst his creditors under the said Act and which said property was (*or is in his possession or control, he having been required by me to deliver up the said property by notice, a copy of which is hereunto annexed, and which notice was duly served upon him on the.....day of..... 19...., at.....*).

SWORN at, etc.

Trustee.

No. 58

Notice of Application for Committal under Section 128

(Title) [Form 1A]

To the said A. B.

Take notice that an application will be made on behalf of..... the trustee of the property of the said debtor before the Honourable Mr. Justiceat his Chambers at..... in the..... of at the hour of.....o'clock in the..... noon or so soon thereafter as the application may be heard for an order for your committal to gaol for contempt of this Court, you having failed to perform the duty imposed on you by Section 128 of the said Act (*here set out the duty he has failed to perform*).

And further take notice that you are required to attend the Court on such day at the hour before stated to show cause why an order for your committal should not be made.

Dated this.....day of.....19....

No. 59

Order for Committal under Section 128

(Title) [Form 1B]

Upon the application of the trustee of the property of the Debtor, and upon hearing the Debtor (*or if he does not appear so state*), and reading the affidavit of (*here insert name and description of person by whom the notice to show cause was served*), and upon reading the affidavit of (*enter evidence*), and it appearing that the Debtor has been guilty of a contempt of this Court by having failed to (*here follow the notice*), it is ordered that the Debtor do stand committed to (*here insert gaol*) for his contempt, for the period of.....from the execution of the warrant issued hereunder.

No. 60

Warrant for Committal for Contempt

(Title) [Form 1A]

To X Y., officer of this Court, and to the Governor or Keeper of the (here insert the gaol).

Whereas by an order of this Court bearing date the..... day of.....19...., it was ordered that the said debtor (or L. M. of.....) should stand committed for contempt of this Court.

These are therefore to require you the said X. Y. to take the said A. B. (or L. M.) and to deliver him to the Governor or Keeper of the above-named gaol, and you the said Governor or Keeper to receive the said A. B. and him safely to keep in the said gaol and in your custody for a period of..... from the date of the execution of this warrant, or for such shorter period as the Court shall order, and you the said Governor or Keeper shall, while the said A. B. is in your custody, and at all times when the Court shall so direct, produce the said A. B. before the Court.

Dated this.....day of.....19.... (Seal)

No. 61

Order for Discharge from Custody on Contempt

(Title) [Form 1B]

Upon the application made this.....day of.....for A. B., who was committed to gaol for contempt by order of this Court, dated the.....day of..... 19...., and upon reading his affidavit showing that he has cleared (or is desirous of clearing) his contempt and has paid the costs occasioned thereby and upon hearing the trustee (or C. D.....), it is ordered that the Governor or Keeper of (here insert names of gaol) to discharge the said A. B. out of his custody, as to the said contempt.

No. 62

Warrant of Seizure

(Title) [Form 1A]

Whereas on the.....day of.....19...., a receiving order was made against the said debtor, (or an authorized assignment was made by the said debtor) and it has been made to appear that (a) (here set out facts bringing within either (a), (b) or (c) of Sec. 139).

These are therefore to require you forthwith to enter into and upon the house and houses, and other the premises of the said debtor, and also in all other place and places belonging to the said debtor where any of his goods and moneys are, or are reputed to be; and there seize all books, papers, money and goods, except only such property which is not divisible among his creditors as provided by section 23 of The Bankruptcy Act.

And that which you shall so seize you shall safely detain and keep in your possession until you shall receive orders in writing for the disposal thereof from the trustee; and in case of resistance or of not having the key or keys of any doors or lock of any premises belonging to the said debtor where any of his goods are or are suspected to be, you shall break open, or cause the same to be broken open for the better execution of this warrant.

Dated this.....day of.....19.... To X. Y., the officer of this Court and his assistants.

(Seal)

*Warrant to apprehend a debtor under Section 128**(Title) [Form 1A]*

To X. Y., the Officer of this Court and his assistants, and all peace officers within the jurisdiction of the said Court, and to the Governor or Keeper of the (*insert here gaol*).

Whereas it has been made to appear to the satisfaction of the Court that A. B., who made an authorized assignment on the.....day of19...., (*or against whom a receiving order was made on theday of.....19....*) has failed to present himself before the Official Receiver as required by Section 128 (1) of the Bankruptcy Act, though duly required to attend.

These are therefore to require and authorize you and every of you, the said X. Y. and your assistants and all peace officers within the jurisdiction of this Court, immediately upon receipt hereof to take the said A. B. and bring him before L. M., the Official Receiver, in order to his being examined as required by the said Section 128 (1) of the Bankruptcy Act, and in the meantime him safely to keep or deliver to the Governor or Keeper of the above-named gaol, and forthwith after such taking and delivery to report the same to this Court, and obtain its direction or order fixing a day, time and place for the examination of the said A. B., and you, the said Governor or Keeper, to receive the said A.B. and him safely keep in the said.....prison and in your custody to await the direction or order of this Court, and to produce him before this Court at such time and place as shall be specified in such direction or order, and for so doing this shall be a sufficient warrant to you and every of you.

Dated at.....this.....day of.....
19...

(Seal)

Registrar.

*Warrant of Arrest against Debtor**(Title) [Form 1A]*

To X. Y. the officer of this Court and all peace officers within the jurisdiction of the said Court, and to the Governor or Keeper of the (*here insert gaol.*)

WHEREAS, by evidence taken upon oath, it has been made to appear to the satisfaction of the Court that there is probable reason to suspect and believe that the said A. B. has absconded, or is about to abscond from Canada, with a view of avoiding payment of the debt in respect of which the bankruptcy petition was filed (*or of avoiding appearance to a bankruptcy petition*) (*or avoiding examination in respect of his affairs*) (*or otherwise avoiding, delaying or embarrassing the proceedings in bankruptcy against him.*)

(*Or that there is probable causes for believing that the said A. B. is about to remove his goods with a view of preventing or delaying possession being taken of them by the trustee of the property of the said A. B.*)

(*Or that there is probable ground for believing that the said A. B. has concealed or is about to conceal or destroy any of his goods or any books, documents or writings which might be of use to the trustee of the property of the said A.B. or to the creditors of the said A. B. in the course of the bankruptcy (or authorized assignment) proceedings.*)

(Or whereas by evidence taken upon oath it has been made to appear to the satisfaction of this Court that the said A. B. has removed certain of his goods and chattels in his possession above the value of \$25 without the leave of the Trustee, that is to say) (*here describe the goods and chattels.*)

These are therefore to require you the said (*here name bailiff or other officer*) to take the said A. B. and to deliver him to the Governor or Keeper of the above named gaol, and you the said Governor or Keeper to receive the said A. B. and him safely to keep in the said gaol until such time as this Court may order.

Dated this.....day of.....19...

(Seal)

No. 65

Warrant to apprehend a debtor or other person under Sections 134 to 138

(Title) [Form 1A]

To X Y., the officer of this Court and his assistants, and all peace officers within the jurisdiction of the said Court, and to the Governor or Keeper of the (*insert here gaol*).

Whereas by appointment (*or summons*) date the.....day of.....19...,Special Examiner (*or as the case may be*) did appoint the.....of.....day.....19..., for the examination *viva voce* of A. B. of(*or L. M. of.....*) and whereas the said appointment (*or summons*) was afterwards on the.....day of.....19..., as hath been proved by affidavit duly served upon the said.....and a reasonable sum was paid or tendered him for his conduct money and witness fees, and whereas the said....., having no lawful impediment made known to and allowed by this Court at the time of its sitting, hath refused to appear before the Examiner at the time appointed (*or having attended hath refused to make satisfactory answers to questions asked him*);

Or whereas L. M. of.....a person believed or suspected to have in his possession or power certain of the property of the debtor (*or a certain book, document or paper relating in whole or in part to the debtor, his dealings or property, or showing that the said L. M. is indebted to the debtor*); and whereas.....as has been made to appear by satisfactory evidence, the said L. M. having been duly required by the trustee to deliver over to him such property (*or to produce such book, document or paper for the information of the Trustee*) has failed to do so, and whereas by appointment (*or summons*) dated the.....day of.....19..., Special Examiner (*or as the case may be*) did appoint the.....day of.....19..., for the examination *viva voce* of the said L. M., and whereas the said appointment (*or summons*) was afterwards on the.....day of.....19..., as hath been proved by affidavit duly served upon the said L. M., and a reasonable sum was paid or tendered him for his conduct money and witness fees; and whereas the said L. M., having no lawful impediment made known to and allowed by this Court at the time of its sitting, hath refused to appear before the Examiner at the time appointed (*or attending, hath refused to make satisfactory answers to questions asked him, or attending hath refused, although duly required so to do, to produce a certain book, document or other paper relating to the debtor, his dealings or property, or showing that the said L.M. is indebted to the debtor*).

These therefore are to require and authorize you and every of you, the said X. Y. and your assistants and all peace officers of this Court immediately upon receipt hereof to take the said A. B. (or L. M.) and bring him before this Court at such time and place as this Court shall direct, in order to his being examined as aforesaid, and in the meantime him safely to keep or deliver to the Governor or Keeper of the above-named gaol, and forthwith after such taking and delivery to report the same to this Court and obtain its direction or order fixing a day, time and place for the examination of the said A. B. (or L. M.) and you the said Governor or Keeper, to receive the said A. B. (or L. M.) and him safely to keep in the said.....prison and in your custody, to await the direction or order of this Court, and to produce him before this Court at such time and place as shall be specified in such direction or order, and for so doing this shall be a sufficient warrant to you and every of you.

Dated at.....this.....19....

Registrar.

No. 66

Appointment for examination of Debtor or others

(Title) [Form 1 A]

Upon the application of the trustee in the above matter, I do hereby appointthe.....day of..... A.D. 19...., at the hour ofo'clock in the.....noon at.....in the.....offor the examination upon oath before me of..... the above named Debtor (or.....a person thought to have knowledge of the affairs of the above named debtor, an agent, clerk, servant, officer, director or employee as the case may be, of the above named debtor), under the said Act.

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

Registrar (or Special Examiner)
(or other proper officer)

No. 67

Declaration by Shorthand Writer

(Title) [Form 1 A]

I, of the..... of.....in the Province of.....the shorthand writer appointed by the Registrar (or Special Examiner or as the case may be) to take down the examination of....., do make oath and say that I will truly and faithfully take down the questions and answers put and given by the said..... in this matter, and will deliver true and faithful transcripts thereof as such Registrar (or Special Examiner or as the case may be) may direct.

SWORN before me at the.....of..... in the Province of.....this.....day ofA.D. 19....

Registrar (or Special Examiner)
(or as the case may be.)

No. 68

Notes of Examination of Debtor or Others

(Title) [Form 1 A]

Examination of.....before Mr.....
(Registrar or Special Examiner) the.....
day of.....A.D. 19....

The above-named.....
being sworn and examined at the time and place above mentioned upon the
several questions following being put and propounded to him, gave the several
answers thereto respectively following each question, that is to say:—

These are the notes of the examinations referred to in the memorandum of
the examination of.....taken before me this.....
day of.....19....

Registrar (or Special Examiner)
.....
Stenographer.

No. 69

Order to Postmaster General under Section 140

(Title) [Form 1B]

Upon the application of.....the trustee of the
property of the above debtor. It is ordered that for a period of three months
from the.....day of.....19...., all post
letters, telegrams and postal packets directed or addressed to the said debtor, at
(a) shall be re-directed, send or delivered by the Postmaster General, or officers
acting under him to, (b) except any letter on which there is a specific direction
signed by the trustee that it is to be delivered as addressed, if possible, and that
a copy of this order be forthwith transmitted by the trustee to the Postmaster
General and to the Postmaster in charge of the Post Office at.....

No. 70

Application for Order of Discharge

(Title) [Form 1A]

I, A. B. of the.....
of.....
in the Province of.....
having been adjudged bankrupt on the.....day
of.....A.D. 19...., or having
made an authorized assignment on the.....day of
.....19...., and being desirous of obtaining my discharge,
hereby apply to the Court to fix a day for hearing my application.

Annexed hereto is the certificate of the trustee certifying the number of my
creditors.

Dated at.....
this.....day of.....19....

(Signed) A.B.

To the Registrar of the.....Court

No. 71

Notice to Trustee of Application for Discharge

(Title) [Form 1A]

The bankrupt (or authorized assignor)
having applied to the Court for his discharge, the Court has fixed the
. day of 19
at o'clock in the noon
at for hearing the
application.

Dated at
this day of 19

Registrar.

To

Trustee of the Estate of the said

No. 72

Notice to Creditors of Application for Discharge

(Title) [Form 1A]

Take notice that the above named bankrupt (or authorized assignor) has
applied to the Court for his discharge, and that the Court has fixed the
. day of at o'clock
in the noon, at
for hearing the application.

Trustee.

NOTE.—See Sections 141 to 146 of the Bankruptcy Act dealing with the discharge of a debtor.

No. 73

Report of trustee to the Court upon the application by the debtor for an
order of discharge

(Title) [Form 1A]

I of the trustee of
the Estate of hereby
respectfully report to the Court as follows:—

(1) That on the day of A.D. 19, the said
debtor did make an authorized assignment (or a receiving order was on the
. day of made against the said debtor.)
That was appointed custodian of the
estate of the said debtor and that at a meeting of creditors duly held on the
. day of I was appointed
trustee of the estate of the said debtor.

(2) (If the debtor has made a composition, extension on scheme which has
not been carried out the Trustee should report with respect to this.) That the
above named debtor did on the day of A.D.
19, lodge with me a proposal for a composition (extension or scheme).
The said proposal (as amended by at
on) was approved by the Court on the

day of.....A.D. 19.... (or as the case may be.) The debtor failed to comply with the terms of the proposal and was adjudged bankrupt by order of this Court on the.....day of.....A.D. 19....

(3) That in the statement of affairs of the said debtor sworn the.....day of.....the said debtor showed assets which were valued at \$..... The amount realized from the sale or other disposition of the said assets was \$....., made up as follows:—

(Here set out the total, and also show in some reasonable detail the amounts realized from the different parcels of assets.)

(4) That the liabilities of the debtor were shown in the statement of affairs to be \$..... That it now appears that the liabilities of the debtor were \$.....made up as follows: (Here point out discrepancies if any between the liabilities as shown in the statement of affairs and as subsequently ascertained by the trustee.)

(5) That a final dividend to the unsecured creditors of the debtor, amounting to \$.....has been paid by me, making a total dividend to the unsecured creditors of \$.....being.....cents in the dollar on the amount of the unsecured liabilities of the debtor, (or, no dividend has or will be paid to the unsecured creditors of the debtor.)

(6) That on the.....day of.....19....the debtor was examined under the Bankruptcy Act by..... before..... A true copy of the said examination is filed with this report.

(7) That I made a detailed and careful inquiry into the causes of the bankruptcy of the said debtor and the conduct of the said debtor, and that I am of the opinion that:

(a) The causes of the bankruptcy of the debtor were as follows:—

(Here set out fully the causes of the bankruptcy of the debtor as the trustee has been able to ascertain them.)

(b) That the conduct of the debtor (is subject to censure in the following respects or otherwise, as the case may be, treating the matter fully as to both the period before the authorized assignment or receiving order and that subsequent thereto).

(c) That the following fact, matter or circumstance justifies the Court, under The Bankruptcy Act, in refusing an unconditional order of discharge:—

(Here set out in detail any such fact, matter or circumstance, or the case may be).

(d) That the debtor has committed (no bankruptcy offence, or as the case may be).

(8) On.....the.....day of.....I did cause to be sent by prepaid registered mail, to each creditor of the above named debtor who has proved his debt, a notice of the application of the debtor for his discharge and of the time and place of the hearing of it. A true copy of the said notice and of the list of creditors to whom sent, with their addresses, appears as Exhibit A to this report.

No. 74

Order Granting Discharge Unconditionally

(Title) [Form 1 B]

On the application of A. B. of.....adjudged bankrupt on the.....19...., (or who made an authorized assignment on the.....day of.....19....), and upon taking into consideration the report of the trustee as to the bankrupt's conduct and affairs and upon hearing the trustee, and C.D., E.F., etc., creditors (as the case may be).

And whereas it has not been proved that the bankrupt (or authorized assignor) has committed any of the offences mentioned in The Bankruptcy Act, and proof has not been made of any of the facts mentioned in sections 143, 144 or 147, of the said Act, or that the bankrupt (or authorized assignor) has been guilty of any misconduct in relation to his property or affairs.

It is ordered that he be and he hereby is discharged.

No. 75

Order Refusing Discharge

(Title) [Form 1 B]

On the application of.....

(Commencement as in form No. 74)

And whereas it has been proved that the bankrupt (or authorized assignor) has committed the following offences namely—

(Here state particulars)

or

And whereas it has not been proved that the bankrupt (or authorized assignor) has committed any of the offences mentioned in The Bankruptcy Act but proof has been made of the following facts under section 143 of the said Act (or—and sections 144 or 147 of the said Act) namely—

(Here state particulars)

or/and that he has been guilty of misconduct in relation to his property and affairs, namely—

(Here state particulars)

It is ordered that the bankrupt's (or authorized assignor's) discharge be and it is hereby refused.

No. 76

Order Suspending Discharge

(Title) [Form 1 B]

On the application of.....

(Commencement as in form No. 74)

And whereas it has not been proved that the bankrupt (or authorized assignor) has committed any of the offences mentioned in The Bankruptcy Act (or it has been proved that the bankrupt (or authorized assignor) has committed the following offences, namely—(set them out)), but the Court has for the following special reasons (state them) determined that his discharge shall not on that ground be absolutely refused; but proof has been made of the following facts under section 143 (or—and sections 144 or 147) of the said Act.

(Here state particulars)

or/and that he has been guilty of misconduct in relation to his property and affairs, namely—

(Here state particulars)

It is ordered that the bankrupt's (or authorized assignor's) discharge be suspended until a dividend of not less than 50 cents on the dollar has been paid to the creditors, with liberty to the bankrupt (or authorized assignor) at any time after the expiration of one year from the date of this order to apply for a modification thereof, pursuant to section 142 (3).

or

It is ordered that the bankrupt's (or authorized assignor's) discharge be suspended for.....years and that he be discharged as from the.....day of.....19....

No. 77

Order of Discharge where only facts proved that Assets not equal to 50c. on the Dollar

(Title) [Form 1 B]

On the application of.....

(Commencement as in form No. 74)

And whereas it has not been proved that the bankrupt (or authorized assignor) has committed any of the offences mentioned in The Bankruptcy Act, and whereas the only fact under sections 143, 144 and 147 of which proof has been made is the fact that the bankrupt's (or authorized assignor's) assets are not of a value equal to 50c. on the dollar on the amount of his unsecured liabilities.

It is ordered that the bankrupt's (or authorized assignor's) discharge be suspended for and that he be discharged as from the.....day of.....19....

No. 78

Order of Discharge subject to Conditions as to Earnings, After-acquired Property, and Income

(Title) [Form 1 B]

On the application of

(Commencement as in form No. 74)

And whereas it has not been proved (a)

It is ordered that the bankrupt (or authorized assignor) be discharged subject to the following conditions as to his future earnings, after-acquired property, and income:—

After setting aside out of the bankrupt's (or authorized assignor's) earnings after-acquired property and income the yearly sum of \$.....for the support of himself and his family, the bankrupt (or authorized assignor) shall pay the surplus, if any (or such portion of such surplus as the Court may determine), of such earnings, after-acquired property, and income to the trustee for distribution among the creditors of the estate. An account shall, on the first day of January in every year, or within fourteen days thereafter, be filed in these proceedings and with the trustee by the bankrupt (or authorized assignor) and verified by affidavit setting forth a statement of his receipts from earnings, after-acquired property and income during the year immediately preceding the said date, and the surplus payable under this order shall be paid by the bankrupt (or authorized assignor) to the trustee within fourteen days of the filing of the said account

No. 79

Order of Discharge subject to a Condition Requiring the Bankrupt or Assignor to consent to Judgment being entered against him.

(Title) [Form 1B]

On the application of.....

(Commencement as in Form 74)

It is ordered that the bankrupt (or authorized assignor) be discharged subject to the following condition to be fulfilled before his discharge, takes effect, namely, he shall, before the signing of this order, consent to judgment being entered against him in this Court by the trustee for the sum of \$..... being the balance (or part of the balance) of the debts provable in the estate which is not satisfied at the date of this order, and for \$.....cost of judgment.

And it is further ordered, without prejudice and subject to any execution which may be issued on the said judgment with the leave of Court, that the said sum of \$.....be paid out of the future earnings or after-acquired property of the bankrupt (or authorized assignor) in manner following, that is to say, after setting aside out of the bankrupt's (or authorized assignor's) earnings and after-acquired property a yearly sum of \$..... for the support of himself and his family, the bankrupt (or authorized assignor) shall pay the surplus, if an (or such portion of such surplus as the Court may determine), to the trustee for distribution among the creditors in the estate. An Account shall, on the 1st day of January in each year, or within fourteen days thereafter, be filed in these proceedings, and with the trustee, by the bankrupt (or authorized assignor) setting forth a statement of his receipts or earnings, after-acquired property, and income, during the year immediately preceding the said date, and the surplus payable under this order shall be paid by the bankrupt to the trustee within fourteen days of the filing of the said account.

And it is further ordered that, upon the required consent being given, Judgment may be entered against the bankrupt (or authorized assignor) in this Court for the said sum of \$.....together with \$..... for costs of Judgment.

No. 80

Consent of Bankrupt (or Authorized Assignor) to Judgment being entered for balance or part of balance of Provable Debts.

(Title) [Form 1A]

Re.....

I, A. B., of..... the above named bankrupt (or authorized assignor) do hereby consent to Judgment being entered against me in this Court by the trustee..... for the sum of \$....., being the balance or part of the balance of the debt provable under my bankruptcy (or under my authorized assignment) which is not satisfied at the date of my discharge, together with \$..... for costs of judgment, but this consent is subject to the provision contained in The Bankruptcy Act with regard to the issue of execution on such judgment.

Dated this.....day of.....19.....

(Signed) A. B.

No. 81.

Judgment to be entered pursuant to the Consent

(Title) [Form 1B]

Between:—

(Name of trustee)

Plaintiff,

AND

A. B.

Defendant.

The.....day of.....19....
Pursuant to the order made herein and dated the.....
day of.....whereby it was ordered that

(Recite substance of Order)

And the consent mentioned in the said order having been given and filed.
It is this day adjudged that the plaintiff recover against the said defendant
\$....., together with \$..... for
costs of judgment.

No. 82

Affidavit by Debtor, whose Discharge has been granted conditionally as to After-acquired Property or Income

(Title) [Form 1A]

I,
the above-named debtor, make oath and say as follows:

1. I have since the date of my discharge resided and carried on business
atand I now reside and
carry on business at.....

2. The statement hereto annexed is a full, true and complete account of all
moneys earned by me and of all property and income acquired or received by me
since date of my discharge (or since the date when last I filed a statement of
after-acquired property and income in Court, namely—the.....day
of.....19....).

Sworn at, etc.

.....
Signature of Debtor

No. 83

Order Annulling Adjudication under Section 151 (1)

(Title) [Form 1B]

On the application of R. S. of.....
and on reading.....and.....
hearing....., IT IS ORDERED that the
adjudication of Bankruptcy of the above named.....
.....under Order dated.....
of....., be and the same is hereby annulled.

No. 84

Notice of Order Annuling Adjudication under Section 151 (3)

(Title) [Form 1A]

TAKE NOTICE that the Order of Adjudication bearing date the..... date of.....19... under which A. B. of..... was adjudged bankrupt has been annulled by Order of this Court dated theday of.....19...

Dated at.....this..... day of.....19...

No. 85

Certificate of Removal of Disqualification

(Title) [Form 1A]

WHEREAS an order of discharge was, on the..... day of.....A.D., 19..., granted to A. B., the above-named bankrupt (or authorized assignor);

IT IS HEREBY CERTIFIED that the bankruptcy of the said A.B. was caused by misfortune without any misconduct on his part.

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

..... Registrar.

No. 86

Notice of Discharge of Bankrupt

(Title) [Form 1A]

TAKE NOTICE that..... the bankrupt (or authorized assignor) was discharged by order of this Court bearing date the.....day of.....A.D., 19...

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

..... Trustee.

No. 87

Taxing Master's Certificate

(Title) [Form 1A]

I hereby certify that I have taxed the bill of costs (or charges) (or expenses) of Mr. C. D. (here state capacity in which employed or engaged) (where necessary add "pursuant to an order of the Court dated the.....day of.....19..."), and have allowed the same at the sum of \$..... (where necessary add "which sum is to be paid to the said C. D. by.....as directed by the said order").

Dated this.....day of.....19....

..... Taxing Master (or Registrar).

No. 88

Subpœna

(Title) [Form 1A]

George the Fifth, by the Grace of God, etc., to (*the names of witness may be inserted*) Greeting: We command you to attend before.....
at.....on.....day the.....
day of.....19... at the hour of.....
in the.....noon, and so from day to day until the above
matter is heard, to give evidence on behalf of (*insert name*).

Dated this.....day of.....19...

.....
Registrar.

No. 89

Subpœna Duces Tecum

(Title) [Form 1A]

George the Fifth by the Grace of God, etc., to (*the name of witness may be inserted*) greeting:

We command you to attend before.....
at.....on.....day the.....
day of.....19..., at the hour of.....
in the.....noon, to give evidence on behalf of
.....and also to bring with you and produce at
the time and place aforesaid (*specify documents to be produced*).

Dated this.....day of.....19...

.....
Registrar.

PART II

TARIFF OF COSTS

INSTRUCTIONS:

	\$	cts.
1. For petition or authorized assignment.....	4	00
2. To defend, oppose or attend upon petition.....	4	00
3. For approval composition, extension or scheme.....	4	00
4. To attend on or oppose or defend any issue.....	4	00
5. For or to oppose notice of motion or application to Court or Chambers.....	4	00
6. For any affidavit.....	2	00
7. For or to answer interrogatories or cross-interrogatories or to examine or attend on any examination of a debtor or of any other person.....	4	00
8. To appeal or to oppose appeal.....	4	00
9. For any pleading.....	4	00
10. For any other important step or proceeding in any cause, matter or proceeding not included in the above.....	4	00

DRAWING, PLEADING, ETC.

11. Drafting—		
(a) Statement of claim or defence or any pleadings instructed by the court or a judge to be drawn.....	4	00
(b) Petition.....	4	00
(c) Issue, composition, extension or scheme.....	4	00
(d) Any other documents commencing a proceeding not commenced by petition or statement of claim and any document in answer to same.....	4	00
(e) Record.....	4	00
(f) Authorized assignment (including two duplicates).....	4	00
(g) Notice of motion objections, contestation, etc.....	3	00
12. For every additional folio over ten, per folio.....	0	20
13. Engrossing same and for each copy to file and serve, per folio.....	0	10
14. Drawing interrogatories or cross-interrogatories, or answers to either of the same commission, letters rogatory or other document of like nature, per folio.....	0	20
15. Engrossing and for each copy to file and serve, per folio.....	0	10

AFFIDAVITS

16. Drawing affidavit, per folio.....	0	20
17. Engrossing and for each necessary copy, per folio.....	0	10
18. Preparing exhibits, each.....	0	20

PERUSALS

19. Of (a) Statement of claim, defence or other pleading.....		
(b) Petition.....		
(c) Issue.....		
(d) Any other document commencing a proceeding not commenced by petition or statement of claims and any document in answer to same.....	3	00
20. Perusing any notice of motion, objections, contestations, etc.....	2	00
21. Of each affidavit, including exhibits of a party adverse in interest.....	2	00
22. Of interrogatories, cross-interrogatories or answer to either of same, or any other document of a similar nature.....	3	00
To be increased in the discretion of the taxing officer.....	3	00
23. Of notice to produce or admit.....	2	00
24. Of any important notice or paper not otherwise mentioned.....	2	00

WRITS

25. All writs, warrants, certificates of judgment and its pendens, including attendances to issue, register and deliver same.....	5	00
26. Renewals of same, including attendances to issue, register and deliver the same.....	4	00
27. Subpœna ad testificandum.....	1	50
28. Subpœna duces tecum.....	3	00
29. For every additional folio over four.....	0	20

SERVICES

30. Service of petition, or other document by which any proceeding is commenced.....	3	00
31. If served at over two miles from nearest place of business or office of solicitor serving same, for each mile beyond two, each way.....	0	30
32. For service out of jurisdiction, such allowance as taxing officer thinks proper.....		
33. Attending to serve any other document.....	2	00

Tariff

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BRIEFS

34. Drawing brief.....	3 00
35. Every additional folio over five.....	0 20

COPIES

36. Copies for petitions, pleadings, notices, demands, minutes, orders, judgments, appointments, subpoenas and any other documents when no other provision is made and copies are properly allowable per folio, for each copy.....	0 10
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NOTICES, DEMANDS, ETC.

37. Notice to admit or produce..... To be increased in the discretion of the taxing officer.	1 00
38. Appointment for examination of debtor witness or for any other purpose..... Engrossing and each copy, per folio..	1 00 0 10
39. Notice of trial, hearing of issue, or summary hearing.....	2 00
40. Every notice under any other statute.....	2 00
41. All other notices and demands not above specified including notices to Gazette newspaper, etc.....	2 00
42. Every folio over three of any of above.....	0 20

ATTENDANCES

43. Attendances consequent on services of notice to produce or admit, or on inspection of documents, or notice under any statute.....	2 00
44. Attendance for special leave for a service of notice of motion or of appeal in the discretion of the taxing officer.....	3 00
45. On consultation with counsel, where proper in the discretion of the taxing officer	10 00
46. Solicitor attending court or chambers, including partner of counsel, when no second counsel fee taxed, per hour.....	5 00
47. To obtain or give undertaking to defend when service accepted by solicitor....	2 00
48. To file any paper or for any appointment, or to receive, accept or admit service of any paper not otherwise provided for.....	1 00
49. Solicitor attending to procure evidence for the trial or petition, in addition to all proper travelling expenses. Such amount as the taxing officer thinks proper.....	4 00
50. Every other necessary attendance, per hour..... To be reduced or increased in the discretion of the taxing officer.	4 00
51. Attendances, correspondence, etc., incurred through negotiations by a defendant creditor or debtor to gain time, or in the endeavour to compromise or settle the action, petition or proceeding. Such allowance as the taxing officer deems proper.	

LETTERS

52. Each letter.....	1 00
53. Perusal of each letter..... These two items may be reduced or increased in the discretion of the taxing officer.	1 00

BONDS

54. Upon giving of any bond in any proceeding, including drawing and engrossing same and all affidavits and copies, and necessary attendances and taking of affidavits in discretion of taxing officer and not to exceed.....	15 00
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JUDGMENT. RULE OR ORDERS

55. Drawing minutes of judgment or order..... For every folio over five, per folio.....	2 00 0 20
56. Engrossing judgment roll or order after settlement of minutes, per folio.....	0 10
57. Judgment when no defence and no minutes necessary.....	3 00
58. Appointment to settle or pass judgment or order of court.....	1 00
59. Attending to settle minutes..... To be increased in the discretion of the taxing officer in difficult or contested cases.	2 00
60. Attending to enter judgment.....	2 00
61. Attending for any praecipe order.....	1 00
62. Any praecipe order.....	1 00

PAYMENT INTO OR OUT OF COURT

63. (a) Instructions to pay into court.....	2 00
(b) Instructions to obtain moneys out of court.....	2 00
(c) Praecepte to pay in or obtain out of court.....	1 00
(d) Attending for direction.....	1 00
(e) Attending for cheque to pay in.....	1 00
(f) Attending to pay in or receive cheque in payment out.....	1 00
(g) Praecepte for certificate of account.....	1 00
(h) Attending for certificate of account.....	1 00
(i) Drawing receipt or certificate of bank as to payment in or non-payment in.....	1 00
(j) Attending to enquire at bank and for certificate.....	2 00

TAXATION OF COSTS

64. Drawing bill of costs for taxation, per folio.....	0 30
65. Engrossing and each copy to serve, each per folio.....	0 10
66. Notice of taxation or appointment to tax.....	1 00
67. Every copy, per folio.....	0 15
68. Attending on taxation, per hour, not more than.....	4 00

COUNSEL FEES

69. Settling—	
(a) Statement of claim, defence or any other pleading.	
(b) Petition.	
(c) Special notice of motion.	
(d) Interrogatories or answers to same.	
(e) Cross-interrogatories or answers to same.	
(f) Issue.	
(g) Application in connection with any composition, extension or scheme.	
(h) Any other document or proceeding of like nature to any of the above.	10 00
Any of the above to be reduced or increased in the discretion of the taxing officer.	
70. Attendance of counsel on—	
(a) Examination for discovery.	
(b) Cross-examination on affidavits.	
(c) Examinations of witness on motion.	
(d) Examination of witness <i>de bene esse</i> .	
(e) Examination of debtor.	
(f) Or any similar examination.....	15 00
Any of the above to be reduced or increased in the discretion of the taxing officer.	
71. On consultation with solicitor or client, where proper, in the discretion of the taxing officer.....	5 00
72. Advising on evidence.....	10 00
To be reduced or increased in the discretion of the taxing officer.	
73. Attendance of counsel on adjournment in judge's chambers or on any motion when opposed.....	10 00
74. Attendance of counsel upon adjournment in judge's chambers when opposed....	15 00
75. Attendance of counsel upon adjournment before registrar.....	5 00
76. Fee of counsel on ex-parte motion or application to registrar.....	10 00
77. Attendance of counsel on opposed motion or application to registrar.....	15 00
Both of above items subject to increase in the discretion of the taxing officer.	
78. Counsel fee on all ex-parte motions or applications to court or judge in chambers.....	20 00
79. Counsel fee on opposed-motion in court or before judge in chambers.....	40 00
To be reduced or increased in the discretion of the taxing officer.	
80. Counsel fee with brief on—	
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(b) Trial.	
(c) Approval of any composition, extension or scheme.	
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(e) Summary hearing.	
(f) Application for discharge by trustee or debtor when opposed.....	50 00
To be reduced or increased in the discretion of the taxing officer.	
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81. Counsel fee on settlement or compromise when proceedings have been taken or services rendered by a barrister in or out of court to expedite proceedings, save costs, to compromise or settle actions, proceedings or claims or in negotiations leading up to a compromise or settlement, a counsel fee or allowance may be made therefor in the discretion of the taxing officer, which may be by way of commission or percentage on the amount recovered or defended, or on the value of the property about which the action, suit, claim or transaction is concerned, or the same may be made by way of quantum meruit for the services rendered or upon such other basis as the taxing officer thinks proper	

- 82. In all cases of fees or allowances which are in the discretion of the taxing officer (or which may be reduced or increased in the discretion of the taxing officer), the taxing officer shall have regard to all the circumstances including (but not in any way restricting the generality of the foregoing) the nature, importance or urgency of the matters involved, the time occupied, the circumstances and interest of the person by whom the costs are payable, the general conduct of the proceedings, and the amount, skill, labour and responsibility involved, and the preparation and consideration of any written argument when requested by a judge.
- 83. In case of any service rendered in any action or proceeding of a like nature to any of the service provided for in this tariff and not expressly covered by any item in the tariff, a fee shall be allowed by the taxing officer of an amount equal to the tariff fee for the service most nearly resembling the one in question.
- 84. In all cases of fees or allowances which may be allowed in the discretion of the taxing officer or which may be increased in his discretion, there shall be a right to appeal to a judge in chambers and the fee or allowance so made or increased shall be reconsidered by such judge whether the exercise of the discretion pertains to the quantum of fees or relates to a question of principle. This right shall be in addition to any existing right of appeal.

SOLICITORS' FEES ON COLLECTION OF ACCOUNTS

- 85. Claims collected after notice or demand and entered as a whole or in instalments:—
 - on first \$300, or less..... 15%
 - on excess over \$200, up to \$1,000..... 8%
 - on over \$1,000..... 4%
 - minimum charge \$5.
 - on claims less than \$10, charge not to exceed one-half the claim.
 - Where no collection made, no charge.

ALLOWANCE TO WITNESSES

- 86. To witnesses residing within five miles of the court house where action is tried, or the place at which they are required to attend, for each day's attendance..... 2 00
 - 87. To witnesses residing more than five miles from the court house where the action is tried, or the place at which they are required to attend, for each day's attendance..... 3 00
 - 88. To barristers, solicitors, civil, mechanical and electrical engineers, architects, chartered accountants, dentists, dental surgeons, physicians and surgeons, when called upon to give evidence in consequence of any professional services rendered by them, or to give professional opinions for each day's attendance..... 6 00
- In addition to the foregoing fees, the travelling expenses of witnesses residing more than five miles from the court house where the action is tried, or the place at which they are required to attend, shall be allowed according to the sums actually and reasonably expended, but shall in no case exceed twenty cents per mile one way.

PART III

SCALE OF FEES—PAYABLE ON PROCEEDINGS

	\$	cts.
Issuing and filing of every bankruptcy petition, including the sealing thereof and one duplicate or copy.....	2	00
Filing and approving every bond, with or without sureties, including affidavits; or memorandum as to payment into court, including such payment in.....	2	00
Every receiving order.....	2	00
Every other order.....	2	00
Every application to approve a composition, extension or scheme.....	5	00
Every application for an order for discharge.....	5	00
Every other notice of motion or application filed, including notice of appeal.....	2	00
Every affidavit filed.....	0	20
Every subpoena or warrant.....	1	00
Every lis pendens.....	2	00
Every statement of affairs, filing.....	1	00
For filing any other document or proceeding not otherwise particularly provided for...	0	20
For making copies or certified copies of any proceeding, per folio of 100 words.....	0	15
Taxation of costs, per hour. (Including taxing officer's certificate).....	2	00
For the registrar holding examination of hearing appeals under Section 150 of the Act, per hour.....	2	00
Bailiff for serving petition, subpoena, order or other proceeding including affidavit of service.....	2	00
Mileage one way, per mile.....	0	15
Possession by bailiff under a warrant for each day a man is actually in possession.....	3	00
No fees shall be charged for searching any proceedings or documents required, under the Act or these Rules, to be filed with the registrar.		

Tariff

FEES PAYABLE TO OFFICIAL RECEIVER

1. On filing of authorized assignment and statement of affairs on Form 53.....	1 00
2. On appointment of custodian and notification of appointment.....	1 00
3. On examination of debtor, and completion of Form 50.....	3 00
4. On presiding at meeting, if attending in person.....	4 00
5. On completion of authorized assignment by certifying as to trustee.....	1 00
6. On reports to the court.....	3 00

COSTS OF CUSTODIAN

The custodian shall be entitled to be paid his disbursements, and in taxing such disbursements the taxing officer may allow as disbursements the following:—

1. For taking possession, verifying the debtor's statement of affairs, and making an inventory of his assets and a list of his liabilities:—

The actual disbursements of the custodian in connection with the said work.

2. For preparing and mailing notices of first meeting and other documents accompanying said notices:—

Per creditor—

On the first 100 notices and other documents, 5 cents per folio of 100 words;

On the next 200 notices and other documents, 3 cents per folio of 100 words;

On any excess over 300 notices and other documents, 1 cent per folio of 100 words;

Plus postage.

3. On disposal of perishable goods, five per cent of the net proceeds.

4. On carrying on the business of the debtor, or for any other service, such sum as the court may allow.

SCALE OF TRUSTEE'S DISBURSEMENTS

1. Preparing, typing or mimeographing explanatory circular letter and mailing to all creditors with copy of statement of assets and liabilities and minutes of first meeting of creditors, or synopsis thereof:—

Per creditor—

On the first 100, 5 cents per folio of 100 words;

On the next 200, 3 cents per folio of 100 words;

On any excess over 300, 1 cent per folio of 100 words;

Plus postage.

2. For all necessary reports and statements to creditors from time to time:—

Per creditor—

On the first 100, 5 cents per folio of 100 words;

On the next 200, 3 cents per folio of 100 words;

On any excess over 300, 1 cent per folio of 100 words;

Plus postage.

3. For sending notices to creditors of application for discharge, for passing of accounts and for copies of statement or receipts and disbursements and dividend statement enclosed with notice:—

Per creditor—

On the first 100 notices and other documents, 5 cents per folio of 100 words;

On the next 200 notices and other documents, 3 cents per folio of 100 words;

On any excess over 300 notices and other documents, 1 cent per folio of 100 words;

Plus postage.

Provided that in any estate where the court considers the amount of remuneration allowed to the trustee is sufficient to compensate him adequately for all services rendered to the estate, the court may disallow the foregoing disbursements either in whole or in part.

Provided that the court may, having regard to the provisions of the Act with respect to quantum, fix the amount of the costs of a solicitor or counsel to the trustee.

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