

ORDINANCES
OF THE
YUKON TERRITORY

PASSED BY THE
YUKON COUNCIL
IN THE YEAR

1954

FIRST, SECOND AND THIRD SESSIONS

W. G. BROWN
COMMISSIONER



Printed and Published for the Government of the Yukon Territory under
Authority of Chapter 75 of the Consolidated Ordinances of 1914.

BY

W. D. ROBERTSON, Queen's Printer

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CHAPTER 1

ORDINANCES OF YUKON TERRITORY
1954 (First Session)AN ORDINANCE RESPECTING
SCIENTISTS AND EXPLORERS*(Assented to March 29, 1954.)*

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

SHORT TITLE

1. This Ordinance may be cited as the "Scientists and Explorers Ordinance". Short Title

LICENCES

2. (1) The Commissioner may issue a licence, subject to such conditions as to duration, area or otherwise as he may prescribe, to a person to enter the Territory for scientific or exploration purposes and to carry out those purposes in the Territory. Issue
- (2) The Commissioner may, at any time, for any cause that to him seems sufficient, extend, renew, alter or revoke a licence issued under this section. Extension, etc.
3. (1) In addition to any conditions prescribed with respect to a licence issued under section 2, every licence is subject to the following conditions: Conditions applicable to all licences
- (a) that the objects of entry of the holder of the licence into the Territory are exclusively for scientific or exploration purposes and not, in any way, political or commercial; and No political or commercial objects
- (b) that, subject to section 4, the licensee will strictly comply with the provisions of all laws of the Territory. Compliance with other Ordinances

Statement of
identity, etc.

- (2) Every applicant for a licence shall furnish to the Commissioner an accurate statement showing the number, identity and nationality of the persons who will accompany him as well as his own identity and nationality.

Compliance
with Archaeo-
logical Sites
Ordinance

4. Unless the Commissioner otherwise directs, the issue of a licence under this Ordinance does not relieve the licensee from compliance with the "Archaeological Sites Ordinance".

No entry
without
licence

5. No person shall enter the Territory for scientific or exploration purposes and no person shall carry out such purposes in the Territory unless he is the holder of a valid licence issued under this Ordinance.

RETURNS

Returns to
Commissioner

6. (1) Every licensee shall, at the close of the scientific or exploration work in respect of which his licence was issued, furnish, in duplicate, to the Commissioner:
- (a) a statement setting forth the scientific information he has acquired in carrying out the purposes in respect of which the licence was issued;
 - (b) a report setting forth the localities visited and the time spent in each locality;
 - (c) a descriptive catalogue of all specimens collected;
 - (d) copies of all photographs taken and maps and plans made in connection with the work together with explanatory notes; and
 - (e) such other information as the Commissioner may prescribe.

Returns to
R.C.M.P.,
etc.

- (2) Every licensee shall forthwith after being requested by him to do so, furnish to a member of the Royal

Canadian Mounted Police or an officer-in-charge of a government patrol, or other Crown officer, a log of voyages by water taken by the licensee, or information of the route followed on journeys by land or air taken by him, as the case may be, together with full particulars of such voyages or journeys.

7. The Commissioner may require a licensee to submit to him or to such person as the Commissioner may designate, any or all of the specimens collected by the licensee, and such specimens may be disposed of in any manner the Commissioner thinks fit. Specimens

REGULATIONS

8. The Commissioner may, from time to time, make rules and regulations for carrying out the purposes and provisions of this Ordinance. Regulations

PENALTY

9. A person who violates any provision of this Ordinance or the regulations or the conditions of a licence issued under this Ordinance is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment. Offence and penalty

REPEAL

10. "An Ordinance Respecting Scientists and Explorers", chapter 4 of the Ordinance of 1935, is repealed. Repeal

CHAPTER 2

ORDINANCES OF YUKON TERRITORY
1954 (First Session)

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

(Assented to March 29, 1954.)

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

SHORT TITLE

- Short title 1. This Ordinance may be cited as the "Assignments of Book Debts Ordinance".

INTERPRETATION

- Definitions 2. In this Ordinance,
- "Assignee" (a) "assignee" means any person to whom an assignment of book debts is made;
- (b) "assignment" includes every legal and equitable assignment, whether absolute or by way of security, and every mortgage or other charge upon book debts;
- "Assignor" (c) "assignor" means any person making an assignment of book debts;
- "Book debts" (d) "book debts" means all such accounts and debts, whether existing or future, as in the ordinary course of business would be entered in books, whether actually entered or not, and includes any part or class thereof;
- "Creditors" (e) "creditors" means creditors of the assignor, whether execution creditors or not, who become creditors before the registration of an assignment, and, for

the purpose of enforcing the rights of such creditors but not otherwise, includes a creditor suing on behalf of creditors, a trustee under the "Bankruptcy Act" and a liquidator of a company under the "Winding-Up Act" of Canada or under an Ordinance of the Territory containing provisions for the winding-up of companies, without regard to the time when the creditor so suing becomes a creditor, or when the assignee, trustee or liquidator is appointed;

- (f) "proper officer" means the officer in whose office assignments are required to be registered in any registration district; "Proper officer"
- (g) "registered" means filed in accordance with the provisions of this Ordinance; "Registered"
- (h) "registration district" means a district established under this Ordinance for the registration of assignments; "Registration district"
- (i) "subsequent purchaser" includes a person who in good faith, for valuable consideration, and without notice obtains by assignment an interest in book debts that have already been assigned; "Subsequent purchaser"
- (j) "valuable consideration" includes "Valuable consideration"
 - (i) any consideration sufficient to support a simple contract; and
 - (ii) an antecedent debt or liability.

APPLICATION

- 3. This Ordinance does not apply to Application
 - (a) any assignment of book debts, whether specified or by way of floating charge, made by a corporation and contained,
 - (i) in a trust deed or other like instrument to secure bonds, debentures, or debenture stock of the corporation,

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

FORM AND REGISTRATION

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

debts therein mentioned against the creditors of the assignor or for the purpose of preventing such creditors from recovering any claims that they have against the assignor; and

- (c) registered, as provided in this Ordinance, together with the affidavits, within thirty days of the execution of the assignment.
- (2) When there are two or more assignors, the date of execution of the assignment shall be deemed to be the date of the execution by the assignor who last executes it.
- (3) Every assignment that is required to be in writing and to be registered under this Ordinance shall, as against creditors and subsequent purchasers, take effect only from the time of the registration of the assignment.
- 5. (1) Registration of an assignment under this Ordinance shall be effected by filing the assignment, together with such affidavits as are by this Ordinance required, within thirty days from its execution, in the office of the proper officer of a registration district determined in accordance with the following rules:
 - (a) where the assignor is a corporation incorporated under the laws of the Territory, in the registration district in which the head office or registered office is situate;
 - (b) where the assignor is an extra-territorial corporation having a head office or registered office within the Territory in the registration district in which the head office or registered office is situate;
 - (c) where the assignor is an extra-territorial corporation not having a head office or registered office within the Territory, in the registration district of Whitehorse;

How registration effected

- (d) where the assignor is not a corporation, in the registration district in which the assignor carries on business at the time of the execution of the assignment;
 - (e) where the assignor is not a corporation, and at the time of the execution of the assignment carries on business in different registration districts, in any such registration district, and by filing a duplicate original of the assignment and affidavits, or a copy thereof certified by the proper officer of that registration district, in each of the other registration districts.
- (2) The proper officer shall cause every assignment filed in his office to be numbered, to be endorsed with a memorandum of the day, hour, and minute of filing, and to be indexed by entering in alphabetical order in a register kept by him the names of the parties to the assignment, with their descriptions, and the dates of execution and registration of the assignment.
- (3) Where the time for registration of any assignment or other document expires on a Sunday or other day on which the office in which the registration is to be made is closed, the registration shall, so far as regards the time of registration, be valid if made on the next following day on which the office is open.

DISCHARGE

Discharge of assignment

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

is registered, shall note the fact of the discharge against each entry in the books of his office respecting the registration of the assignment and shall make a like notation upon the assignment or copy registered in his office.

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

INSPECTION OF RECORDS

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

Inspection of records

Registration districts and officers

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

AFFIDAVITS

Taking of affidavits

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

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

Affidavit in case of death of assignee

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

Affidavit on behalf of corporation

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

Affidavit of agent or officer

12. Any affidavit made for the purposes of this Ordinance by the agent of an assignee, or of an executor or administrator, or by an officer, employee or agent of a corporation, shall state that the deponent is aware of the

circumstances connected with the assignment, and that he has a personal knowledge of the facts deposed to.

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

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

RECTIFICATION OF OMISSIONS AND MIS-STATEMENTS

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

tendered for registration, and appropriate entries shall be made in the register.

DEFECTS AND IRREGULARITIES

Defects and Irregularities

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

EVIDENCE OF RECORDS

Evidence of records

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

FEEES

Fees

18. For services under this Ordinance each registration clerk shall be entitled to receive the following fees:
 - (a) for filing and registering an assignment, fifty cents;
 - (b) for filing and registering a certificate of discharge, fifty cents;
 - (c) for a general search, fifty cents;

- (d) for any certificate of registration or discharge or other certificate for purposes of this Ordinance, twenty-five cents;
- (e) for a copy of any document filed under this Ordinance, including certificate, every one hundred words, ten cents.

REPEAL

19. The "Assignment of Book Debts Ordinance", chapter 1 of the Ordinances of 1949 (2nd session), is repealed. Repeal

CHAPTER 3

 ORDINANCES OF YUKON TERRITORY
 1954 (First Session)

 AN ORDINANCE RESPECTING THE
 LEGITIMATION OF CHILDREN

(Assented to March 29, 1954.)

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

- | | |
|-------------------------------------|---|
| Short title | 1. This Ordinance may be cited as the "Legitimation Ordinance". |
| Legitimation by subsequent marriage | 2. (1) Where the parents of a child born out of lawful wedlock marry or have married one another after the birth of the child, whether the intermarriage takes place before or after the commencement of this Ordinance, the child shall, if living at the time of the intermarriage, be deemed for all purposes to be legitimate from the time of birth. |
| Does not affect vested rights | (2) Nothing in this section affects any right, title or interest in or to property where the right, title or interest was vested in any person prior to the intermarriage. |
| | 3. The "Legitimation Ordinance" chapter 4 of the Ordinances of 1944, is repealed. |

CHAPTER 4

ORDINANCES OF YUKON TERRITORY
1954 (First Session)

AN ORDINANCE TO AUTHORIZE THE CITY OF
WHITEHORSE TO CONSTRUCT WATERWORKS AND
PURIFICATION SYSTEMS AND SEWAGE DISPOSAL
PLANTS AND TO BORROW MONEY THEREFOR

(Assented to March 29, 1954.)

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

1. This Ordinance may be cited as the "Whitehorse Water-works and Sewage Disposal Ordinance". Short title

2. (1) In this Ordinance, Definitions
 - (a) "borrowing by-law" means a by-law mentioned in paragraph (b) of Section 3; "Borrowing by-law"
 - (b) "City" means the City of Whitehorse; "City"
 - (c) "Council" means the Council of the City; and "Council"
 - (d) "debenture" means a debenture issued pursuant to a borrowing by-law. "Debenture"

- (2) This Ordinance shall be construed as incorporate with the Municipal Ordinance but in case of conflict the provisions of this Ordinance shall prevail. This Ordinance one with "Municipal Ordinance"

3. Subject to this Ordinance, the Council may pass by-laws for By-laws
 - (a) the planning, construction, operation and maintenance of a water supply and purification system, a sewage disposal plant and a drainage system; and

- (b) the borrowing of money, not exceeding the sum of one million dollars, for any purpose mentioned in paragraph (a) on the security of debentures of the City issued in accordance with this Ordinance;

To be approved by Commissioner and two-thirds of City voters

but no such by-law shall be valid unless, prior to being finally passed by the Council, it has been submitted to and approved by the Commissioner and has received the assent of two-thirds of the voters of the City who have voted thereon.

Form of by-law

- 4. (1) A borrowing by-law shall set out in detail
 - (a) the amount proposed to be borrowed;
 - (b) the purpose for which the expenditure is to be made;
 - (c) the term of the debentures to be issued;
 - (d) the rate of interest payable and whether it is to be paid annually or semi-annually;
 - (e) the method of repayment;
 - (f) the amount of rateable property according to the last revised assessment roll; and
 - (g) the amount of the existing debenture debt, if any, and how much, if any, of the principal or interest thereof is in arrears.

Idem.

- (2) A borrowing by-law shall, by its terms
 - (a) authorize the issue of debentures for the amount of the debt to be created thereby;
 - (b) specify the amount or denominations thereof;
 - (c) fix the rate or rates of interest payable thereon, and the places where and the times when the principal and interest shall be payable;

- (d) provide that the debentures and coupons for the interest thereon shall be paid in lawful money of Canada; and
 - (e) generally shall be in such form and contain such further provisions as are required by the Commissioner.
5. No money borrowed pursuant to a borrowing by-law shall be used for a purpose other than that stated in the by-law, except that if there remains an unexpended balance on completion of the work for which the money was borrowed, such balance may be used by the City
- Amount borrowed to be used for purpose stated
- (a) for the payment of any interest payable in respect of the debenture issue, or
 - (b) for the repayment of the principal amount of the debenture or any portion thereof.
6. (1) Debentures may be issued either all at one time or in instalments at such times as the Council deems expedient, but no debenture shall be issued after the expiration of four years after the final passing of the by-law.
- Debentures, how issued
- (2) Debentures and interest coupons shall be in a form approved by the Commissioner and shall be signed by such persons and in such manner as the Commissioner prescribes.
- Form of debenture and coupons
- (3) No debenture shall be issued for a term exceeding thirty-two years.
- Term of debenture
- (4) Debentures and interest coupons shall bear interest at the same rate after as before maturity.
- Interest
- (5) Debentures and interest coupons may be made payable at any place in Canada.
- Where payable
7. (1) A by-law may provide that any of the debentures authorized to be issued thereunder shall be redeemed
- Redemption

able at the option of the City at such time or times as the City may find it possible to redeem the same.

Redemption prior to maturity

- (2) Where a debenture is redeemed prior to maturity, the redemption shall not affect the validity of any by-law by which taxes have been imposed in respect thereof, the validity of such taxes or the power of the Council to continue to collect taxes in respect thereof.

Defect in form, etc., of debenture

- 8. Any debenture issued under this Ordinance shall be valid and binding upon the City notwithstanding any insufficiency in the form or substance of the debenture or the by-law if the by-law has received the approval of the Commissioner and the assent of two-thirds of the voters who voted thereon, and no successful application has been made to quash it.

Taxing by-laws

- 9. (1) The Council may pass by-laws
 - (a) for determining what lands will be benefited by the water supply and purification system and the sewage disposal plant and drainage system, what portion of the cost thereof is to be charged against the several parcels of land to be so benefited and what portion, if any, against the City as a whole and the basis of determining the portion of the cost thereof to be charged against any individual parcel of land, whether by frontage or otherwise;
 - (b) for assessing, levying and collecting by means of a special rate on the parcels of land benefited or upon such land and the city as a whole, as the case requires, the cost of such systems or plant with interest; and
 - (c) prescribing the time or times when and the manner in which the amounts levied are to be paid and specifying the terms on which parties assessed for such systems or plant may commute the assessment by the payment of their proportionate share of the cost thereof in a lump sum.

- (2) No rate mentioned in subsection (1) shall be fixed in any year until approved by the Commissioner. Rate to be approved by Commissioner
10. Taxes collected for the purpose of paying money owing on the debentures issued under any by-laws passed pursuant to this Ordinance shall be paid into a special bank account and no payment shall be made out of such account except for the purpose of paying money owing on the debentures. Taxes to be placed in separate account
11. The Council shall, with the approval of the Commissioner, establish a schedule of charges to be charged to those who use any system or plant constructed pursuant to a by-law passed under paragraph (a) of section 3 that will in the opinion of the Commissioner, after allowing for uncollectible debts, provide sufficient funds to pay the cost of operating and maintaining the system or plant. Establishment of Schedule of Charges to users of systems
12. If the City defaults in payment of the moneys owing on a debenture issued under a by-law passed pursuant to this Ordinance, the Council shall forthwith make a special levy against all property in the City to raise sufficient funds to pay the arrears owing on such debentures. Special levy where default in debentures
13. The Council shall within two months of the end of each calendar year submit to the Commissioner a report on the operation of any system or plant constructed pursuant to a by-law passed under paragraph (a) of section 3. Report to Commissioner
-

CHAPTER 5

ORDINANCES OF YUKON TERRITORY
1954 (First Session)

AN ORDINANCE TO AMEND THE
"AMUSEMENT TAX ORDINANCE"

(Assented to March 29, 1954.)

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

1. The "Amusement Tax Ordinance", being chapter 10 of the Ordinances of Yukon Territory, 1948, is hereby amended by inserting after the definition of "Place of Amusement" in section 2 thereof, the following definition:

"Professional" means any person who takes any part in any form of athletics, sport, entertainment, exhibition performance, or amusement as a means of livelihood or for gain or remuneration;

2. The said Ordinance is further amended by repealing section 9 thereof.
3. The said Ordinance is further amended by repealing section 13 thereof, and in substituting therefor the following:

"13. (1) No tax shall be collected upon admission fees to any of the following amusements or places of amusement:

- (a) any fair or exhibition held by a society or association incorporated under any ordinance where the receipts from entrance fees charged or collected in respect of the fair or exhibition after payment thereof of the necessary expenses of the fair or exhibition are used exclusively for the purposes of the society or association;

**AMUSEMENT TAX
(AMENDMENT)**

CHAP. 5

- (b) amateur athletics or games;
 - (c) lectures of an educational nature;
 - (d) chautauquas and musical performances at which the performers and artists are residents of the Territory;
 - (e) exhibitions of paintings and works of art;
 - (f) skating rinks, roller skating rinks, covered hockey rinks, ice carnivals and parks or fields used for athletics, baseball, football or other outdoor games provided that this exemption shall not apply to such rinks, parks or fields when being used for professional games or exhibitions;
 - (g) except a moving picture theatre exhibiting moving picture films, such exhibitions, performances or entertainments at any place of amusement which the Commissioner may exempt from taxation upon being satisfied that the proceeds thereof enure exclusively to the benefit of religious, charitable or patriotic institutions, societies or organizations, and where no part of the net proceeds thereof enures to the benefit of any private stock-holder or individual.
- (2) Nothing contained in paragraphs (a), (b), (c), (d), (f) or (g) shall exempt any person from liability from amusement tax when a professional is employed in any athletics, sport, entertainment, exhibition, performance or amusement.
- (3) Any exemption granted by the Commissioner under paragraph (g) of subsection (1) shall be by permit in such form and subject to such terms and conditions as he may from time to time direct."

MOTOR VEHICLES
(AMENDMENT)

CHAPTER 6

ORDINANCES OF YUKON TERRITORY
1954 (First Session)

AN ORDINANCE TO AMEND THE
"MOTOR VEHICLES ORDINANCE"

(Assented to March 29, 1954.)

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

1. The "Motor Vehicles Ordinance", being Chapter 8 of the Ordinances of the Yukon Territory, 1952 (first session), is amended by striking out Item 3 of Part 1 of the Schedule thereto and substituting therefor the following:

"3. Trailers, except those included in Item 1

- | | |
|--|---------|
| (a) load capacity up to three tons | \$ 3.00 |
| (b) load capacity of more than three tons
but not more than five tons | 25.00 |
| (c) load capacity of more than five tons
but not more than ten tons | 50.00 |
| (d) load capacity of more than ten tons | 100.00" |

2. This amendment shall come into force on the 1st day of April, A.D. 1954.

CHAPTER 7

ORDINANCES OF YUKON TERRITORY

1954 (First Session)

AN ORDINANCE TO PROVIDE FOR
CHANGE OF NAME*(Assented to March 29, 1954.)*

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

1. This Ordinance may be cited as the "Change of Name Ordinance". Short title

2. In this Ordinance, Definitions
 - (a) "change" means any change by way of alteration, substitution, addition or abandonment; "Change"

 - (b) "child" means an unmarried child under the age of twenty-one years, including an adopted child who has been adopted in accordance with the law of the place at which the adoption was affected; "Child"

 - (c) "given name" includes christian name and baptismal name; "Given name"

 - (d) "name" includes given name and surname; and "Name"

 - (e) "surname" includes family name and patronymic. "Surname"

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

- (2) This Ordinance does not apply to a change of surname to that of her husband by a woman upon marriage, the adoption of her maiden name by a woman Certain exceptions

upon dissolution of her marriage or to a change of name effected under the "Adoption Ordinance".

Prior changes

(3) Nothing in this Ordinance shall be deemed to effect any change of name lawfully effected prior to the coming into force of this Ordinance.

Who may apply

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

Special Court Order where residence insufficient

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

Married woman cannot apply re surname

(3) No married woman shall, during the life of her husband, apply for a change in the surname acquired from him.

Consents

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

Mentally incompetent adult children

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

7. A married man who applies for a change of name Married man
- (a) shall, respecting any change of his surname, obtain the consent of his wife;
 - (b) shall, respecting any change of his surname, also apply for a like change in the surname of his wife and all his or their children;
 - (c) may, with the consent of his wife and any child concerned, apply for a change in the given name of his wife or of any or all of his or their children; and
 - (d) may, with the consent of such child and that of the wife of such child, apply for a change in the name of a married male child who is under the age of twenty-one years, the wife of such child and any children of such child.
8. A widower or a widow who applies for a change of name Widower or widow
- (a) shall, respecting any change of his or her surname, also apply for a like change in the surname of all his or her children;
 - (b) may, with the consent of any child concerned, apply for a change in the given name of any or all of his or her children;
 - (c) may, with the appropriate consent of any child concerned, apply for a change in the name of any children that are in his or her lawful custody and that are the children of a deceased wife or husband; and
 - (d) may, with the consent of such child, and that of a wife of such child, apply for a change in the name of a married male child who is under the age of twenty-one years, the wife of such child, and any children of such child.
9. (1) Subject to subsection (3), a person whose marriage has been dissolved may apply for a change of name and may, with the consent of the other parent, if living, and with the consent of the children affected, Divorced person

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

Nature of application

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

Divorced woman who re-marries

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

Marriage by widow or unmarried mother

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

Unmarried mother

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

Filing of application

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

Contents

- (2) Every application for a change of name shall set forth
- (a) the surname and given names of the applicant ;
 - (b) the address of the applicant and the date and place of his birth ;
 - (c) the full name of the applicant's father and the maiden name in full of his mother ;

- (d) where the applicant is married, the name in full of the spouse, the date and place of marriage, the full name of the spouse's father and the maiden name in full of the spouse's mother;
 - (e) a statement that the applicant is a Canadian citizen;
 - (f) the occupation or calling of the applicant;
 - (g) full particulars of any civil or criminal action pending against the applicant, any chattel mortgage, lien or other encumbrance registered against the property of the applicant and, if none, a statement to that effect;
 - (h) the change of name desired and full particulars of any previous change of name or statement that there was none;
 - (i) the names, ages and particulars of all persons whose consents are required and if a consent has not been obtained the reason for it;
 - (j) the names, ages and particulars of all persons whose names may be changed as a result of the application; and
 - (k) a statement of the reasons for desiring a change of name.
- (3) Every application for a change of name shall be accompanied by
- (a) an affidavit by the applicant deposing that the application is made in good faith and for no improper purpose, that the statements set out in the application are true and that, unless a Court order under subsection (2) of section 4 has been obtained, the applicant has resided in the Territory for at least one year immediately prior to the application;

Other documents

- (b) a certificate of the sheriff of the Territory as to the existence of any unsatisfied executions against the property of each person whose name may be changed as a result of the application; and
- (c) such consents, in writing, or other documents that are required by this Ordinance respecting the particular application in question, including such proof as the Court may require that the applicant is a Canadian citizen.

Objection to application

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

May grant without hearing or set a hearing

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

Hearing

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

Where rejected on hearing

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

- (2) Where the Court is of opinion on a hearing that the application should in whole or in part be granted, it shall make an order to that effect. Where allowed
15. (1) An order made under this Ordinance shall provide for such changes of names as the Court deems proper having regard to the nature of the application, objections thereto or any other evidence adduced, the relationship and status of person affected thereby and all other relevant circumstances and the order shall have effect according to the tenor thereof. Order
- (2) Every such order shall be entered by the Clerk of the Court who shall send two certified copies thereof and a certified copy of the application and supporting documents to the Registrar General of Vital Statistics and shall also send to the sheriff a certified copy of the order and any particulars shown on the application respecting any judgment, pending action, chattel mortgage, lien or other registered encumbrance relating to any person affected by the order. Clerk to enter and transmit to certain persons
- (3) Where the sheriff of the Territory has received a copy of the Order, and any particulars pursuant to subsection (2) of section 15, he shall enter and re-index any such judgment pending action, chattel mortgage, lien or other registered encumbrance under the name as changed. Sheriff to note change
16. (1) Any person may obtain from the Clerk of the Court a certified copy of an order effecting a change of name and such certified copy is conclusive evidence of its contents. Certified copy may be obtained
- (2) Subject to the Vital Statistics Ordinance, and without restricting the effect that a change of name may have at law, a person whose name has been changed under this Ordinance is, upon production of the certified copy of the order and satisfactory proof of identity, entitled to have a memorandum of the Persons entitled to have change endorsed

change of name endorsed on any record, certificate, instrument, document, contract or writing, whether public or private.

Application to annul

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

Affidavit and fee

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

Hearing and order

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

Duties of Clerk and copies

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

Certificates may be recalled

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

Offence of improper obtaining

18. (1) Every person who, by fraud, misrepresentation or for an improper purpose, obtains or attempts to obtain a change of name under this Ordinance is

guilty of an offence and is liable, on summary conviction, to a fine not exceeding five hundred dollars.

- (2) Every person who refuses to return a certified copy of an order that has been annulled or otherwise refuses to comply with a lawful order or demand under this Ordinance is guilty of an offence and is liable, on summary conviction to a fine not exceeding one hundred dollars. ^{Refuses to obey}
19. The Commissioner may make such regulations as he deems necessary for carrying out the provisions and purposes of this Ordinance. ^{Regulations}
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GAME
(AMENDMENT)

CHAPTER 8

ORDINANCES OF YUKON TERRITORY
1954 (First Session)

AN ORDINANCE TO AMEND
"THE YUKON GAME ORDINANCE"

(Assented to March 29, 1954.)

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

1. "The Yukon Game Ordinance", being chapter 11 of the Ordinances of the Yukon Territory, 1951 (second session), is amended by repealing paragraph (s) of section 2 thereof and substituting therefor the following:

"(s) 'resident' means

- (a) any Canadian citizen who has resided continuously in Yukon Territory for not less than one year immediately prior to the date of his application for a licence under this Ordinance,
- (b) any member of Her Majesty's Armed Forces or any member of the Royal Canadian Mounted police who has resided continuously in the Yukon Territory for not less than thirty days, or
- (c) any soldier, sailor or airman who, immediately prior to joining Her Majesty's Armed Forces, was a resident of Yukon Territory for not less than one year."

CHAPTER 9

ORDINANCES OF YUKON TERRITORY
1954 (First Session)

AN ORDINANCE TO AMEND
"AN ORDINANCE RESPECTING THE COUNCIL
OF THE YUKON TERRITORY"

(Assented to March 29, 1954.)

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

1. "An Ordinance Respecting the Council of the Yukon Territory" being Chapter 23 of the Consolidated Ordinances of the Yukon Territory, 1914, as amended by Chapter 11 of the Ordinances of 1952, (first session), is further amended by deleting the word "Carmacks" where the same appears in the first line of the third paragraph of Schedule 1 and substituting therefor the words "Carmacks-Kluane Lake."

CHAPTER 10

ORDINANCES OF YUKON TERRITORY
1954 (First Session)

AN ORDINANCE TO AMEND THE
"HOURS OF LABOUR ORDINANCE"

(Assented to March 29, 1954.)

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

1. The "Hours of Labour Ordinance", being chapter 16 of the Ordinances of Yukon Territory, 1951 (first session), is hereby amended by adding to section 6 the following sub-section:

"(3) No action shall be brought against an employer by any person for the recovery of any claim arising under this Ordinance

- (a) after the expiration of ninety days from the time that the cause of action first arose, or
 - (b) for any cause of action which arose prior to the first day of February, A.D. 1954, unless action is commenced within thirty days of the enactment of this Ordinance."
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CHAPTER 11

ORDINANCES OF YUKON TERRITORY
1954 (First Session)

AN ORDINANCE TO AMEND
"THE FAIR WAGES ORDINANCE"

(Assented to March 29, 1954.)

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

1. "The Fair Wages Ordinance", being chapter 7 of the Ordinances of Yukon Territory, 1946, is amended by adding to section 7 the following sub-section:

"(3) No action shall be brought against an employer by any person for the recovery of any claim arising under this Ordinance

- (a) after the expiration of ninety days from the time that the cause of action first arose, or
- (b) for any cause of action which arose prior to the first day of February, A.D. 1954, unless action is commenced within thirty days of the enactment of this Ordinance."

CHAPTER 12

ORDINANCES OF YUKON TERRITORY

1954 (First Session)

AN ORDINANCE FOR GRANTING TO THE
COMMISSIONER CERTAIN SUMS OF MONEY TO
DEFRAY THE EXPENSES OF THE PUBLIC SERVICE
OF THE TERRITORY*(Assented to March 29, 1954.)*

WHEREAS, it appears by message from Wilfrid George Brown, Esquire, Commissioner of the Yukon Territory, and in the estimates accompanying the same, that the sums hereinafter mentioned in Schedule "A" to this Ordinance are required to defray certain expenses of the Public Service of the Yukon Territory and for the purposes relating thereto, for the twelve months ending March 31, 1955.

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

1. From and out of the sums at the disposal of the Yukon Council there shall be paid and applied a further sum not exceeding in the whole One million six hundred and ninety-four thousand nine hundred seventy-four dollars and no cents for defraying the several charges and expenses of the Public Services of the Yukon Territory and for the twelve months ending March 31st, 1955, as set forth in Schedule "A" of this Ordinance.
2. The due application of all monies expended shall be duly accounted for.

SCHEDULE "A"

Sums granted to the Commissioner by the Ordinance for the twelve months ending March 31st, 1955, and the purposes for which they are granted.

Vote
No.

1. **Legislative**

Salaries	\$ 1,000.00	
Travelling Expenses	2,075.00	
Freight, Express and Cartage	225.00	
Telephone and Telegraph.....	50.00	
Publication of Reports, etc.	4,500.00	
Advertising	100.00	
Office Stationery, Supplies, etc.	425.00	
Contingencies	300.00	
Sessional Indemnities	10,000.00	\$ 18,675.00

2. **Territorial Treasurer**

Salaries	\$ 31,125.00	
Travelling Expenses	500.00	
Removal Expenses	300.00	
Freight, Express and Cartage	300.00	
Postage	625.00	
Telephone and Telegraph.....	325.00	
Publication of Reports, etc.	550.00	
Office Stationery, Supplies, etc.	2,250.00	
Materials and Supplies	100.00	
Public Utility Services	480.00	
Contingencies	150.00	
Unemployment Insurance.....	200.00	
Holiday Pay	400.00	
Employee's Superannu- ation Fund	975.00	38,280.00

3. **Department of Education**

Salaries	\$213,828.00	
Professional & Special Services	150.00	
Travelling Expenses	1,160.00	
Removal Expenses	2,930.00	
Freight, Express and Cartage	2,000.00	
Postage	215.00	
Telephone and Telegraph.....	675.00	
Films, Displays and Advertising	1,200.00	
Office Stationery, Supplies, etc.	1,636.00	
Materials and Supplies	4,600.00	
Public Utility Services	12,702.00	
Repairs & Upkeep of Build- ings & Works	7,165.00	
Repairs & Upkeep of Equipment	1,475.00	
Rental of Land, Buildings & Works	3,300.00	
Rental of Equipment	3,000.00	
Contingencies	2,000.00	
Fuel	25,070.00	
Unemployment Insurance ..	325.00	
School Supplies	11,550.00	
Holiday Pay	500.00	
Grants	25,500.00	
Employee's Superannua- tion Fund	490.00	
Correspondence Courses	450.00	321,921.00

4. **Territorial Secretary**

Salaries	\$ 36,688.00
Travelling Expenses	2,900.00
Removal Expenses	200.00
Freight, Express and Cartage	450.00
Postage	625.00
Telephone and Telegraph.....	835.00

Films, Displays, Advertising, etc.	600.00	
Office Stationery, Supplies, etc.	4,550.00	
Public Utility Services	1,020.00	
Contingencies	1,100.00	
Fuel	750.00	
Unemployment Insurance..	100.00	
Holiday Pay	250.00	
Grants	2,000.00	
Employee's Superannuation Fund	490.00	52,558.00
		<hr/>

5. **Health & Public Welfare**

Salaries	\$ 22,550.00
Professional & Special Services	25,700.00
Travelling Expenses	3,850.00
Freight, Express and Cartage	225.00
Removal Expenses	200.00
Postage	75.00
Telephone and Telegraph....	378.00
Films, Displays and Advertising	125.00
Office Stationery, Equipment, etc.	500.00
Materials and Supplies	800.00
Public Utility Services	425.00
Repairs & Upkeep of Equipment	1,880.00
Acquisition of Equipment..	200.00
Rental of Land and Buildings	400.00
Rental of Equipment	800.00
Contingencies	300.00
Fuel	1,330.00
Unemployment Insurance ..	60.00
Grants to Hospitals	84,000.00
Subsistence	49,420.00
Pensions, Aged and Blind	3,840.00

Clothing	1,000.00	
Employee's Superannua- tion Fund	225.00	
Hospitalization	68,000.00	266,283.00
		<hr/>

6. **Municipal & Town Administration**

Salaries	\$ 3,000.00	
Freight, Express & Cartage	150.00	
Telephone and Telegraph.....	240.00	
Materials and Supplies	825.00	
Public Utility Services	1,260.00	
Repairs & Upkeep of Buildings	200.00	
Repairs & Upkeep of Equipment	300.00	
Rental of Equipment	1,000.00	
Fuel	875.00	
Grants	57,469.00	65,319.00
		<hr/>

7. **Game**

Salaries	\$ 9,280.00	
Travelling Expenses	1,600.00	
Freight, Express and Cartage	50.00	
Postage	150.00	
Telephone and Telegraph.....	300.00	
Films, Displays & Advertising	250.00	
Office Stationery, Equipment, etc.	600.00	
Materials and Supplies	75.00	
Public Utility Services	240.00	
Repairs & Upkeep of Equipment	450.00	
Rental of Equipment	50.00	
Contingencies	1,600.00	
Unemployment Insurance.....	40.00	14,685.00
		<hr/>

8.	General		
	Sundry and Contingencies..\$	2,000.00	
	Property Insurance	14,250.00	
	Workmen's Compensation..	5,777.00	22,027.00
			<hr/>

9.	Roads, Bridges & Public Works		
	(General)		
	Salaries	\$ 95,950.00	
	Travelling Expenses	1,350.00	
	Removal Expenses	250.00	
	Freight, Express and Cartage	1,850.00	
	Postage	100.00	
	Telephone and Telegraph....	275.00	
	Films, Displays and Advertising	100.00	
	Office Stationery, Equipment, etc.	850.00	
	Materials and Supplies	3,900.00	
	Public Utility Services	5,420.00	
	Repairs & Upkeep of Buildings	3,600.00	
	Repairs & Upkeep of Equipment	4,250.00	
	Acquisition of Equipment..	32,200.00	
	Rental of Equipment	47,408.00	
	Contingencies	500.00	
	Fuel	6,950.00	
	Unemployment Insurance ..	775.00	
	Holiday Pay	1,600.00	
	Subsistence	1,000.00	
	Employee's Superannua- tion Fund	900.00	209,228.00
			<hr/>

9A.	Roads, Bridges & Public Works		
	(Mayo District)		
	Salaries	\$ 15,000.00	
	Travelling Expenses	500.00	
	Materials and Supplies	3,000.00	
	Public Utility Services	—	
	Repairs and Upkeep of Buildings	300.00	

Rental of Equipment	20,000.00	
Sundry	250.00	
Fuel	300.00	
Unemployment Insurance ...	300.00	
Holiday Pay	300.00	
Glacier Control	1,500.00	41,450.00
		<hr/>

9B. **Roads, Bridges & Public Works**
(Whitehorse-Mayo Highway)

Salaries	\$ 80,000.00	
Travelling Expenses	5,000.00	
Removal Expenses	500.00	
Freight, Express & Cartage	1,500.00	
Postage	100.00	
Telephone and Telegraph ...	300.00	
Stationery & Office Supplies	250.00	
Materials and Supplies	10,000.00	
Public Utility Services	500.00	
Repairs & Upkeep of Buildings	500.00	
Repairs & Upkeep of Equipment	35,000.00	
Rental of Equipment	107,700.00	
Sundry	2,500.00	
Fuel	2,000.00	
Unemployment Insurance ...	900.00	
Holiday Pay	2,250.00	
Workmen's Compensation ...	5,500.00	
Subsistence	6,500.00	261,000.00
		<hr/>

10. **Capital Account**

Stewart Crossing-Dawson Road	\$ 90,220.00	
Construction Public Buildings	287,500.00	
Acquisition Furniture and Fixtures	5,828.00	383,548.00
		<hr/>

\$ 1,694,974.00

CHAPTER 13

ORDINANCES OF YUKON TERRITORY
1954 (First Session)AN ORDINANCE FOR GRANTING TO THE
COMMISSIONER CERTAIN SUMS OF MONEY TO
DEFRAY THE EXPENSES OF THE PUBLIC SERVICE
OF THE TERRITORY

(Assented to March 29, 1954.)

WHEREAS, it appears by message from Wilfrid George Brown, Esquire, Commissioner of the Yukon Territory, and in the estimates accompanying the same, that the sums hereinafter mentioned in Schedule "A" to this Ordinance are required to defray certain expenses of the Public Service of the Yukon Territory and for the purposes relating thereto, for the twelve months ending March 31st, 1954.

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

1. From and out of the sums at the disposal of the Yukon Council there shall be paid and applied a further sum not exceeding in the whole twenty-eight thousand four hundred and fifteen dollars and no cents for defraying the several charges and expenses of the Public Services of the Yukon Territory and for the twelve months ending March 31st, 1954, as set forth in Schedule "A" of this Ordinance.
2. The due application of all monies expended shall be duly accounted for.

GOVERNMENT OF THE YUKON TERRITORY
SCHEDULE "A"

Sums granted to the Commissioner by the Ordinance for the twelve months ending March 31st, 1954, and the purpose for which they are granted.

Vote
No.

1.	Legislative		
	Travelling Expenses	\$ 200.00	
	Sessional Indemnities	1,300.00	\$ 1,500.00
		<hr/>	
3.	Department of Education		
	Salaries	\$ 5,460.00	
	Removal Expenses	315.00	
	Materials and Supplies	500.00	
	Repairs and Upkeep of Buildings	640.00	
	Rental of Land and Buildings	1,360.00	
	School Supplies	4,990.00	
	Grants	7,150.00	20,415.00
		<hr/>	
10.	Capital Account		
	Stewart Crossing — Dawson Highway	\$ 30,532.48	
	Carcross School	673.80	
	Whitehorse School Heating Plant	458.51	
		<hr/>	
		\$ 31,664.79	
	By Minute of Council — Transfer of Funds from other items	25,164.79	6,500.00
		<hr/>	
			<hr/>
			\$ 28,415.00
			<hr/>

CHAPTER 14

ORDINANCES OF YUKON TERRITORY
1954 (First Session)AN ORDINANCE GRANTING A BEER LICENCE TO
GORDON CRUM AND NORMAN MYTRON OF TESLIN,
IN YUKON TERRITORY

(Assented to March 29, 1954.)

WHEREAS Gordon Crum and Norman Mytron both of Teslin, in Yukon Territory, operate an establishment known as Teslin Lake Motel at Mile 804 Alaska Highway, in Yukon Territory, and

WHEREAS a petition signed by the great majority of the responsible residents of Teslin was forwarded, requesting that a licence for a beer tavern be granted in respect of the said establishment known as the Teslin Lake Motel, and

WHEREAS we, the Council of Yukon Territory, feel it is proper to grant such licence,

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

1. Notwithstanding any provisions imposed by the Government Liquor Ordinance or any regulation made thereunder restricting the number of beer tavern licences granted in any location or area, the Commissioner shall grant to Gordon Crum and Norman Mytron both of Teslin, in Yukon Territory, a licence for a beer tavern in respect of the premises known as Teslin Lake Motel.

situate at Mile 804 Alaska Highway, upon application being made to him in proper form and upon it being shown that the Government Liquor Ordinance and Regulations have been complied with in every other respect.

2. This Ordinance shall be construed as incorporate with the Government Liquor Ordinance and Regulations but in case of conflict the provisions of this Ordinance shall prevail.

ORDINANCES
OF THE
YUKON TERRITORY

PASSED BY THE
YUKON COUNCIL
IN THE YEAR

1954
SECOND SESSION

ANNUAL HOLIDAYS
(AMENDMENT)

CHAP. 1

CHAPTER 1

ORDINANCES OF YUKON TERRITORY
1954 (Second Session)

AN ORDINANCE TO AMEND THE
"ANNUAL HOLIDAYS ORDINANCE"

(Assented to June 17, 1954.)

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

1. The Annual Holidays Ordinance being Chapter 8 of the Ordinance of the Yukon Territory, 1950 (Second Session), is amended by inserting immediately after subsection "e" of Section 2 the following subsection:

"(f) 'pay' means basic pay and without limiting the generality of the foregoing shall not include such items of remuneration as bonus, incentive pay, over-time pay or shift differential pay."

CHAPTER 2

ORDINANCES OF YUKON TERRITORY
1954 (Second Session)

AN ORDINANCE EMPOWERING THE COMMISSIONER
OF THE YUKON TERRITORY TO GRANT A FRANCHISE
TO YUKON ELECTRICAL COMPANY LIMITED TO SELL
AND DISTRIBUTE ELECTRIC ENERGY IN THE
WHITEHORSE AREA, Y.T.

(Assented to June 17, 1954.)

WHEREAS application has been made to the Government of the Yukon Territory by Yukon Electrical Company Limited for franchise for the exclusive right to sell and distribute electrical energy in the area of Whitehorse, Yukon Territory excepting the Municipality of Whitehorse.

AND WHEREAS it appears to the Council of the Yukon Territory that the granting of such franchise will result in a more satisfactory distribution system.

AND WHEREAS it is proposed to embody the agreement in a Memorandum of Agreement (hereinafter called the "Agreement") to be executed on behalf of the Government of the Yukon Territory and the Company of which proposed Agreement a copy appears in the Schedule.

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

1. The Commissioner of the Yukon Territory is authorized to execute and deliver, on behalf of the Territory, the Agreement in the form in the Schedule.

2. The Agreement may with the approval of the Commissioner be varied from time to time, as may be agreed upon by the Company and the Commissioner on behalf of the Yukon Territory.

SCHEDULE

Agreement referred to in the preamble to this Ordinance not printed herein but may be inspected in the Office of the Commissioner in Whitehorse, Yukon Territory.

CHAPTER 3

ORDINANCES OF YUKON TERRITORY
1954 (Second Session)

AN ORDINANCE TO AUTHORIZE THE
COMMISSIONER TO BORROW A SUM NOT EXCEED-
ING ONE MILLION DOLLARS FROM THE GOVERN-
MENT OF CANADA AND TO LOAN THAT SUM TO THE
CITY OF WHITEHORSE, AND TO AUTHORIZE THE
COMMISSIONER TO EXECUTE AN AGREEMENT
RELATING THERETO

(Assented to June 29th, 1954.)

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

- | | |
|--|---|
| Short Title | 1. This Ordinance may be cited as the "Yukon Loan Ordinance, 1954." |
| Commissioner may borrow and lend and enter into an agreement | 2. The Commissioner may, on behalf of the Territory, borrow from the Government of Canada a sum not exceeding one million dollars and may, on the security of debentures of the City of Whitehorse, lend any part of that sum to the City to enable it to construct water distribution and sewage disposal systems, and for that purpose the Commissioner may, on behalf of the Territory, enter into an agreement with the Government of Canada substantially in the form set out in the Schedule. |

SCHEDULE

THIS AGREEMENT made inthis
.....day ofA.D. 1954,

BETWEEN

The Government of Canada
hereinafter called "Canada"
OF THE FIRST PART

and

the Government of the
Yukon Territory hereinafter
called "the Territory"
OF THE SECOND PART

WHEREAS Vote 540 of the "Appropriation Act," No.
chapter of the Statutes of Canada, 1953-54 reads
as follows:

"540. To provide for loans in the present and ensuing
fiscal years not exceeding in the aggregate \$1,000,000 to
the Government of the Yukon Territory for the purpose
of lending such money to the City of Whitehorse for pro-
viding adequate water distribution and sewage disposal
systems, the loans to be made to the said Territory in
accordance with the terms of an agreement to be entered
into between the Government of the Yukon Territory
and the Government of Canada; and to authorize the
Commissioner in Council to make Ordinances for the
borrowing and lending of such money by the Commis-
sioner of the Yukon Territory on behalf of the Territory;"

WHEREAS the Governor in Council of Canada has
authorized the Minister of Northern Affairs and National
Resources to enter into this agreement on behalf of the Gov-
ernment of Canada;

AND WHEREAS the Commissioner in Council of Yukon
Territory has authorized the Commissioner to enter into this
agreement on behalf of the Territory;

NOW THEREFORE, in consideration of the undertakings
of the respective parties, the parties hereto agree as follows:

1. In this agreement unless the context otherwise requires,
 - (a) "City" means the City of Whitehorse in Yukon Territory;
 - (b) "Commissioner" means the Commissioner of the Yukon Territory;
 - (c) "Minister" means the Minister of Northern Affairs and National Resources; and
 - (d) "Work" means any preparation made, work done, or material or equipment, property or easement acquired that is necessary to build adequate water distribution and sewage disposal systems in the City in accordance with the plans and specifications approved by the parties hereto but does not include
 - (i) interest on money borrowed,
 - (ii) taxes on land,
 - (iii) the administration costs of the Territory and City, other than additional costs occasioned by the construction of the water distribution and sewage disposal systems.

2. Subject to funds being voted by Parliament and to the terms and conditions of this Agreement, Canada agrees to loan to the Territory sums not to exceed in aggregate the sum of one million dollars (\$1,000,000) to cover the cost of the work.

3. The Territory agrees to repay Canada the sum loaned by Canada together with interest thereon at the rate of three and seven-eighths per cent ($3\frac{7}{8}\%$) per annum on the said loan or so much thereof as at any time remains unpaid, whether before or after the same becomes due, in thirty equal annual instalments including principal and interest, the first of such instalments to become due and to be paid on the first day of1957, all interest on becoming overdue to bear interest at the rate aforesaid from the date when it becomes due until all the monies payable on the said loan are fully paid and satisfied.

4. Subject to this Agreement, Canada agrees to make the said loan to the Territory as follows:
Fifty thousand dollars (\$50,000) as an advance to the Territory on the requisition of the Commissioner and the balance to be paid out from time to time on requisitions of the Commissioner based on progress certificates approved by officers of the Territory and the City.
5. All funds received by the Territory from Canada under this Agreement will be deposited in a special account in a chartered bank of Canada and all issues therefrom shall be by cheque signed by the proper officers of the Territory.
6. (1) Subject to subparagraph (2), the Territory will cause the work to be constructed by the City in accordance with plans and specifications approved by the Minister and the Commissioner through the award of a contract or contracts to persons tendering pursuant to an invitation therefor made by public advertisement by the City.
(2) Where in the opinion of the Commissioner any part of the work is so small an undertaking that it would be unsuitable to award a contract therefor pursuant to public advertisement and tender, the City may with the prior consent of the Commissioner award a contract for that part of the construction pursuant to tenders invited from not fewer than two persons designated by the Commissioner and the City.
7. Notwithstanding anything in this Agreement, Canada is not liable to advance to the Territory any portion of the loan unless
 - (a) before tenders are invited for a contract for the work the form of advertisement for tenders, if any, the tender forms and the specifications, plan and profiles and the proposed terms of the contract are approved in writing by the Minister;
 - (b) the contract has been awarded pursuant to tenders invited in the manner provided in paragraph 6;
 - (c) at the time the contract is entered into the contractor is a resident of Canada or if the contractor is a corporation, it was, for a period of at least one year

- immediately prior to that time, incorporated and carried on business in Canada;
- (d) the construction to be performed under the contract is to be paid for at a lump sum price or unit prices or both;
 - (e) it is a term of the contract that the contractor and any subcontractor of the contractor in respect of his work to be carried out under the contract,
 - (i) will employ only residents of Canada; and
 - (ii) in the hiring or employment of labour for the execution of this contract the contractor will not refuse to employ or otherwise discriminate against any person in regard to employment because of that person's race, national origin, colour or religion, nor because the person has made a complaint or given information with respect to an alleged failure to comply with the provisions of this clause;
 - (f) entry into the contract was agreed to in writing by the Minister before it was entered into;
 - (g) the Commissioner, or person authorized by the Commissioner in writing, has certified that, and the Minister is satisfied with the work in respect of which the loan is to be made has been completed in accordance with that contract.
8. (1) Subject to this Agreement, the cost of construction of the work is the amount determined as the aggregate of expenditures in the following classes incurred by the City in the construction of the work;
- (a) payments pursuant to contracts for construction of the work entered into by the City with any person;
 - (b) payments in respect of construction materials purchased by the City that are necessary for and used in constructing the work to the extent that the cost thereof incurred by the City does

not exceed the aggregate of the current market price of these materials prevailing in the locality where and at the time when the City acquired them and the actual cost to the City of delivering those materials to the site of construction ;

- (c) payments in respect of wages and salaries of members of the engineering staff employed by the City while they were engaged in field engineering operations solely in connection with the construction of the work ;
 - (d) payments in respect of the removal and relocation of obstructions such as power, telephone and telegraph lines and other services, buildings, trees, brush, debris and the like, that were necessarily incidental to the construction of the work ;
and
 - (e) payments in respect of the restoration and repair of real property destroyed or damaged in the course of constructing the work as approved by the Minister.
- (2) Notwithstanding anything in this Agreement, where, in the opinion of the Minister,
- (a) the accounts and other information furnished by the Territory are insufficient for the purpose of determining the true expenditures by the City in respect of the work ; or
 - (b) the expenditures by the City in respect of the construction of the work, by comparison with market costs prevailing when the construction was undertaken, are excessive ;

the Minister may cause an appraisal to be made of the cost of the construction in question at the time when the construction was undertaken and that appraisal will form the basis of the determination of the cost of construction of the work.

9. Notwithstanding anything in this Agreement, the cost of the work does not include expenditures by the City in respect of

- (a) wages, salaries and expenses of officers or servants of the City except those specified in section 8;
 - (b) the amount of any payment made by the City in respect of the construction of the work that, in the opinion of the Minister, exceeds the amount that was necessary in respect of the matters for which the payment was made.
10. (1) The Territory may apply to Canada for such advances as will permit the City to finance the work without interruption and such advances received by the Territory shall be deposited in a special account in a chartered bank in the City and utilized solely in the issue of cheques exchanged for debentures of like amount received from the City.
- (2) The Territory will ensure that the City maintains such cost and accounting records as will provide proof that expenditures made by the City in relation to the work performed and covered by the debentures issued are in accordance with the terms of this Agreement and that such records are made available for examination and audit by the Minister or his representatives.
- (3) If Canada advances to the Territory an amount that exceeds the amount required for the completion of the work by the City, the Territory will refund the excess, and Canada may, in addition to any other recourse, recover any such amount from amounts payable by Canada to the Territory on any account.
11. (1) The Territory will cause the work to be completed within three years from the date of this Agreement unless Canada agrees to an extension of time for the completion of the work.
- (2) If the performance of the work is delayed by reason of any delay occasioned by Canada, the Territory or by flood, fire, lightning, earthquake, cyclone, strike or act of God, or by any other cause beyond the control of the City and of the contractors to whom a contract is awarded, the time herein fixed for the completion of the work will be extended for a period equivalent to the time lost by reason of such delay.

12. Notwithstanding anything in this Agreement, no claim for loan in respect of the cost of the work may be made by the Territory after the work has been completed and the debentures in respect of such completed work and exchanged by the Territory.
13. The Territory will maintain full records of the advances received from Canada, cheques issued and the debentures exchanged and will make such records, documents and vouchers available to the Minister or his representative for examination and audit and will give to the Minister or his representative all reasonable assistance.
14. (1) The Minister may appoint representatives of Canada to report on all phases of construction of the work and they may make any inspections, enquiries and tests they consider necessary to assist them in reporting on construction and determining the cost of the construction of the work, and may discuss with the appropriate representatives of the Territory any matter concerning the completion of the work in accordance with this Agreement.
(2) Where in order to give effect to this Agreement the Minister considers it necessary to inspect or appraise any lands or works, the Minister may cause such special inspections and appraisals to be made as he deems advisable, and the Territory will afford and require the City to afford the Minister and his representatives every facility for the purpose.
15. This Agreement shall not be construed as vesting in Canada any proprietary interest in the completed work.
16. The Territory will arrange that the completed work is maintained in order at all times.
17. The Territory will indemnify and save harmless Canada against all claims of whatsoever nature arising from or out of, or in connection with the work.
18. This Agreement is hereby exempted from section 3 of the Fair Wages and Hours of Labour Act, but the Territory will see that all persons employed in the construction of the work are paid fair wages and that the hours

of work observed are those determined by the Territory, which shall generally be those applicable to similar work undertaken by the Territory in the district.

19. If the Territory defaults in the repayment of any money loaned, Canada may in addition to any other recourse it has, recover the amount in default from amounts payable by Canada to the Territory on any account.
20. The Agreement made by the Territory with the City will provide that,
 - (a) except as provided in paragraph 6, the City will call for tenders for the work by public advertisement;
 - (b) the Commissioner and the legal adviser of the Territory will be present at the opening of tenders;
 - (c) the tenders will be examined by an engineer of Canada who will act as technical adviser to the Commissioner;
 - (d) the cost of the work will be confined to the construction thereof and any supervisory and overhead expenses solely incidental to the construction thereof as provided in this Agreement;
 - (e) the work will be completed as expeditiously as possible and by a specified date;
 - (f) a security deposit in a reasonable amount will be obtained on the award of the contract by the City and will be held by the City pending completion of the work;
 - (g) upon completion of the work, the City shall obtain a performance bond covering the period of twenty-four (24) months after completion;
 - (h) the City will require the contractor to carry all essential types of insurance including public liability, property damage and workmen's compensation;
 - (i) if extra work is required the authority required for the contractor to undertake such extra work shall be specified in the contract;

- (j) the City will in the contract for the performance of the work name the authority who may take the work away from the contractor and the authority for the approval of subcontracts;
 - (k) The City will in any contract for the performance of the work indicate what spares are to be made a charge to construction costs and the responsibility of the contractor in respect of surplus materials and supplies upon completion;
 - (l) what percentage of value of materials delivered will be paid to the contractor prior to being placed on the work;
 - (m) the City will maintain in a form satisfactory to the Minister its records in respect of construction costs, both after completion and commencement of operation of the work, and keep such records intact for a period of five (5) years after the completion of the work;
- and
- (n) the City will in the construction of said work carry out the purposes and intent of this Agreement in so far as it is applicable.

IN WITNESS WHEREOF the Minister of Northern Affairs and National Resources on behalf of Canada and the Commissioner of Yukon Territory have executed this Agreement.

Signed by The Honourable
 Jean Lesage, Minister of
 Northern Affairs and
 National Resources

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IN THE PRESENCE OF

.....
 Signed by W. G. Brown,
 Commissioner of Yukon
 Territory

}

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IN THE PRESENCE OF

.....

ORDINANCES
OF THE
YUKON TERRITORY

PASSED BY THE
YUKON COUNCIL
IN THE YEAR

1954
THIRD SESSION

CHAPTER 1

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING THE
FORM AND INTERPRETATION OF ORDINANCES

(Assented to November 20, 1954.)

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

SHORT TITLE

1. This ordinance may be cited as the "Interpretation Ordinance". Short Title

INTERPRETATION

2. (1) In this Ordinance the expression Definitions
- (a) "enactment" means an Ordinance or a regulation or any portion of an Ordinance or a regulation; "Enactment"
- (b) "public officer" includes any person in the public service of the Territory "Public Officer"
- (i) who is authorized to do or enforce the doing of any act or thing or to exercise any power, or
- (ii) upon whom any duty is imposed by or under any public Ordinance;
- (c) "regulation" includes any rule, rule of court, order prescribing regulations, tariff of costs or fees, form, by-law, resolution or order made in the execution of a power given by an enactment; "Regulation"
- (d) "repeal" includes revoke or cancel. "Repeal"

Lapsed enactment deemed repealed

- (2) For the purposes of this Ordinance, an enactment that has expired or lapsed or otherwise ceased to have effect shall be deemed to be repealed.

APPLICATION

Application to all Ordinances

- 3. (1) Every provision of this Ordinance extends and applies to every enactment, unless a contrary intention appears, enacted or made before or after the commencement of this Ordinance.

Not if contrary intention appears

- (2) Where an enactment contains an interpretation section or provision, it shall be read and construed as being applicable only if the contrary intention does not appear.

This Ordinance applies to itself

- (3) The provisions of this Ordinance apply to the interpretation of this Ordinance.

Rule not inconsistent not excluded

- (4) Nothing in this Ordinance shall be construed to exclude the application to any enactment of a rule of construction applicable thereto and not inconsistent with this Ordinance.

OPERATION

Date of coming into force and expiration of Ordinances

- 4. (1) Where an enactment is expressed to come into force or operation on a particular day, or on a day fixed by proclamation or otherwise, it shall be construed as coming into force or operation immediately on the expiration of the previous day; and where an enactment is expressed to expire, lapse or otherwise cease to have effect on a particular day, it shall be construed as ceasing to have effect immediately on the commencement of the following day.

Powers exercisable under Ordinances not coming into force on assent

- (2) Where an enactment is not to come into force or operation immediately on its being passed or made and it confers power
 - (a) to make appointments,
 - (b) to hold elections,

- (c) to make regulations,
- (d) to make, grant, or issue instruments,
- (e) to give notices,
- (f) to prescribe forms, or
- (g) to do any other thing,

that power may, for the purpose of making the enactment effective upon its commencement, be exercised at any time after the passing or making thereof, but a regulation made thereunder before the commencement of the enactment has no effect until the commencement of the enactment, except in so far as may be necessary to make the enactment effective upon its commencement.

CONSTRUCTION

- 5. (1) The law is considered as always speaking, and whenever a matter or thing is expressed in the present tense, it shall be applied to the circumstances as they arise so that effect may be given to each enactment according to its true spirit, intent and meaning. Ordinance
always
speaking
- (2) The expression "now", "next", "heretofore" or "hereafter" shall be interpreted as having reference to the time when the enactment or the part or provision thereof containing the expression came into force. "Now"
"Next"
"Heretofore"
"Hereafter"
- (3) The expression "shall" shall be read as imperative and the expression "may" as permissive and empowering. "Shall"
"May"
- (4) The expression "herein" used in a section or provision of an enactment relates to the whole enactment and not to that section or provision only. "Herein"
- (5) Definitions or rules of interpretation contained in an enactment, unless the contrary intention appears, apply to the construction of the provisions of the Definitions
or rules of
interpretation

enactment that contain those definitions or rules of interpretation, as well as to the other provisions of the enactment.

- | | |
|--|---|
| Ordinance to be deemed public | 6. Every Ordinance is a public Ordinance unless by express provision it is declared to be a private Ordinance. |
| Provisions in private Ordinances | 7. No provision in a private Ordinance affects the rights of a person except only as therein mentioned or referred to. |
| Preamble part of Ordinance | 8. The preamble of an enactment shall be read as a part thereof intended to assist in explaining its purport and object. |
| Marginal notes and references | 9. Marginal notes and references to former enactment form no part of an enactment but shall be deemed to have been inserted for convenience of reference only. |
| Every Ordinance remedial | 10. Every enactment and every provision thereof shall be deemed remedial, and shall be given such fair, large and liberal construction and interpretation as best insures the attainment of its objects. |
| Expressions in regulations have same meaning as in enactment | 11. Where an enactment confers power to make regulations or to grant, make or issue an order, writ, warrant, scheme or letters patent, expressions used therein shall, unless the contrary intention appears, have the same respective meanings as in the enactment conferring the power. |
| Her Majesty not bound | 12. No provision in an enactment is binding on Her Majesty or affects Her Majesty or Her Majesty's rights or prerogatives in any manner whatsoever unless it is expressly stated therein that Her Majesty is bound thereby. |
| Powers vested in corporation | 13. Words in an enactment establishing a corporation <ul style="list-style-type: none"> (a) vest in the corporation power to sue and be sued, to contract and be contracted with by its corporate name, to have a common seal and to alter or change it at pleasure, to have perpetual succession, to acquire and hold personal property or movables for |

the purposes for which the corporation is constituted and to alienate the same at pleasure,

- (b) vest in a majority of the members of the corporation the power to bind the others by their acts, and
 - (c) exempt from personal liability for its debts, obligations or acts such individual members of the corporation as do not contravene the provisions of the enactment incorporating them.
14. When the Commissioner is authorized to do an act by proclamation, it is to be understood that the proclamation is a proclamation issued under an Order of the Commissioner, but it is not necessary to mention in the proclamation that it is issued under the Order. Proclamation issued under order of Commissioner
15. Every public officer appointed before or after the commencement of this Ordinance by or under the authority of an enactment or otherwise, holds office during pleasure only, unless it is otherwise expressed in the enactment or in his commission or appointment. Public officers appointed during pleasure
16. (1) Words authorizing the appointment of a public officer include the power of Implied powers to remove public officers and fix remuneration
- (a) removing or suspending him,
 - (b) reappointing or reinstating him,
 - (c) appointing another in his stead or to act in his stead, and
 - (d) fixing his remuneration and varying or terminating it,
- in the discretion of the authority in whom power of appointment is vested.
- (2) Words directing or empowering a public officer to do any act or thing, or otherwise applying to him by his name of office, include his successors in the office and his or their deputy. Implied powers of successors in office

Power to be exercised by holder of office

- (3) Where a power is conferred or a duty imposed on the holder of an office as such, the power may be exercised and the duty shall be performed by the person for the time being charged with the execution of the powers and duties of the office.

Implied powers**17. In an enactment****Officer to act within jurisdiction**

- (a) where anything is directed to be done by or before a public officer, a magistrate or a justice of the peace, it shall be done by or before one whose jurisdiction or power extends to the place where such thing is to be done;

Additional powers

- (b) where power is given to the Commissioner or a public officer to do or enforce the doing of any act or thing, all such powers shall be deemed to be also given as are necessary to enable him to do or enforce the doing of the act or thing;

Majority may do any act

- (c) where any act or thing is required to be done by more than two persons, a majority may do it;

Continuance of powers

- (d) where a power is conferred or a duty imposed the power may be exercised and the duty shall be performed, from time to time, as occasion requires;

Revocation and alteration

- (e) where power is conferred to make regulations, the power shall be construed as including power, exercisable in like manner and subject to like consent and conditions, if any, to rescind, revoke, amend or vary the regulations and make others;

Deviation in forms

- (f) where a form is prescribed, deviations therefrom not affecting the substance nor calculated to mislead, shall not invalidate the form used;

Sex

- (g) words importing male persons include female persons and corporations;

Number

- (h) words in the singular include the plural, and words in the plural include the singular;

- (i) where a word is defined other parts of speech and tenses of that word have corresponding meanings; Corresponding meanings of parts of speech
- (j) where the time limited for the doing of anything expires or falls upon a holiday, the time so limited extends to and the thing may be done on the first following day that is not a holiday; Holidays
- (k) where a number of days not expressed to be "clear days" is prescribed it shall be reckoned exclusively of the first day and inclusively of the last, but where the days are expressed to be "clear days" or where the term "at least" is used both the first day and the last shall be excluded. Reckoning time
"Clear days"
- (l) A reference to time shall be read as a reference to standard time and standard time shall be the local time of the one hundred and thirty-fifth meridian of longitude. Time

REFERENCES

- 18. (1) In an enactment or document, an Ordinance of the Territory or of the Northwest Territories, or an Act of any province or of Canada, may be cited by reference to its title or short title, if any, either with or without reference to the chapter, or by reference to the number of the chapter of the Revised Ordinances or Revised Statutes or of the Ordinances or Statutes for the year of Our Lord or the regnal year in which the Ordinance or Act was passed. Citation of Ordinances or Acts
- (2) A citation of or reference to an enactment of the Territory or the Northwest Territories or to an Act of a province or of Canada shall be read as a citation of or reference to the enactment or Act as amended. Citation includes Amendments
- 19. (1) A reference in an enactment by number or letter to any section, subsection, paragraph, subparagraph, clause, subclause or other division or line of another Reference to enactment as printed by Authority

enactment shall be read as a reference to the section, subsection, paragraph, subparagraph, clause, subclause or other division or line of such other enactment as printed by authority of law.

Citations of sections to be inclusive

(2) A reference in an enactment by number or letter to two or more parts, divisions, sections, subsections, paragraphs, subparagraphs, clauses, subclauses, schedules or forms in an enactment shall be read as including the number or letter first mentioned and the number or letter last mentioned.

Reference to parts of Ordinance

(3) A reference in an enactment to a part, division, section, schedule or form shall, unless the contrary intention appears, be read as a reference to a part, division, section, schedule or form of the enactment in which the reference occurs.

Reference in section

(4) A reference in an enactment to a subsection, paragraph, subparagraph, clause or subclause shall, unless the contrary intention appears, be read as a reference to a subsection, paragraph, subparagraph, clause or subclause of the section, subsection, paragraph, subparagraph or clause, as the case may be, in which the reference occurs.

Reference to regulations

(5) A reference in an enactment to regulations shall, unless the contrary intention appears, be read as a reference to regulations made under the enactment in which the reference occurs.

WORDS AND PHRASES

Definitions

20. (1) In an enactment, the expression

“Bank” or “Chartered Bank”

(a) “bank” or “chartered bank” means a bank to which the *Bank Act* applies;

“Commencement”

(b) “commencement” when used with reference to an enactment or any provision thereof means the time at which the enactment or provision comes into force or operation;

- (c) "commissioner" means the Commissioner of the Yukon Territory or the person executing the office and functions of the Commissioner of the Yukon Territory; "Commissioner"

- (d) "Commissioner in Council" means the Commissioner acting by and with the advice and consent of the Council of the Territory; "Commissioner in Council"

- (e) "Council" means the Council of the Yukon Territory; "Council"

- (f) "Court" means the Territorial Court of the Yukon Territory; "Court"

- (g) "felony" means any crime that before the passing of the Criminal Code 1914 would have been a felony under the law of Canada; "Felony"

- (h) "fiscal year" when used with respect to the government of the Territory, means the twelve months ending the 31st day of March; "Fiscal year"

- (i) "Her Majesty", "His Majesty", "the Queen", "the King", or "the Crown" means the Sovereign of the United Kingdom, Canada and Her other Realms and Territories, and Head of the Commonwealth; "Her Majesty"
"The Crown"
"The Queen"

- (j) "holiday" includes Sunday, New Year's Day, Good Friday, Easter Monday, Victoria Day, Dominion Day, the seventeenth day of August known as Discovery Day, Labour Day, Remembrance Day, Christmas Day, the birthday or the day fixed by proclamation for the celebration of the birthday of the reigning sovereign and any other day appointed by proclamation for a general fast or thanksgiving, and whenever a holiday other than Remembrance Day falls on a Sunday, the expression "holiday" includes the following day; "Holiday"

- "Judge" (k) "Judge" means a judge of the Court ;
- "Justice" (l) "justice" means a justice of the peace and includes two or more justices when two or more justices act or have jurisdiction and also any person having the power or authority of two or more justices of the peace ;
- "Magistrate" (m) "magistrate" includes justice of the peace ;
- "Misdemeanour" (n) "misdemeanour" means any crime or offence that before the passing of the Criminal Code 1914 would have been a misdemeanour under the law of Canada ;
- "Month" (o) "month" means calendar month ;
- "Oath" or "Affidavit" (p) "oath", or "affidavit" in the case of persons for the time being allowed or required by law to affirm or declare instead of swearing, includes affirmation and declaration and "swear" in the like case includes "affirm" and "declare" ;
- "Ordinance" (q) "Ordinance" means an Ordinance of the Yukon Territory ;
- "Peace Officer" (r) "peace officer" means a peace officer as defined in the *Criminal Code* ;
- "Person" (s) "person" includes a corporation and the heirs, executors, administrators or other legal representatives of a person ;
- "Proclamation" (t) "proclamation" means a proclamation under the seal of the Territory ;
- "Security" (u) "security" means sufficient security ;
- "Surety" (v) "surety" means sufficient surety ;
- "Territory" (w) "Territory" means the Yukon Territory as defined in the Yukon Act ;

- (x) "United Kingdom" means the United Kingdom of Great Britain and Northern Ireland; "United Kingdom"
 - (y) "United States" means the United States of America; "United States"
 - (z) "will" includes codicil; "Will"
 - (za) "writing", "written" or any term of like import includes words printed, painted, engraved, lithographed, photographed or represented or reproduced by any mode of representing or reproducing words in a visible form; "Writing"
"Written"
 - (zb) "year" means calendar year; "Year"
 - (zc) "Yukon Gazette" means the Yukon Official Gazette. "Yukon Gazette"
- (2) In an enactment a name commonly applied to a country, place, body, corporation, society, officer, functionary, person, party or thing means the country, place, body, corporation, society, officer, functionary person, party or thing to which the name is commonly applied although the name is not the formal or extended designation thereof. Names commonly used

REPEAL AND AMENDMENT

21. An amending enactment shall, as far as consistent with the tenor thereof, be construed as part of the enactment that it amends. Amendment one with Ordinance
22. (1) Where an enactment is repealed in whole or in part, the repeal or revocation does not Effect of repeal
- (a) revive an enactment or thing not in force or existing at the time when the repeal takes place,
 - (b) affect the previous operation of the enactment so repealed or anything duly done or suffered thereunder,

- (c) affect a right, privilege, obligation or liability acquired, accrued, accruing or incurred under the enactment so repealed,
- (d) affect an offence committed against or a violation of the provisions of the enactment so repealed, or any penalty, forfeiture or punishment incurred in respect thereof, or
- (e) affect an investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment,

and an investigation, legal proceedings or remedy of the kind described in paragraph (e) may be instituted, continued or enforced and the penalty, forfeiture or punishment imposed as if the enactment had not been repealed or revoked.

Effect of
repeal and
substitution

- (2) Where an enactment is repealed in whole or in part and other provisions are substituted therefor;
 - (a) every person acting under the enactment so repealed shall continue to act as if appointed under the provisions so substituted until another is appointed in his stead;
 - (b) every bond and security given by a person appointed under the enactment so repealed remains in force, and all offices, books, papers and things made or used under the repealed enactment shall continue to be used as before the repeal as far as consistent with the substituted provisions;
 - (c) every proceeding taken under the enactment so repealed shall be taken up and continued under and in conformity with the provisions so substituted, as far as consistently may be;

- (d) in the recovery or enforcement of penalties and forfeitures incurred and in the enforcement of rights, existing or accruing under the enactment so repealed or in a proceeding in relation to matters that have happened before the repeal, the procedure established by the substituted provisions shall be followed as far as it can be adapted thereto; and
 - (e) when any penalty, forfeiture or punishment is reduced or mitigated by any of the provisions or substituted, the penalty, forfeiture or punishment if imposed or adjudged after the repeal shall be reduced or mitigated accordingly.
23. (1) Where an enactment is repealed in whole or in part and other provisions are substituted by way of amendment, revision or consolidation;
- (a) all regulations made under the repealed enactment remain in force, in so far as they are not inconsistent with the substituted enactment, until they are annulled or others made in their stead, and
 - (b) a reference, in an unrepealed enactment to the repealed enactment, shall, as regards a subsequent transaction, matter or thing, be read as a reference to the provisions of the substituted enactment relating to the same subject-matter as the repealed enactment but where there are no provisions in the substituted enactment relating to the same subject-matter, the repealed enactment shall be read as unrepealed as far as is necessary to maintain or give effect to the unrepealed enactment.
- (2) Where an Ordinance of the Northwest Territories or an Act of a province or of Canada is repealed in whole or in part and other provisions are substituted by way of amendment, revision or consolidation, a reference in an enactment of the Yukon Territory to the repealed Ordinance or Act shall, as regards

Effect of repeal and substitution

Regulations

Reference

Reference to substituted Ordinance or Act

a subsequent transaction, matter or thing, be construed as a reference to the provisions of the substituted Ordinance or Act relating to the same subject-matter as the repealed Ordinance or Act.

Repeal does not imply enactment in force

24. (1) The repeal of an enactment in whole or in part is not and shall not be deemed to be or to involve a declaration that the enactment was or was considered by the Commissioner in Council or other person or body by whom the enactment was passed or made to have been previously in force.

Amendment does not imply a change in the law

(2) The amendment of an enactment is not and shall not be deemed to be or to involve a declaration that the law under the enactment was or was considered by the Commissioner in Council or other person or body by whom the enactment was passed or made to have been different from the law as it is under the enactment as amended.

Repeal does not declare previous law

(3) The repeal of an enactment in whole or in part or the amendment of an enactment is not and shall not be deemed to be or to involve any declaration as to the previous state of the law.

Re-enactment is not adoption of previous construction

(4) A re-enactment, revision, consolidation or amendment of an enactment is not and shall not be deemed to be an adoption of the construction that has by judicial decision or otherwise been placed upon the language used in the enactment or upon similar language.

Substituted enactments take effect the day of repeal

25. Whenever a part of an enactment is repealed and other provisions are substituted therefor, the substituted provisions, unless the contrary intention appears, take effect from the day the repealing enactment comes into force.

ENFORCEMENT OF THE LAW

"Summary conviction"

26. (1) Unless otherwise therein specially provided, proceedings for the imposition of punishment by fine, penalty or imprisonment for enforcing an enactment

or municipal bylaw may be brought summarily before a justice of the peace under the provisions of the *Criminal Code* relating to summary convictions; and the words "on summary conviction" wherever they appear in an enactment or bylaw shall refer to and mean under and by virtue of these provisions of the *Criminal Code*.

- (2) When no time is specially limited in the enactment or law relating to the particular offence, for making a complaint or laying an information, the complaint shall be made or the information laid within six months from the time when the matter of the complaint or information arose.

Complaint on information within six months

- 27. Any duty, penalty, fine or sum of money or the proceeds of a forfeiture under any law of the Territory, if no other provision is made respecting it, constitutes territorial revenue and shall be paid into and form part of the Yukon Consolidated Revenue Fund.

Penalty, fines to form part of Yukon Consolidated Revenue Fund

- 28. Where a pecuniary penalty or a forfeiture is imposed for the contravention of an enactment, then, if the provisions of the *Criminal Code* relating to summary convictions are not applicable to the case and if no other mode is prescribed for the recovery of such penalty or forfeiture or if the mode prescribed is not applicable to the case, the penalty or forfeiture shall be recoverable with costs by civil action or proceeding at the suit of the Attorney-General of Canada or of a private party suing as well for the Crown as himself; and, if no other provision is made for the appropriation of the penalty or forfeiture, one-half thereof shall constitute territorial revenue and shall be paid into and form part of the Yukon Consolidated Revenue Fund, and the other half shall belong to the private plaintiff, if any, and if there is none the whole shall constitute territorial revenue.

Recovery of penalty and forfeiture

- 29. Where under any enactment now in force or under any future enactment a court or person is empowered or required to award imprisonment, the court or such person

Power to award both fine and imprisonment

may in its discretion, unless such future enactment otherwise provides, award imprisonment with or without hard labour.

ORDINANCES

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|--------------------------------------|--|
| Form of enacting clause | 30. The following words may be inserted in the preamble of Ordinances and shall indicate the authority by virtue of which they are passed: "The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows". |
| Form of preamble | 31. After the insertion of the words referred to in section 30, which shall follow the setting forth of the considerations or reasons upon which the law is grounded, if any, and which shall, with these considerations or reasons, constitute the entire preamble, the various clauses of the Ordinances shall follow in a concise and enunciative form. |
| Endorsement of assent | 32. The Clerk of the Council shall endorse on every Ordinance immediately after the title thereof, the day, month and year when the same was by the Commissioner assented to and such endorsement shall be taken to be part of such Ordinance and the date of such assent shall be the date of the commencement of the Ordinance if no later commencement is therein provided. |
| Ordinances to be in custody of Clerk | 33. All Ordinances heretofore passed, now passed and hereafter to be passed shall be and continue to remain of record in the custody of the Clerk of the Council. |
| Certified copies of Ordinances | 34. The Clerk of the Council shall affix the seal of the Territory to certified copies of all Ordinances intended for transmission to the Governor in Council or required to be produced before courts of justice and in any other case that the Commissioner may direct; and such copies so certified shall be held to be duplicate originals and also to be evidence (as if printed by lawful authority) of such Ordinances and of their contents. |
| Clerk to supply copies of Ordinances | 35. (1) The Clerk of the Council shall furnish a certified copy of any Ordinance to any person applying for the same upon receiving from such person the following fee: |

- (a) for each Ordinance containing ten folios or less, the sum of one dollar, and
 - (b) for each Ordinance containing over ten folios, a sum equal to ten cents a folio for each folio contained therein.
- (2) The Clerk of the Council shall place at the foot of every such copy so required to be certified a written certificate duly signed and authenticated by him to the effect that it is a true copy; and in case of any Ordinance disallowed after it came into force, "but disallowed by the Governor-General in Council, which disallowance took effect on the..... day of.....19.....".

Certificate of Clerk on true copies

PUBLIC EXPENDITURES

36. Where any public money is by any Ordinance appropriated for any purpose or directed to be paid by the Commissioner, such public money shall be payable under warrant of the Commissioner directed to the Treasurer of the Territory out of the Yukon Consolidated Revenue Fund; and all persons entrusted with the expenditure of public money shall account for it in the manner and form and time as the Commissioner directs.

How public money payable

REPEAL

37. The following Ordinances are repealed:
- (i) "The Interpretation Ordinance" chapter 1 of the Consolidated Ordinances, 1914; and
 - (ii) "An Ordinance to Amend the Interpretation Ordinance", chapter 15 of the Ordinances of 1951 (1st session); and
 - (iii) "An Ordinance to Amend the Interpretation Ordinance", chapter 3 of the Ordinances of 1952 (2nd session).

Repeal

CHAPTER 2

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING THE
MEDICAL PROFESSION

(Assented to November 22, 1954.)

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

SHORT TITLE

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|-------------|---|
| Short Title | 1. This Ordinance may be cited as the "Medical Profession Ordinance." |
|-------------|---|

INTERPRETATION

- | | |
|------------------------|--|
| Definitions | 2. In this Ordinance |
| "Licence" | (a) "licence" means a valid and subsisting licence issued under this Ordinance to practise medicine in the Territory; |
| "Medical Practitioner" | (b) "medical practitioner" means a person who is entitled to practise medicine in the Territory under this Ordinance; |
| "Practise medicine" | (c) "practise medicine" means to offer or undertake by any means or method to diagnose, treat, operate or prescribe for any human disease, pain, injury, disability or physical condition or to hold oneself out as being able to diagnose, treat, operate or prescribe for any human disease, pain, injury, disability or physical condition; and |
| "Register" | (d) "register" means the Medical Register referred to in section 3. |

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

4. (1) A person who Qualifications for registration
 - (a) at the time this Ordinance comes into force was entitled by law to practise medicine in the Territory; or
 - (b) produces to the Commissioner a certificate under the hand of the Registrar of the Medical Council of Canada showing that his name is registered in the Canadian Medical Register under the provisions of the *Canada Medical Act*, and satisfies the Commissioner that he is the person named in the certificate;

and who pays the fees required by this Ordinance, is entitled to be registered in the register.

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

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

6. A licence expires on the 31st day of March next following the day upon which it came into force. Duration of licences

PERMITS

7. (1) The Commissioner may issue a permit to a member of any of the armed forces of Canada or of a visiting force as defined in the *Visiting Forces (North Atlantic Treaty) Act* to practise medicine among such Permits to members of armed forces of Canada or visiting forces

persons, in such parts of the Territory, for such period of time and upon such terms and conditions as the Commissioner may prescribe, and for the purposes of this Ordinance, a holder of a permit issued under this section shall, when practising medicine pursuant to this section, be deemed to be the holder of a licence.

No fee to be charged for permit under subsection (1)

- (2) No fee shall be charged for a permit issued under subsection (1).

PRACTICE OF MEDICINE

Practice limited to holders of licences

- 8. No person is entitled to recover a fee, reward or remuneration for professional services rendered or material or appliances provided by him in practising medicine unless he holds a licence at the time the services are rendered or the materials or appliances are provided.

Licensee's right to practise and to recover fees

- 9. A person who holds a licence is entitled to practise medicine in the Territory, and to bring an action before a Judge for the recovery of reasonable charges for professional aid, advice and visits and costs of any medicine, materials or appliances supplied by him to his patients.

Limitation of actions for malpractice

- 10. No action shall be brought in respect of any negligent act or omission or malpractice on the part of a medical practitioner in connection with professional services rendered by him unless it is commenced within two years from the day when, in the matter complained of, the professional services terminated.

OFFENCES AND PENALTIES

Offence for unlicensed practice

- 11. (1) A person who is not the holder of a licence under this Ordinance and who
(a) publicly or privately practises medicine;
(b) appends to his name the title of doctor, surgeon or physician or any word indicative of any such title or used in substitution or abbreviation thereof;

- (c) holds himself out in any way to be a duly qualified medical practitioner; or
- (d) assumes any title or description implying or designed to lead the public to believe that he is duly qualified to practise as a medical practitioner;

is guilty of an offence

- (2) A person who commits an offence against this Ordinance is liable upon summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment. Penalty
 - (3) Paragraph (b) of subsection (1) does not affect the right of a dentist, duly licensed to practise dentistry in the Territory under the *Dental Profession Ordinance*, to append the title doctor or dental surgeon to his name, nor the right of a veterinary surgeon to append the title doctor or veterinary surgeon to his name, nor the right of any doctor of divinity or philosophy or otherwise duly qualified by a degree from a recognized university to append the word doctor to his name. Exceptions to subsection (1)
12. No prosecution for an offence under this Ordinance shall be commenced after one year from the day when the offence is alleged to have been committed. Time for prosecution
13. In a prosecution for an offence under this Ordinance the onus of proof that the person against whom the charge is laid is the holder of a licence is upon the person against whom the charge is laid. Onus of proof

INVESTIGATION AND REMOVAL

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

Extension
of time

- (2) Where reasons satisfactory to the Commissioner are advanced to him as to why the licence fee has not been paid at the required time or within the required period, the Commissioner may grant an extension for payment of fees before allowing the name of the person, on whose behalf they are paid, to be struck off the register but shall in no case grant an extension of time exceeding sixty days.

Reinstatement

- (3) A person whose name is removed from the register pursuant to subsection (1) is entitled to have his name restored in the register if he pays a fee of ten dollars in addition to the fee in respect of which his name was removed from the register.

Board of
Inquiry

15. (1) The Commissioner may appoint two or more persons, who are registered in the Canadian Medical Register as duly qualified medical practitioners to act as a Board of Inquiry for the purpose of investigating any complaint made against a person practising as a medical practitioner with respect to an alleged contravention of this Ordinance or any complaint of malpractice or infamous, disgraceful or improper conduct on the part of a person practising as a medical practitioner.

Meaning of
"improper
conduct"

- (2) Without restricting the generality of the expression "improper conduct" a person practising medicine is guilty of improper conduct who
- (a) abandons a patient in danger without giving him an opportunity to retain the services of another medical practitioner;
 - (b) knowingly gives a false certificate respecting birth, death, notice of disease, state of health, vaccination or disinfection or respecting any matter relating to life, health or accident insurance;
 - (c) divides with another person, who is not a partner, any fees or profits resulting from consultations, medical attention or surgical oper-

ations without the patient's knowledge and consent;

- (d) is addicted to the excessive use of intoxicating liquors or the excessive or habitual use of opiates or narcotics; or
 - (e) impersonates another medical practitioner.
- (3) A Board of Inquiry appointed pursuant to subsection (1) may make rules and regulations under which the inquiry is to be held and has power
- Powers of Board.
- (a) to summon and bring before it any person whose attendance it considers necessary to enable the Board properly to inquire into the matter complained of;
 - (b) to swear and examine all persons under oath;
 - (c) to compel the production of documents; and
 - (d) to do all things necessary to provide a full and proper inquiry.
- (4) A Board of Inquiry may direct that the person who made the complaint it is appointed to investigate shall deposit with the Board, as security for the costs of the inquiry and to the person complained against, a sum not exceeding five hundred dollars.
- Security for costs
- (5) Where the Board of Inquiry finds that a complaint is frivolous or vexatious, it may cause to be paid to the Territorial Secretary out of the deposit for security mentioned in subsection (4) such portion of the costs of the inquiry and to the person complained against as it deems advisable, and where the Board does not so find or where there is any balance of the deposit remaining, the deposit or balance thereof shall be returned to the person who deposited it.
- Frivolous and vexatious complaint
- (6) A majority of the members of a Board of Inquiry is a quorum.
- Quorum

Findings and
recommendations

- (7) A Board of Inquiry shall, after investigation of a complaint pursuant to this section, make a finding and shall immediately report its finding to the Commissioner, and where it finds that the person complained against is guilty of a controvention of this Ordinance or of malpractice or of infamous, disgraceful or improper conduct, may, in its report to the Commissioner, recommend that such person be
- (a) reprimanded;
 - (b) fined in an amount named by the Board, such amount not to exceed five hundred dollars;
 - (c) struck off the register and his licence cancelled; or
 - (d) struck of the register and his licence suspended for a definite period named by the Board.

Notification
to the person
complained
against

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

Offence

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

16. (1) A person against whom a finding has been made by a Board of Inquiry may, within thirty days after the finding has been made, appeal from such finding to a Judge. Appeal to Judge
- (2) The Judge before whom an appeal is made under subsection (1) may hear the appeal at such time and in such manner as he deems just and he may, by order, quash, alter or confirm the finding of the Board of Inquiry. Powers of Judge
17. (1) Where a medical practitioner has been found guilty of a contravention of this Ordinance or of malpractice or of infamous, disgraceful or improper conduct by a Board of Inquiry and no appeal has been taken from the finding or the time for appeal has expired, the Commissioner shall, after receiving the report from the Board, impose the penalty recommended by it, and Commissioner powers on recommendation by Board
- (a) in the case of a reprimand, reprimand the practitioner in writing and note the reprimand in the register;
- (b) in the case of a fine, make an order fining the practitioner, which order shall be filed in the appropriate court and have the same effect as an order of that court;
- (c) in the case of a recommendation to strike off the register and cancel his licence, have the name of the practitioner struck off the register and cancel his licence; and
- (d) in the case of a recommendation to strike off the register and suspend his licence, have the name of the practitioner struck off the register and suspend his licence for such time as the Board has recommended.
- (2) Where a Judge on appeal confirms or alters the finding of a Board of Inquiry, his order in the case of a fine shall be carried out in the usual way and Commissioner to enforce order of Judge

in the case of any other punishment referred to in subsection (1) shall be directed to the Commissioner and carried out by him in the same manner as provided by subsection (1).

Application for reinstatement

18. (1) A medical practitioner whose name has been struck off the register and whose licence has been cancelled or suspended pursuant to section 17 may,
- (a) where he had not taken any appeal from the finding within one year from the date of the finding of the Board of Inquiry, apply to the Commissioner to have his name restored to the register or
 - (b) where he had appealed from the finding within one year from the date of an order under subsection (2) of section 16, apply to a Judge for an order directing the Territorial Secretary to have his name restored to the register.

Order by Commissioner or Judge

- (2) The Commissioner or a Judge may, upon application under subsection (1), order the Territorial Secretary to reinstate on the register a medical practitioner whose name is registered in the Canadian Medical Register and renew his licence and restore his rights and privileges in such manner and upon such conditions as the Commissioner or Judge may decide.

Territorial Secretary to reinstate

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

APPLICATION

Exceptions

19. Nothing in this Ordinance applies to or affects
- (a) a duly qualified medical practitioner of any province or country meeting in consultation in the Territory with a medical practitioner of the Territory;

- (b) the furnishing of first aid or temporary assistance in cases of emergency;
 - (c) the domestic administration of family remedies;
 - (d) the practising by any person of the religious tenets of his church or religion without pretending a knowledge of medicine or surgery, unless he violates any laws regulating or with respect to contagious diseases or sanitary matters;
 - (e) the manufacture, fitting or selling of artificial limbs or similar appliances;
 - (f) the practice of chiropractic by a chiropractor duly licenced under the *Chiropractic Ordinance*;
 - (g) the practice of dentistry by a dentist duly licensed under the *Dental Profession Ordinance*;
 - (h) the practice of optometry by an optometrist duly licensed under the *Optometry Ordinance*;
 - (i) the practice of pharmacy by a pharmaceutical chemist duly licensed under the *Pharmaceutical Chemists Ordinance*;
 - (j) the practice of nursing by a nurse; or
 - (k) a medical practitioner, physician or surgeon employed by the Government of Canada who, during the course of his duties as an employee of the Government of Canada, practises medicine in the Territory, unless he practises medicine on his own behalf in the Territory outside the course of his duties as an employee of such Government.
20. No person shall be appointed as medical officer, physician or surgeon in any branch of the public service of the Territory or in any hospital or other charitable institution, unless he is registered under this Ordinance.

No person appointed as medical officer in public service unless registered

MEANING OF "DULY QUALIFIED MEDICAL PRACTITIONER"

Meaning of
"Duly
Qualified
Medical
Practitioner"

21. Where the words "duly qualified medical practitioner" or "legally qualified medical practitioner" or any other words implying legal recognition of a person as a medical practitioner are used in any law of the Territory, they shall, insofar as that law applies to the Territory, be construed to mean
- (a) a person who holds a licence under this Ordinance;
 - (b) a person referred to in paragraph (k) of section 19.

OTHER ORDINANCES

Effect of
other
Ordinances

22. Nothing in the *Dental Profession Ordinance* or the *Pharmaceutical Chemists Ordinance* shall be construed to prohibit a medical practitioner from doing, in the course of administering medical aid or treatment, any thing for which a licence is required under any of the said Ordinances or from doing anything in an emergency, to attempt to relieve the pain or suffering of a person or animal.

REPEAL

Repeal

23. The following Ordinances are repealed:
- (i) *The Yukon Medical Ordinance*, chapter 64 of the Consolidated Ordinances of 1914;
 - (ii) *An Ordinance to amend the Yukon Medical Ordinance*, chapter 7 of the Ordinances of 1917;
 - (iii) *An Ordinance to amend the Yukon Medical Ordinance*, chapter 6 of the Ordinances of 1924;
 - (iv) *An Ordinance to amend the Yukon Medical Ordinance*, chapter 7 of the Ordinances of 1925;
 - (v) *An Ordinance to amend the Yukon Medical Ordinance*, chapter 12 of the Ordinances of 1940;
 - (vi) *An Ordinance to amend the Yukon Medical Ordinance*, chapter 1 of the Ordinances of 1943;
 - (vii) *An Ordinance to amend the Yukon Medical Ordinance*, chapter 6 of the Ordinances of 1945;
 - (viii) *An Ordinance to amend the Yukon Medical Ordinance*, chapter 20 of the Ordinances of 1948;
 - (ix) *An Ordinance to amend the Yukon Medical Ordinance*, chapter 4 of the Ordinances of 1951 (2nd session).

CHAPTER 3

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING HOTEL, BOARDING
HOUSE AND LODGING HOUSE KEEPERS

(Assented to November 20, 1954.)

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

SHORT TITLE

1. This Ordinance may be cited as the "Hotel Keepers Ordinance." Short Title

DETENTION OF GOODS

2. A hotel, boarding house or lodging house keeper may seize and detain in his hotel or house or on his premises, before the same have been removed therefrom, but not afterwards, the trunks, valises and personal effects, including clothing, of any person who is indebted to him for board or lodging. Right to detain goods
3. Every hotel, boarding house, and lodging house keeper is responsible for the safe keeping of any trunks, valises and personal effects, including clothing, seized by him, while under detention. Responsibility for goods detained

SALE OF DETAINED GOODS

4. Where the amount for which trunks, valises or personal effects were detained remains unpaid for one month after the day of their seizure, the hotel, boarding house or lodging house keeper may,
 - (a) in the presence of a peace officer, force or break the locks or fastenings on any trunk, valise, or other Power to break open trunks

article detained by him for the purpose of ascertaining and inspecting the contents thereof, and

Right to sell goods detained

- (b) upon complying with the provisions of this Ordinance, sell the trunks, valises or personal effects or any of them by public auction.

Notice of sale to be given

- 5. (1) At least one month before the day fixed for the sale the hotel, boarding house or lodging house keeper shall forward a notice of the intended sale by registered letter addressed to the person indebted to him, at such person's last known address, which notice shall contain

Contents of notice

- (a) a general description of the trunks, valises and personal effects to be sold, and the time and place of the intended sale;
- (b) an itemized statement of the amount of the indebtedness, showing the sum due at the time of the notice;
- (c) a demand that the said amount be paid at or before the time of sale; and
- (d) a statement that if the said amount is not paid at or before the time of sale, the property will be sold by public auction at the time and place specified.

- (2) The hotel, boarding house or lodging house keeper shall post and keep posted for one week prior to the time of sale in a conspicuous place on his premises a copy of the notice referred to in subsection (1).

Application of proceeds of sale

- 6. (1) The hotel, boarding house or lodging house keeper may apply the proceeds of a sale pursuant to this Ordinance in payment of the amount due to him and the reasonable costs of advertising, if any, and of the sale and he shall, on application, pay over the surplus, if any, to the person entitled thereto.

- (2) Where an application therefor is not made within ten days after the day of sale, he shall pay the surplus to the Territorial Treasurer who shall hold the same for the owner for one year, after which time, if the owner has not previously claimed the amount, it shall form part of the Yukon Consolidated Revenue Fund.

Balance of
proceeds
of sale

LIABILITY OF KEEPERS OF HOTELS, BOARDING
HOUSES AND LODGING HOUSES

7. (1) No hotel keeper is liable to compensate a guest of his hotel for loss of or injury to goods or property brought to the hotel except
- (a) where such goods or property have been stolen, lost or injured through the fault or neglect of the hotel keeper or any servant in his employ, or
- (b) where such goods or property have been deposited with the hotel keeper for safe custody.
- (2) The hotel keeper may require as a condition of his liability that goods or property tendered by a guest for safe custody shall be placed in a box or other receptacle fastened and sealed by the guest.
- (3) Where a hotel keeper refuses to receive for safe custody any goods or property of a guest, or where the guest, through any default of the hotel keeper, is unable to deposit such goods or property for safe custody, the hotel keeper is not entitled to the benefit of this Ordinance in respect thereof unless he establishes that his hotel was not equipped with a proper safe or vault and that he so informed the guest at the time of refusing to receive the goods or property.
- (4) When a guest deposits money, jewelry, documents or valuables of a similar nature with a hotel keeper for safe custody the hotel keeper shall, at the time of the deposit, give the guest a receipt therefor;

Liability of
hotel keeper
for the
property of
his guests

and the guest shall surrender such receipt when the property deposited is returned to him.

- (5) Notwithstanding anything in this section, unless deposited with the hotel keeper for safe keeping or checked in a parcel or checking room on the hotel premises, the hotel keeper is not responsible for goods or property lost, injured or stolen in a part of his hotel other than the guest room of the owner of the goods or property.

Responsibility in respect of property in guest room

- 8. Notwithstanding anything in this Ordinance, no hotel, boarding house or lodging house keeper is responsible for any trunks or valises or their contents, or any parcels or personal effects of any kind, left by a guest in his room, if there is a proper lock and key for the door of the room, unless the room is locked during the absence of a guest therefrom and the key is left at the office.

Copy of sections 7 and 8 of this Ordinance

- 9. Every hotel keeper shall cause to be left conspicuously posted in the hall or entrance of his hotel a copy of sections 7 and 8 and this section, printed or plainly written, and he shall be entitled to the benefit of this Ordinance in respect only of goods or property brought to his hotel while such copy is so posted.

Undesirable persons may be ejected

- 10. A hotel keeper or his representative may require any person whether registered as a guest or not, whom he deems undesirable, to leave the hotel and, in the event of such person failing to leave, may eject him from the hotel premises.

EXEMPTIONS FROM SEIZURE

Exemptions under writs of execution not to apply

- 11. Property exempt from seizure under writs of execution shall not be exempt from seizure under a writ of execution issued on a judgment obtained by a hotel, boarding house or lodging house keeper in respect of an indebtedness incurred for board or lodging supplied by him.

REGISTER OF GUESTS

Definition of "auto camp"

- 12. (1) In this section "auto camp" includes
 - (a) a tourist camp; and

- (b) any land or premises equipped with tents, tent-houses, huts, cabins, bungalows or cottages used or maintained for the accommodation of the public;

for which a fee or charge is made for the use or rental thereof.

- (2) Every hotel, boarding or lodging house or auto camp keeper shall keep in such hotel, house or camp a register or record in which shall be entered the name, usual place of residence and the dates of arrival and departure of every person admitted as a guest at the hotel, house or camp or provided with sleeping, housekeeping or other accommodation there. Register to be kept
- (3) No hotel or auto camp keeper shall provide a person who fails to supply him with the information to be entered in the register or record by subsection (2) or (3) with accommodation. Person refusing to supply information not to be given accommodation
- (4) A hotel keeper is entitled to the benefit of this Ordinance only in respect of goods or property brought to his hotel by a person in respect of whom there is entered in the register or record mentioned in this section all the information required by this section. Hotel keeper to get benefit of Ordinance only if he acts in accordance with this section
- (5) The register or record mentioned in this section shall at all times be open for inspection by any officer or constable of the Royal Canadian Mounted Police. Register to be open to public

CLOSING HOURS

13. (1) Every hotel keeper shall establish an hour as the close of his business day. Closing hour
- (2) Every person who retains his lodging in an hotel after the hour which is established as the close of the business day under subsection (1) shall be deemed to have retained and may be required to pay for the lodging for an additional day. Lodger staying after hour may be required to pay extra day

Notice of rates, etc., to be posted

14. Every hotel keeper shall post in a conspicuous place in each room that he lets for lodging accommodation a notice stating
 - (a) the rate which he charges for such lodging;
 - (b) the hour that he has established as the close of his business day; and
 - (c) that every person who occupies the room after the hour stated in the notice to be the close of the business day shall be deemed to have retained and may be required to pay for the room for an additional day.

OFFENCES

Offence and penalty

15. Every hotel keeper who violates any provision of this Ordinance is guilty of an offence and liable on summary conviction to a fine of not more than one hundred dollars.

REPEAL

Repeal

16. The following Ordinances are repealed:
 - (i) the *Hotel Keepers Ordinance*, chapter 5 of the Ordinances of 1947;
 - (ii) *An Ordinance to amend the Hotel Keeper's Ordinance*, chapter 9 of the Ordinances of 1951 (1st session);
 - (iii) the *Roadhouse Ordinance*, chapter 77 of the Consolidated Ordinances, 1914; and
 - (iv) *The Auto Camp and Hotel Guest Registration Ordinance*, chapter 4 of the Ordinances of 1947.

CHAPTER 4

 ORDINANCES OF YUKON TERRITORY
 1954 (Third Session)

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

(Assented to November 20, 1954.)

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

SHORT TITLE

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

INTERPRETATION

2. In this Ordinance, Definitions
- (a) "agister" means a person other than a livery, boarding or sales stable keeper who, for a money consideration or its equivalent, feeds, grazes, stables, boards or cares for animals; "Agister"
- (b) "boarding stable keeper" means a person who, for a money consideration or its equivalent, stables, boards or cares for animals; "Boarding stable keeper"
- (c) "livery stable keeper" means a person who for a money consideration or the equivalent thereof carries on the business of letting or hiring out carriages, sleighs or other vehicles, or horses or other animals, whether with or without vehicles, and whether accompanied by an employee of the livery stable keeper or not; and "Livery stable keeper"

“Sales stable keeper”

(d) “sales stable keeper” means a person who stables, boards or cares for animals other than his own, with the intention of selling or disposing of the same, and who receives or is to receive payment for such services whether in the nature of a commission or otherwise.

Liens on animals and effects

3. Every agister, livery stable, boarding stable or sales stable keeper has a lien on the animals and articles hereinafter in this section mentioned for the value or price of food, care, attendance or accommodation furnished for such animals or articles and in addition to all other remedies provided by law may detain in his custody and possession any animal, vehicle, harness furnishings or other gear appertaining thereto and the personal effects of any person who is indebted to him for feeding, grazing, stabling, boarding or caring for such animal.

Animals and effects detained and sold

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

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

- (a) the names of the owner and the person who brought the animals or articles to the stable or other premises;
 - (b) the amount of indebtedness and charges for detention;
 - (c) a description of the animals and articles; and
 - (d) the name of the seller.
5. The proceeds derived from the sale shall be applied first in paying the expenses incurred by the detention, advertising and sale, then the debt for which the detention was made, and the surplus, if any, shall on application be paid to the person entitled thereto. Application of proceeds of sale
 6. In case the owner does not apply for the same within one month from the day of sale, the surplus shall be handed over to the Territorial Treasurer to be kept by him in a special trust account for one year, after which time if the owner does not appear or claim the amount so kept it shall be paid into and form part of the Yukon Consolidated Revenue Fund. Balance of proceeds of sale
 7. Every livery stable, boarding stable and sales stable keeper shall have a copy of this Ordinance hung or posted in a conspicuous place in every stable kept by him and in default of compliance with this section he is not entitled to the benefit of this Ordinance. Copy of this Ordinance to be posted up
 8. Every livery stable, boarding stable and sales stable keeper in the Territory shall in each and every year in the months of April and October thoroughly cleanse all the stalls, mangers and feed boxes in every stable kept by him by thoroughly washing the same with soap and hot water and immediately afterwards thoroughly applying to every part of the same a solution of bichloride of mercury in the following proportions, namely, one half drachm to one gallon of water. Stables to be cleansed and disinfected
 9. Every person who contravenes or fails to comply with section 8 of this Ordinance is guilty of an offence and Penalty

liable on summary conviction to a fine of not more than ten dollars for the first offense and not more than twenty-five dollars for each subsequent offence.

REPEAL

- Repeal
10. *The Livery Stable Keepers Ordinance*, Chapter 58 of the Consolidated Ordinances, 1914, is repealed.

CHAPTER 5

ORDINANCES OF YUKON TERRITORY
1954 (Third Session).

AN ORDINANCE RESPECTING THE
LIMITATION OF ACTIONS

(Assented to November 20, 1954.)

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

SHORT TITLE

1. This Ordinance may be cited as the *Limitation of Actions Ordinance* Short Title

INTERPRETATION

2. In this Ordinance
- | | Definitions |
|--|--------------|
| (a) "action" means any civil proceeding; | "Action" |
| (b) "assurance" means any transfer, deed or instrument, other than a will, by which land may be conveyed or transferred; | "Assurance" |
| (c) "disability" means disability arising from infancy or unsoundness of mind; | "Disability" |
| (d) "heirs" includes the persons entitled beneficially to the real estate of a deceased intestate; | "Heirs" |
| (e) "land" includes all corporeal hereditaments, and any share or any freehold or leasehold estate or any interest in any of them; | "Land" |
| (f) "mortgage" includes charge, "mortgagor" includes chargor, and "mortgagee" includes chargee; | "Mortgage" |

- "Proceedings" (g) "proceedings" includes action, entry, taking of possession, distress and sale proceedings under an order of a court or under a power of sale contained in a mortgage or conferred by ordinance;
- "Rent" (h) "rent" means a rent service or rent reserved upon a demise;
- "Rent charge" (i) "rent charge" includes all annuities and periodical sums of money charged upon or payable out of land.

PART I

LIMITATION PERIODS

- Periods of limitations 3. (1) The following actions shall be commenced within and not after the times respectively hereinafter mentioned:
 - Penal actions (a) actions for penalties imposed by any Ordinance brought by an informer suing for himself alone or for Her Majesty as well as for himself, or by any person authorized to sue for the same, not being the person aggrieved, within one year after the cause of action arose;
 - Actions for penalties (b) actions for penalties, damages or sums of money in the nature of penalties given by any Ordinance to Her Majesty or the person aggrieved, or partly to one and partly to the other, within two years after the cause of action arose;
 - Defamation (c) actions of defamation, whether libel or slander, within two years of the publication of the libel or the speaking of the slanderous words, or where special damage is the gist of the action, within two years after the occurrence of such damage;
 - Trespass to person (d) actions for trespass to the person, assault, battery, wounding or other injury to the person, whether arising from an unlawful act or from

negligence, or for false imprisonment, or for malicious prosecution or for seduction within two years after the cause of action arose;

- (e) actions for trespass or injury to real property or chattels, whether direct or indirect, and whether arising from an unlawful act or from negligence, or for the taking away, conversion or detention of chattels, within six years after the cause of action arose; Trespass to property
 - (f) actions for the recovery of money, except in respect of a debt charged upon land, whether recoverable as a debt or damages or otherwise, and whether on a recognizance, bond, covenant or other specialty or on a simple contract, express or implied, and actions for an account or for not accounting, within six years after the cause of action arose; Actions for money
 - (g) actions grounded on fraudulent misrepresentation, within six years from the discovery of the fraud; Fraudulent misrepresentation
 - (h) actions ground on accident, mistake or other equitable ground of relief not hereinbefore specially dealt with, within six years from the discovery of the cause of action; Mistake
 - (i) actions on a judgment or order for the payment of money, within ten years after the cause of action thereon arose; Judgments
 - (j) any other action not in this Ordinance or any other Ordinance specially provided for, within six years after the cause of action arose. Other actions
- (2) Nothing in this section extends to any action where the time for bringing the action is by an ordinance specially limited. Exception
4. When the existence of a cause of action has been concealed by the fraud of the person setting up this Part or Part II Concealed fraud

as a defence, the cause of action shall be deemed to have arisen when the fraud was first known or discovered.

Item in account

5. No claim in respect of an item in an account which arose more than six years before the commencement of the action is enforceable by action by reason only of some other claim in respect of another item in the same account having arisen within six years next before the commencement of the action.

DISABILITIES

Person under disability

6. Where a person entitled to bring any action mentioned in paragraph (c) to (i) inclusive of subsection (1) of section 3 is under disability at the time the cause of action arises, he may bring the action within the time limited by this Ordinance with respect to such action or at any time within two years after he first ceased to be under disability.

ACKNOWLEDGMENTS AND PART PAYMENT

Subsequent Acts

7. (1) Whenever any person who is, or would have been but for the effluxion of time, liable to an action for the recovery of money as a debt, or his agent in that behalf

Promises to pay

- (a) conditionally or unconditionally promises his credit or the agent of the creditor in writing signed by the debtor or his agent to pay the debt,

Acknowledgments

- (b) gives a written acknowledgment of the debt signed by the debtor or his agent to his creditor or the agent of the creditor, or

Part payments

- (c) makes a part payment on account of the principal debt or interest thereon, to his creditor or the agent of the creditor,

an action to recover any such debt may be brought within six years from the date of the promise, acknowledgment or part payment, as the case may

be, notwithstanding that the action would otherwise be barred under this Ordinance.

- (2) A written acknowledgment of a debt or a part payment on account of the principal debt or interest thereon has full effect whether or not a promise to pay can be implied therefrom and whether or not it is accompanied by a refusal to pay. Effect of written acknowledgment
8. Where there are two or more joint debtors, joint contractors, joint obligors or joint covenantors, or executors or administrators of any debtor, contractor, obligor or covenantor, no such joint debtor, joint contractor, joint obligor or joint covenantor, or executor or administrator shall lose the benefit of this Ordinance so as to be chargeable in respect or by reason only of any written acknowledgment or promise made and signed, or by reason of any payment of any principal or interest made, by any other or others of them. Joint contractors and covenantors
9. In actions commenced against two or more such joint debtors, joint contractors, joint obligors or joint covenantors, or executors or administrators, if it appears at the trial or otherwise that the plaintiff, though barred by this Ordinance, as to one or more of such joint debtors, joint contractors, joint obligors or joint covenantors, or executors or administrators, is nevertheless entitled to recover against any other or others of the defendants by virtue of a new acknowledgment, promise or payment, judgment shall be given for the plaintiff as to the defendant or defendants against whom he is entitled to recover, and for the other defendant or defendants against the plaintiff. Recovery against those acknowledging
10. No endorsement or memorandum of any payment written or made upon any promissory note, bill of exchange or other writing, by or on behalf of the person to whom the payment has been made, shall be deemed sufficient proof of the payment, so as to take the case out of the operation of this Ordinance. Endorsements of payments insufficient
11. This Part applies to any claim of the nature mentioned in this Part alleged by way of counterclaim or set-off on the part of any defendant. Part applies to counter-claims

PART II

CHARGES ON LAND, LEGACIES, ETC.

Recovery of
money charged
on land

12. (1) No proceedings shall be taken to recover any rent charge or any sum of money secured by any mortgage or otherwise charged upon or payable out of any land or rent charge or to recover any legacy, whether it is or is not charged upon land, or to recover the personal estate or any share of the personal estate of any person dying intestate and possessed by his personal representative, but within ten years next after a present right to recover the same accrued to some person capable of giving a discharge therefor, or a release thereof, unless prior to the expiry of such ten years some part of the rent charge, sum of money, legacy or estate or share or some interest thereon has been paid by a person bound or entitled to make a payment thereof or his agent in that behalf to a person entitled to receive the same or his agent, or some acknowledgment in writing of the right to such rent charge, sum of money, legacy, estate or share signed by any person so bound or entitled or his agent in that behalf has been given to a person entitled to receive the same or his agent, and in such case no action shall be brought but within ten years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one was made or given.

Reversion
not in
possession

- (2) In the case of a reversionary interest in land, no right to recover the sum of money charged thereon shall be deemed to accrue until the interest has fallen into possession.

Recovery of
money payable
on agreement
of sale

13. No proceedings shall be taken to recover any sum of money payable under an agreement for the sale of land but within ten years after a present right to recover the same accrued to some person entitled to receive the same, or capable of giving a release thereof, unless prior to the expiry of such ten years some part of the sum of money, or some interest thereon, has been paid by a

person bound or entitled to make a payment thereof, or his agent in that behalf, to a person entitled to receive the same or his agent, or some acknowledgment in writing of the right to receive such sum of money signed by the person so bound or entitled, or his agent in that behalf, has been given to a person entitled to receive the same or his agent, and in case no action shall be brought but within ten years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one was made or given.

14. (1) No arrears of rent, or of interest in respect of any sum of money to which section 12 or section 13 applies or any damages in respect of such arrears shall be recovered by any proceedings, but within six years, next after a present right to recover the same accrued to some person capable of giving a discharge therefor or a release thereof unless, prior to the expiry of such six years, some part of the arrears has been paid by a person bound or entitled to make a payment thereof or his agent in that behalf to a person entitled to receive the same or his agent or some acknowledgment in writing of the right to the arrears signed by a person so bound or entitled or his agent in that behalf has been given to a person entitled to receive the arrears or his agent, and in such case no proceeding shall be taken but within six years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one was made or given.
- Recovery of
rent and
interest
charged on
land
- (2) Subsection (1) does not apply to an action for redemption or similar proceedings brought by a mortgagor or by any person claiming under him.
- Except
redemption
15. Where any prior mortgagee has been in possession of any land within one year next before an action is brought by any person entitled to a subsequent mortgage on the same land, the person entitled to the subsequent mortgage may recover in such action the arrears of interest which have become due during the whole time the prior mortgagee was in such possession or receipt, although that time may have exceeded such term of six years.
- Recovery prior
mortgagee in
possession

Recovery of sums secured by express trust

16. (1) No action shall be brought to recover any sum of money or legacy charged upon or payable out of any land or rent charged, though secured by an express trust, or to recover any arrears of rent or of interest in respect of any sum of money or legacy so charged or payable or so secured, or any damages in respect of such arrears, except within the time which the same would be recoverable if there were not any such trust.

Saving

- (2) Subsection (1) does not operate so as to affect any claim of a cestui que against his trustee for property held on an express trust.

PART III

LAND

RIGHT TO TAKE PROCEEDINGS

Part subject to Land Titles Act

17. This Part is subject to the provisions of the Land Titles Act.

Recovery of land

18. No person shall take proceedings to recover any land but within ten years next after the time at which the right to do so first accrued to some person through whom he claims, hereinafter called "predecessor" or if such right did not accrue to a predecessor then within ten years next after the time at which such right first accrued to the person taking the proceedings, hereinafter called "claimant".

SPECIAL CASES

Right accrues on dispossession

19. Where the claimant or a predecessor has in respect of the estate or interest claimed been in possession of the land or in receipt of the profits thereof and has while entitled thereto been dispossessed or has been dispossessed or has discontinued such possession or receipt, the right to take proceedings to recover the land shall be deemed to have first accrued at the time of such dispossession or discontinuance of possession or at the last time at which any such profits were so received.

20. Where the claimant claims the estate or interest of a deceased predecessor who was in possession of the land or in receipt of the profit thereof in respect of the same estate or interest at the time of his death and was the last person entitled to such estate or interest who was in possession or receipt, the right to take proceedings to recover the land shall be deemed to have first accrued at the time of the death of the predecessor. Right accrues on death of predecessor
21. Where the claimant claims in respect of an estate or interest in possession, granted, appointed, or otherwise assured to him or a predecessor by a person being in respect of the same estate or interest in the possession of the land or in receipt of the profits thereof and no person entitled under the assurance has been in possession or receipt, the right to take proceedings to recover the land shall be deemed to have first accrued at the time at which the claimant or his predecessor became entitled to such possession or receipt by virtue of the assurance. Right accrues according to assurance
22. Where the claimant or the predecessor becomes entitled by reason of forfeiture or breach of condition, then the right to take proceedings to recover the land shall be deemed to have first accrued whenever the forfeiture was incurred or the condition was broken. Right accrues on forfeiture

FUTURE ESTATES

23. Where the estate or interest claimed has been an estate or interest in reversion or remainder or other future estate or interest, including therein an executory devise and no person has obtained the possession of the land or is in receipt of the profits thereof in respect of the estate or interest, the right to take proceedings to recover the land shall be deemed to have first accrued at the time at which the estate or interest became an estate or interest in possession, by the determination of any estate or estates in respect of which the land has been held or the profits thereof have been received notwithstanding the claimant or the predecessor has at any time previously to the creation of the estate or estates that has determined been in the possession of the land or in receipt of the profits thereof. When right accrues as to future estate

Further as
to future
estate

24. Where the person last entitled to any particular estate on which any future estate or interest was expectant was not in possession of the land or in receipt of the profits thereof at the time when his interest determined, no proceedings to recover the land shall be taken by any person becoming entitled in possession to a future estate or interest but within ten years next after the time when the right to take proceedings first accrued to the person whose interest has so determined, or within five years next after the time when the estate of the person becoming entitled in possession has become vested in possession, whichever of these two periods is the longer.

Proceedings
barred,
proceedings
for subsequent
interest also
barred

25. Where the right to take proceedings to recover the land has been barred no proceedings shall be taken by any person afterwards claiming to be entitled to the same land in respect of any subsequent estate or interest under any will or assurance executed or taking effect after the time when a right to take proceedings first accrued to the owner of the particular estate whose interest has so determined.

Estate in
possession
barred, future
estate also
barred

26. When the right of any person to take proceedings to recover any land to which he may have been entitled for an estate or interest in possession entitling him to take proceedings has been barred by the determination of the period which is applicable, and such person has at any time during the said period been entitled to any other estate, interest, right or possibility in reversion, remainder or otherwise in or to the same land no proceedings shall be taken by him or any person claiming through him to recover the land in respect of such other estate, interest, right or possibility, unless in the meantime the land has been recovered by some person entitled to an estate, interest or right which has been limited or taken effect after or in defeasance of the estate or interest in possession.

Where right
of forfeiture
not claimed

27. When the right to take proceedings to recover any land first accrued to a claimant or a predecessor by reason of any forfeiture or breach of condition, in respect of an estate or interest in reversion or remainder and the land has not been recovered by virtue of such right, the right

to take proceedings shall be deemed to have first accrued at the time when the estate or interest became an estate or interest in possession.

LANDLORD AND TENANT

28. Where a person is in possession of land, or in receipt of the profits thereof by virtue of a lease in writing, by which a rent amounting to the yearly sum or value of four dollars or upwards is reserved, and the rent reserved by the lease has been received by some person wrongfully claiming to be entitled to the land in reversion immediately expectant on the determination of the lease, and no payment in respect of the rent reserved by the lease has afterwards been made to the person rightfully entitled thereto, the right of the claimant or his predecessor to take proceedings to recover the land after the determination of the lease shall be deemed to have first accrued at the time at which the rent reserved by the lease was first so received by the person wrongfully claiming as aforesaid and no such right shall be deemed to have first accrued upon the determination of the lease to the person rightfully entitled.
- Rent wrongfully received right accrues on receipt
29. Where a person is in possession of land or in receipt of the profits thereof as a tenant from year to year, or other period, without a lease in writing, the right of the claimant or his predecessor to take proceedings to recover the land shall be deemed to have first accrued at the determination of the first of such years or other periods, or at the last time, prior to his right to take proceedings being barred under any other provisions of this Ordinance, when any rent payable in respect of such tenancy was received by the claimant or his predecessor or the agent of either whichever last happens.
- Right accrues end of first year
30. (1) Where any person is in possession of any land or in receipt of the profits thereof as tenant at will, the right of the claimant or his predecessor to take proceedings to recover the land shall be deemed to have first accrued either at the determination of the tenancy or at the expiration of one year next after its commencement, at which time, if the
- Right accrues tenancy at will

tenant was then in possession, the tenancy shall be deemed to have been determined.

Exception

(2) No mortgagor or cestui que trust under an express trust shall be deemed to be a tenant at will to his mortgagee or trustee within the meaning of this section.

Time not to run while fraud concealed

31. (1) In every case of concealed fraud by the person setting up this Part as a defence, or by some other person through whom such first mentioned person claims, the right of any person to bring an action for the recovery of land of which he or any person through whom he claims may have been deprived by such fraud shall be deemed to have first accrued at and not before the time at which such fraud was or with reasonable diligence might have been first known or discovered.

Saving purchaser

(2) Nothing in subsection (1) enables an owner of land to bring an action for the recovery of such land, or for setting aside a conveyance thereof, on account of fraud against a purchaser in good faith for valuable consideration, who has not assisted in the commission of such fraud, and who, at the time that he made the purchase, did not know, and had no reason to believe, that any such fraud had been committed.

Acknowledgment equivalent to possession

32. When an acknowledgment in writing of the title of a person entitled to any land signed by the person in possession of the land or in receipt of the profits thereof or his agent in that behalf has been given to him or his agent prior to his right to take proceedings to recover the land having been barred under the provisions of this Ordinance, then the possession or receipt of or by the person by whom the acknowledgment was given shall be deemed, according to the meaning of this Ordinance, to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment was given at the time of giving the same, and the right of the last mentioned person, or of any person claiming through him, to take proceedings shall be deemed to

have first accrued at and not before the time at which the acknowledgment, or at the last of the acknowledgments, if more than one, was given.

PART IV

MORTGAGES OF REAL AND PERSONAL PROPERTY

REDEMPTION

33. (1) When a mortgagee or a person claiming through a mortgagee has obtained the possession of any property real or personal comprised in a mortgage or is in receipt of the profits of any land therein comprised the mortgagor or any person claiming through him shall not bring any action to redeem the mortgage but within ten years next after the time at which the mortgagee or a person claiming through the mortgagee obtained such possession or first received any such profits unless prior to the expiry of such ten years an acknowledgment in writing of the title of the mortgagor or of his right to redeem is given to the mortgagor or some person claiming his estate or interest or to the agent of such mortgagor or person signed by the mortgagee or the person claiming through him or the agent in that behalf of either of them; in that case, the action shall not be brought but within ten years next after the time at which the acknowledgment or the last of the acknowledgments, if more than one, was given.
- Where mortgagee in possession barred
- (2) Where there is more than one mortgagor or more than one person claiming through the mortgagor or mortgagors the acknowledgment, if given to any of the mortgagors or persons or his or their agent, shall be as effectual as if the same had been given to all the mortgagors or persons.
- More than one mortgagor
- (3) Where there is more than one mortgagee or more than one person claiming the estate or interest of the mortgagee or mortgagees, an acknowledgment signed by one or more of such mortgagees or person or his or their agent in that behalf shall be effectual only as against the party or parties
- Acknowledgments to one where more than one mortgagee

signing as aforesaid, and the person or persons claiming any part of the mortgage money or property by, through or under him or them, and any person or persons entitled to any estate or estates, interest or interests, to take effect after or in defeasance of his or their estate or estates, interest or interests and shall not operate to give to the mortgagor or mortgagors a right to redeem the mortgage as against the person or persons entitled to any undivided or divided part of the money or property.

Where property divided

- (4) Where such of the mortgagees or persons mentioned in this section as have given such acknowledgment are entitled to a divided part of the property comprised in the mortgage or some estate or interest therein, and not to any ascertained part of the mortgage money, the mortgagor or mortgagors are entitled to redeem the same divided part of the property on payment with interest of the part of the mortgage money which bears the same proportion to the whole of the mortgage money as the value of the divided part of the property bears to the value of the whole of the property comprised in the mortgage.

FORECLOSURE OR SALE

Foreclosure or sale

- 34. No mortgagee or person claiming through a mortgagee shall take proceedings for foreclosure or sale under a mortgage of real or personal property or to recover the property mortgaged but within ten years next after the right to take the proceedings first accrued to the mortgagee, or if the right did not accrue to the mortgagee, then within ten years after the right first accrued to a person claiming through the mortgagee.

Payment or acknowledgment by person bound or entitled

- 35. When any person bound or entitled to make payment of the principal money or interest secured by a mortgage of property real or personal or his agent in that behalf, at any time prior to the expiry of ten years from the accrual of the right to take proceedings for foreclosure or sale or to take proceedings to recover the property,

pays any part of such money or interest to a person entitled to receive the same, or his agent, the right to take proceedings shall be deemed to have first accrued at and not before the time at which the payment of the last of the payments, if more than one, was made, or if any acknowledgment of the nature described in section 32 was given at any time prior to the expiry of ten years from the accrual of the right to take proceedings, then at the time at which the acknowledgment or the last of the acknowledgments, if more than one, was given.

PART V

AGREEMENTS FOR THE SALE OF LAND

36. (1) No purchaser of land, or any person claiming through him, shall bring any action in respect of the agreement for the sale thereof but within ten years after the right to bring the action first accrued to the purchaser, or if the right did not accrue to the purchaser, then within ten years after the right first accrued to a person claiming through the purchaser. Purchaser of land
- (2) When any person bound or entitled to make payment of the purchase money, or his agent in that behalf, at any time prior to the expiry of ten years from the accrual of the right to bring the action pays any part of the money payable under the agreement of sale to a person entitled to receive the same or his agent, or if any acknowledgment in writing of the right of the purchaser or person claiming through him to the land, or to make such payments, was given prior to the expiry of such ten years to the purchaser or person claiming through him, or to the agent of such purchaser or person, signed by the vendor or the person claiming through him or the agent in that behalf of either of them, then the right to take proceedings shall be deemed to have first accrued at the time at which the payment or the last of the payments, if more than one, was made, or the time at which the acknowledgment or the last of the acknowledgments, if more than one, was given. Purchaser's rights accrue

Vendor of
land

37. No vendor of land or person claiming through him shall take proceedings for cancellation, determination or rescission of the agreement for the sale of the land, or for foreclosure or sale thereunder or to recover the land, but within ten years after the right to take the proceedings first accrued to the vendor, or if the right did not accrue to the vendor, then within ten years after the right first accrued to a person claiming through the vendor.

Vendor's
rights
accrue

38. When any person bound or entitled to make payment of the purchase money or his agent in that behalf, at any time prior to the expiry of ten years from the accrual of the right to take proceedings mentioned in section 37, pays any part of the money payable under the agreement of sale to a person entitled to receive the same, or his agent, or if, at any time prior to the expiry of such ten years, any acknowledgment in writing of the right of the vendor or person claiming through him to the land or to receive the payment, was given to the vendor or person claiming through him, or to the agent of such vendor or person, signed by the purchaser or the person claiming through him or the agent in that behalf of either of them, then the right to take proceedings shall be deemed to have first accrued at, and not before, the time at which the payment or last of the payments, if more than one, was made, or the time at which the acknowledgment, or last of the acknowledgments, if more than one was given.

PART VI

CONDITIONAL SALES OF GOODS

Definitions

39. In this Part

"Buyer"

(a) "Buyer" means the person who buys or hires goods by a conditional sale;

"Conditional
sale"

(b) "Conditional sale" means

(i) any contract for the sale of goods under which possession is or is to be delivered to the buyer and the property in the goods is to vest in

him at a subsequent time upon payment of the whole or part of the price or the performance of any other condition; or

- (ii) any contract for the hiring of goods by which it is agreed that the hirer shall become, or have the option of becoming, the owner of the goods upon full compliance with the terms of the contract;
- (c) "goods" means all chattels personal other than things in action or money, and includes emblements, industrial growing crops, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale; "Goods"
- (d) "seller" means the person who sells or lets to hire goods by a conditional sale. "Seller"
40. No seller shall take proceedings for the sale of or to recover any goods the subject of a conditional sale but within ten years after the right to take the proceedings first accrued to the seller or, if the right did not accrue to the seller, then within ten years after the right first accrued to a person claiming through him. Seller's rights
41. When any person bound or entitled to make payment of the price, or his agent in that behalf, at any time prior to the expiry of ten years from the accrual of the right to take the proceedings pays any part of the price or interest to a person entitled to receive the same, or his agent, or if at any time prior to the expiry of such ten years, any acknowledgment in writing of the right of the seller or person claiming through him to the goods or to receive the payment was given to the seller or person claiming through him, or the agent in that behalf of either of them, then the right to take proceedings shall be deemed to have first accrued at and not before the time at which the payment or last of the payments, if more than one, was made, or the time at which the acknowledgment or last of the acknowledgments, if more than one was given. When rights accrue

PART VII

GENERAL

- | | |
|---|--|
| Entry not possession | 42. (1) No person shall be deemed to have been in possession of land, within the meaning of this Ordinance, merely by reason of having made an entry thereon. |
| Claim not to preserve right | (2) No continual or other claim upon or near any land shall preserve any right of making an entry or distress or bringing an action. |
| Receipt of rent | (3) The receipt of the rent payable by a tenant at will, tenant from year to year or other lessee, shall as against such lessee or any person claiming under him, subject to the lease, be deemed to be the receipt of the profits of the land for the purposes of this Ordinance. |
| Receipt of profits | |
| Expiry of right of action terminates title | 43. At the determination of the period limited by this Ordinance, to any person for taking proceedings to recover any land, rent charge or money charged on land, the right and title of such person to the land, or rent charge or the recovery of the money out of the land shall be extinguished. |
| Administration deemed claimant from death of deceased | 44. For the purpose of Parts II, III and IV, an administrator claiming the estate or interest of the deceased person of whose property he has been appointed administrator, shall be deemed to claim as if there had been no interval of time between the death of such deceased person and the grant of the letters of administration. |
| Persons under disability | 45. (1) When at the time at which the right to take any proceedings referred to in Part II, III or IV first accrued to any person who was under disability, such person or a person claiming through him may, notwithstanding anything in this Ordinance, take proceedings at any time within six years after the person to whom the right first accrued first ceased to be under disability or died, whichever event first happened, except that if he died without ceasing to be under disability, no further time to take proceedings shall be allowed by reason of the disability of any other person. |

- (2) Notwithstanding anything in this section, no proceedings shall be taken by a person under disability at the time the right to do so first accrued to him or by any person claiming through him, but within thirty years next after that time. Ultimate limit
46. In respect of a cause of action as to which the time for taking proceedings is limited by this Ordinance other than those mentioned in paragraphs (a) and (b) of subsection (1) of section 3, if a person is out of the Territory at the time a cause of action against him arises within the Territory, the person entitled to the action may bring the same within two years after the return of the first mentioned person to the Territory or within the time otherwise limited by this Ordinance for bringing the action. Return to Territory
47. (1) Where a person has a cause of action against joint debtors, joint contractors, joint obligors or joint covenantors, he shall not be entitled to any time within which to commence such action against such of them as were within the Territory at the time the cause of action accrued by reason only that one or more of them was at such time out of the Territory. Joint debtors within Territory not affected
- (2) A person having such cause of action is not barred from commencing an action against a joint debtor, joint contractor, joint obligor or joint covenantor who was out of the Territory, at the time the cause of action accrued, after his return to the Territory by reason only that judgment has been already recovered against such of the joint debtors, joint contractors, joint obligors or joint covenantors as were at such time within the Territory. Joint debtors outside Territory not released by action
48. This Ordinance applies to all causes of action whether the same arose before or after the coming into force of this Ordinance, but no action shall be barred merely by its operation until the expiry of six months from its coming into force; but all actions that would have been barred by effluxion of time during such six months under Application of Ordinance

the provisions of the law existing immediately prior to the coming into force of this Ordinance, shall be barred as if such law were still existing.

No right to use of light by prescription

49. No right to the access and use of light or any other easement, right in gross or profit *a prendre* shall be acquired by any person by prescription and no such right shall be deemed to have been so acquired prior to the coming into force of this Ordinance.

Refusing relief in acquiescence

50. Nothing in this Ordinance shall be construed to interfere with any rule of equity in refusing relief on the ground of acquiescence, or otherwise, to any person whose right to bring an action is not barred by virtue of this Ordinance.

Repeal

51. An Ordinance respecting Limitation of Actions in Certain Cases, Chapter 55 of the Consolidated Ordinances of 1914, is repealed.



CHAPTER 6

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING BILLS OF SALE
AND CHATTEL MORTGAGES

(Assented to November 20, 1954.)

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

SHORT TITLE

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

INTERPRETATION

2. In this Ordinance Definitions
- (a) "bill of sale" means a document in writing in conformity "Bill of Sale"
with this Ordinance evidencing a sale or a mortgage, but does not include a bill of lading, a warehouse receipt, a warrant or order for the delivery of goods, or any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize the possessor of the document to transfer, either by endorsement or delivery, or receive goods thereby represented;
- (b) "change of possession" means such change of possession as is open and reasonably sufficient to afford public notice thereof; "Change of possession"
- (c) "chattels" means goods and chattels capable of complete transfer by delivery and includes when separately assigned or charged, fixtures and growing crops; but does not include chattel interests in real property or fixtures when assigned together with a freehold or "Chattels"

leasehold interest in any land or building to which they are affixed; or growing crops, when assigned together with any interest in the land on which they grow; or a ship or vessel registered under the provisions of the "Canada Shipping Act" or "The Merchant Shipping Act, 1894", and amending Acts, or any share in such ship or vessel; or shares or interests in the stock, funds, or securities of a government, or in the capital of a corporation, or book debts or other choses in action;

- "Creditors" (d) "creditors" means creditors of the grantor, whether execution creditors or not, who become creditors before the registration of a bill of sale, or before the registration of a renewal statement, as the case may be, and, for the purpose of enforcing the rights of such creditors but not otherwise, includes a creditor suing on behalf of himself and other creditors, an assignee for the general benefit of creditors, a trustee under the "Bankruptcy Act", and a liquidator of a company under the "Winding-up Act" of Canada or under any statute or ordinance containing provisions for the winding-up of companies, without regard to the time when the creditor so suing becomes a creditor, or when the assignee, trustee or liquidator is appointed;
- "Grantee" (e) "grantee" includes the bargainee, assignee, transferee, mortgagee, or other person to whom a bill of sale is made;
- "Grantor" (f) "grantor" includes the bargainer, assignor, transferor, mortgagor, or other person by whom a bill of sale is made;
- "Mortgage" (g) "mortgage" includes an assignment, transfer, conveyance, declaration of trust without transfer, or other assurance of chattels, intended to operate as a mortgage or pledge of chattels, or a power or authority or licence to take possession of chattels as security, or an agreement, whether intended or not to be followed by the execution of any other instrument, by which a right in equity to a charge or security on any chattels is conferred but does not include:

- (i) a mortgage or charge, whether specific or floating, of chattels created by a corporation, and contained,
 - (a) in a trust deed or other like instrument to secure bonds, debentures, or debenture stock of the corporation,
 - (b) in any bonds, debentures, or debenture stock of the corporation, as well as in the trust deed or other like instrument securing the same, or
 - (c) in any bonds, debentures, or debenture stock or any series of bonds or debentures of the corporation not secured by any trust deed or other like instrument;
- (ii) security taken by a bank under section 88 of the "Bank Act" of Canada; or
- (iii) a power of distress contained in a mortgage of real property;
- (h) "proper officer" means the clerk of the registration district in which the property described in the bill of sale is situated, at the time of the execution of the instrument; "Proper officer"
- (i) "registered" means filed in accordance with the provisions of this Ordinance; "Registered"
- (j) "registration district" means a district for the registration of bills of sale established under this Ordinance. "Registration district"
- (k) "sale" includes a sale, assignment, transfer, conveyance, declaration of trust without transfer or other assurance not intended to operate as a mortgage, of chattels, or an agreement, whether intended or not to be followed by an execution of any other instrument, by which a right in equity to any chattels is conferred, but does not include, "Sale"
 - (i) an assignment for the general benefit of the creditors of the person making the assignment;

- (ii) a transfer or sale of goods in the ordinary course of any trade or calling;
- (iii) a conditional sale within the meaning of the "Conditional Sales Ordinance", or an assignment of a conditional sale.

"Subsequent purchasers or mortgagees"

- (l) "subsequent purchasers or mortgagees" means persons to whom chattels are conveyed or mortgaged,
 - (i) after the making of the sale or mortgage mentioned in section 7, or
 - (ii) after the making of the mortgage mentioned in sections 15, 16 and 17, as the case may be.

Registration districts

3. The Commissioner may establish registration districts for the purpose of this Ordinance and he may alter the boundaries of any registration district.

Offices

4. The Commissioner may appoint and designate the place of office of a registration clerk for each registration district.

Office hours

5. The registration clerks under this Ordinance shall keep their respective offices open between the hours of ten in the forenoon and four in the afternoon on all days excepting Sundays and holidays, and except on Saturdays and during the period of vacation prescribed by the "Judicature Ordinance", when the same shall be closed at one o'clock in the afternoon, and registrations shall be made only during office hours.

Registration clerk not to draw documents

6. No registration clerk shall draw or prepare any document or conveyance that may be filed or registered in his office under the provisions of this or any other Ordinance.

Sale or mortgage to be evidenced by a registered bill of sale

7. A sale or mortgage that is not accompanied by an immediate delivery and an actual and continued change of possession of the chattels sold or mortgaged is void as against creditors and as against subsequent purchasers or mortgagees claiming from or under the grantor in good faith,

for valuable consideration and without notice, whose conveyances or mortgages have been duly registered or are valid without registration, unless the sale or mortgage is evidenced by a bill of sale duly registered; and the sale or mortgage, and the bill of sale, if any, evidencing the sale or mortgage, takes effect as against creditors and such subsequent purchasers or mortgagees only from the time of the registration of the bill of sale.

8. (1) Every schedule annexed to a bill of sale or referred to therein shall be deemed to be part of the bill of sale, and shall be registered therewith. Schedule to be part of bill of sale

(2) when a bill of sale is subject to any defeasance or trust, the defeasance or trust shall be deemed to be a part of the bill of sale, and the defeasance or a declaration of the trust shall be registered therewith. Defeasance or trust to be part of bill of sale

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

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

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

(3) The proper officer shall cause every bill of sale or copy thereof filed in his office to be numbered and he shall endorse thereon the day, hour and minute of its filing Minutes of registration

and shall enter in alphabetical order in a register kept by him the names of the parties to the bill of sale with their descriptions, the dates of execution and registration of the bill of sale and the amount, if any, of the consideration for which the bill of sale was made.

Affidavit of execution

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

Bill of sale to secure advances

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

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

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

- (e) the terms or substance of the agreement entered into between the parties in respect of the advances;
- (f) a copy of the bill of exchange or promissory note endorsed and of the endorsements;
- (g) the nature and extent of such other liability incurred by the grantee for the grantor; or
- (h) the terms or substance of the agreement in respect of the liability to be incurred by the grantee for the grantor;

and in all cases the affidavit shall state that the bill of sale truly sets forth the extent or amount of the liability incurred or to be incurred and to be secured by the bill of sale.

- (2) The affidavit shall also state that the bill of sale was executed in good faith and for the purpose of securing the grantee,
- (a) repayment of the advances,
 - (b) against loss or damage by reason of the endorsement,
 - (c) against loss or damage by reason of the liability incurred by the grantee for the grantor, or
 - (d) against loss or damage by reason of the liability to be incurred by the grantee for the grantor, under the agreement therefor,

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

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

Bill of sale
to secure a
debt or a
present loan

Affidavit of *bona fides* accompanying other bills of sale

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

Further particulars in affidavit

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

Renewal of bills of sale evidencing mortgages

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

Contents of renewal statement and affidavit

(2) A renewal statement made pursuant to this section shall set out the interest of the mortgagee, his executors, administrators or assigns, in the chattels comprised in the bill of sale, and the amount still owing for principal and interest or the extent or amount of the liability still secured thereby, and shall be accompanied by an affidavit of the mortgagee, his executors, administrators or assigns, or his or their agent, or of

some one of them, stating that the statement is true and that the bill of sale has not been kept in force for any fraudulent purpose.

- (3) A renewal statement made pursuant to this section may be in Form 1 in the Schedule, with such variations as the circumstances may require. Form of renewal statement
- (4) A renewal statement made pursuant to this section accompanied by the affidavit mentioned in subsection (2) shall be registered, Registration of statement and affidavit
- (a) in the office of the proper officer of the registration district in which the bill of sale or copy thereof was registered, as regards the chattels still situate in that registration district, or
- (b) in case of the permanent removal of any of the chattels comprised in the bill of sale and the registration of a certified copy of the bill of sale pursuant to section 16, in the office of the proper officer of the registration district in which the certified copy of the bill of sale was so registered, as regards chattels so removed.
- (5) A further renewal statement accompanied by an affidavit shall likewise be registered in accordance with subsections (2), (3) and (4) of this section within the period of three years from the registration of the first renewal statement, and thereafter within each succeeding period of three years from the registration of the last preceding renewal statement; and failing such registration the bill of sale shall, after the expiration of any such period, become void to the extent provided in subsection (1). Further renewal statement
- (6) Where any mistake is made in a renewal statement defined by this section the mortgagee, his executors, administrators, or assigns, may, after the discovery of the mistake, register an amended statement and affidavit referring to the former statement and clearly pointing out the mistake therein and correcting it. Registration amended renewal statement

Effect of interest intervening before registration of amended renewal statement

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

Renewal of chattels to another registration district

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

Renewal of chattels into the Territory

17. Where chattels subject to a mortgage that was executed at a time when they were situate without the Territory are permanently removed into the Territory, the mortgage shall within thirty days after the grantee has received notice of the place to which the chattels have been removed, be registered as a bill of sale, in the office of the proper officer of the registration district into which the chattels are removed, by filing therein a copy of the mortgage and of all affidavits and documents accompanying or relating to the mortgage proved to be a true copy by the affidavit of some person

who has compared the same with the original; and failing such registration the grantee shall not be permitted to set up any right of property or right of possession in or to the chattels so removed as against creditors and as against subsequent purchasers or mortgagees claiming from or under the grantor in good faith, for valuable consideration and without notice.

18. (1) Except for temporary purposes for a period of not more than twenty days, the grantor shall not remove the chattels comprised in a bill of sale into another registration district unless he has, at least ten days before such removal, given the grantee personally or by registered mail, written notice of the place to which the chattels are to be removed and the approximate time of the intended removal. Buyer to give notice of removal, sale, etc.
- (2) The grantor shall not, prior to the complete performance of the contract, sell, mortgage, charge or otherwise dispose of his interest in chattels comprised in a bill of sale, unless he, or the person to whom he is about to sell, mortgage, charge or otherwise dispose of same, has notified the grantee in writing, personally or by registered mail, of the name and address of such person, not less than ten days before such sale, mortgage, charge, or other disposal. Idem.
- (3) Where the grantor removed chattels comprised in a bill of sale or disposes of his interest in them contrary to the section, the grantee may retake possession of the chattels and deal with them as in case of default in payment of all or part of the purchase price. Grantee may retake possession if notice not given
19. A sale or mortgage or a bill of sale that under this Ordinance is void, or has ceased to be valid, as against creditors, purchasers or mortgagees, is not, by reason of the fact that the grantee has subsequently taken possession of the chattels sold or mortgaged, rendered valid as against persons who became creditors, purchasers or mortgagees before the grantee took possession. Subsequent taking of possession
20. (1) An assignment of a bill of sale need not be registered, but it may be registered by filing the assignment, Registration of assignment

accompanied by an affidavit of an attesting witness of the execution thereof, in any office in which the bill of sale is registered.

Notation of registration of assignment

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

Registration in case of chattels in two registration districts

- (3) Where the chattels comprised in a bill of sale that has been assigned are situate partly in one registration district and partly in another registration district, registration of the assignment may be effected by filing the assignment and affidavit pursuant to subsection (1), in the office of the proper officer in one of such registration districts, and by filing a duplicate original of the assignment and affidavit, or a copy of the assignment and affidavit certified by the proper officer of that registration district in the other registration district and the proper officer in each registration district shall make the like notation of the assignment in the records of his office as is provided by subsection (2).

Discharge of bill of sale evidencing mortgage

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

Notation of registration of discharge

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

- (3) Where the chattels affected by the discharge are situate partly in one registration district and partly in another registration district, registration may be effected either by filing a duplicate or other original of the certificate of discharge and affidavit of execution in the office of the proper officer in each of the registration districts, or by filing the certificate of discharge and affidavit of execution in one of such registration districts and by filing a certificate of the entry of the discharge therein, signed by the proper officer of that registration district, in the other registration district, and the proper officer in each registration district shall make the like notation of the discharge in the records of his office as is provided by subsection (2). Registration in case of chattels in two registration districts
- (4) The proper officer in whose office the certificate of discharge is registered shall on the request of any person furnish him with a certificate of the entry of the discharge in the records of his office. Certificate of entry of discharge
22. (1) Where any registration district is divided or the boundaries thereof are altered or any new registration district is established pursuant to section 3, Procedure on change of boundaries of registration districts
- (a) every bill of sale evidencing a mortgage of chattels that was duly registered in a district affected by any such division, alteration or establishment, at the time when the division, alteration or establishment became effective, shall until it becomes necessary to register a renewal statement in respect thereof continue to be as valid and effectual as if the division, alteration or establishment had not been made;
- (b) on and after the day upon which the division, alteration or establishment becomes effective, the renewal statement required to be registered in respect of any such bill of sale shall be filed with the registration clerk of each district in which the chattels comprised in the bill of sale were situate at the time of the execution thereof, except only in the case of the permanent removal of such goods and chattels into a registration district other

than the one in which they were situate at the time of its execution, in which case the renewal statement shall be registered in the office of the proper officer of the registration district in which the bill of sale is required to be registered pursuant to section 16; and

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

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

Expiry of time on Sunday

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

Proof of execution otherwise than by affidavit

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

thereof with the affidavit of execution otherwise required by this Ordinance.

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

Taking of affidavits

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

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

Affidavits in case of death of grantee

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

Affidavit, etc., on behalf of corporation

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

Affidavit of agent or officer

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

No affidavit of execution by corporation

Rectification of omission and mis-statements

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

Order to be annexed to bill of sale

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

Defects and irregularities

31. No defect or irregularity in the execution or attestation of a bill of sale or renewal statement, no defect, irregularity, or omission in any affidavit accompanying a bill of sale or renewal statement or filed in connection with its registration, and no error of a clerical nature or in an immaterial or non-essential part of a bill of sale or renewal statement shall be held to invalidate or destroy the effect of the bill of sale or renewal statement or the registration thereof, unless in the opinion of the court such defect, irregularity, omission, or error has actually misled some person whose interests are affected by the bill of sale.

Bill of sale of subsequently acquired chattels

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

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

Where Her Majesty is grantee

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

Evidence of records

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

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

Inspection of records

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

Fees

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

- (e) for filing and registering a certificate of discharge, one dollar;
- (f) for any other certificate or registration or discharge or other certificate for purpose of this Ordinance, one dollar;
- (g) for general search, fifty cents;
- (h) for searching for each name, twenty-five cents;
- (i) for the production for inspection of any bill of sale or renewal statement registered under this Ordinance or any former Ordinance relating to bills of sale, twenty-five cents;
- (j) for copy of any document filed under this Ordinance, or any former Ordinance relating to bills of sale, including a certificate every hundred words, ten cents;
- (k) for any other service not herein specifically provided for, such sum as the Commissioner may prescribe.

Alteration
of fees

- (2) The Commissioner may alter the fees provided for by subsection (1).

Territorial
revenue

- (3) The fees received under subsection (1) constitute territorial revenue and shall be paid into and form part of the Yukon Consolidated Revenue Fund.

Application

- 37. (1) Except as provided in this section, this Ordinance applies only to bills of sale executed on or after the commencement of this Ordinance.
- (2) Sections 15 to 17, sections 19 to 21, section 23, sections 25 to 31, and sections 32 to 34 apply, *mutatis mutandis*, in respect of all acts or things to be done under this Ordinance by virtue of the said sections or any of them, to bills of sale executed before the commencement of this Ordinance that were registered

either before or after the commencement of this Ordinance pursuant to any Ordinance for which this Ordinance is substituted, and in respect of which all the requirements of the said Ordinance, including requirements as to renewal, were complied with.

- (3) Nothing in this Ordinance applies to any trust deed or other like instrument to secure bonds, debentures or debenture stock of any corporation executed at any time before the commencement of this Ordinance that was registered pursuant to any Ordinance for which this Ordinance is substituted.

38. The following Ordinances are repealed:

Repeal

- (i) "The Bills of Sale Ordinance", chapter 7 of the Consolidated Ordinance of 1914;
- (ii) "An Ordinance to amend the Bills of Sale Ordinance", chapter 7 of the Ordinances of 1929;
- (iii) "An Ordinance to amend the Bills of Sale Ordinance", chapter 14 of the Ordinances of 1945;
- (iv) "An Ordinance to amend the Bills of Sale Ordinance", chapter 8 of the Ordinances of 1948.

SCHEDULE

FORM 1

(Section 11)

Renewal Statement of Chattel Mortgage.

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

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

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

.....
 Signature of Mortgagee or Assignee

Registration District of

To Wit:

I,, of the
of....., in the.....of
....., the mortgagee named in the bill of
sale mentioned in the foregoing (or annexed) statement (or
assignee of the mortgagee named in the mortgage mention-
ed in the foregoing (or annexed) statement (as the case may
be), make oath and say:

1. That the foregoing (or annexed) statement is true;
2. That the bill of sale mentioned in the said statement
has not been kept in force for any fraudulent purpose.

Sworn before me at.....

in the Registration District of.....

this.....day of....., 19.....

.....

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

FORM 2
(Section 20)

CERTIFICATE OF DISCHARGE

I, _____, of _____,
do certify that _____ has satisfied
all money due, or accruing due on a certain bill of sale made
by _____ to _____, which bill
of sale bears date the _____ day of _____ 19_____,
as No. _____ (here mention the date of registration
of each assignment thereof, and the names of the parties, or
mention that such bill of sale has not been assigned, as the
fact may be); and that I am the person entitled by law to
receive the money, and that such bill of sale is therefore
discharged.

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

(Signature of Mortgagee or Assignee)

Witness:

CHAPTER 7

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING THE DISTRIBUTION
OF ESTATES OF INTESTATES

(Assented to November 20, 1954.)

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

SHORT TITLE

1. This Ordinance may be cited as the *Intestate Succession Ordinance*.

INTERPRETATION

2. In this Ordinance,

	Definitions
(a) "estate" includes both real and personal property; and	"Estate"
(b) "issue" includes all lawful descendants of the ancestor.	"Issue"

DISTRIBUTION

3. (1) Where a person dies intestate leaving a widow and one child, one-half of his estate shall go to the widow.

	Widow's share where widow and child survive intestate
--	---
- (2) Where a person dies intestate leaving a widow and children, one-third of his estate shall go to the widow.

	Widow's share where widow and children survive intestate
--	--
- (3) Where a child of an intestate has died leaving issue and such issue is alive at the date of the intestate's death, the widow shall take the same share of the estate of the intestate as if the child had been living at that date.

	Widow's share where widow and issue of children survive intestate
--	---

Distribution to issue of intestate

4. Where a person dies intestate leaving issue, his estate shall be distributed, subject to the rights of the widow, if any, *per stirpes* among such issue.

Distribution where widow only survives intestate

5. Where a person dies leaving a widow but no issue, his whole estate shall go to his widow.

Distribution to father and mother

6. Where a person dies intestate leaving no widow or issue, his estate shall go to his father and mother in equal shares if both are living, but if either of them is dead the estate shall go to the survivor.

Distribution to brothers, sisters and issue of brothers and sisters

7. Where a person dies intestate leaving no widow or issue or father or mother, his estate shall go to his brothers and sisters in equal shares, and if any brother or sister is dead the children of the deceased brother or sister shall take the share their parent would have taken, if living; but where the only persons entitled are children of deceased brothers and sisters, they shall take *per capita*.

Distribution to next-of-kin

8. Where a person dies intestate leaving no widow, issue, father, mother, brother or sister and no children of any deceased brother or sister, his estate shall go to his next-of-kin.

Distribution among next-of-kin

9. Where the estate goes to the next-of-kin, it shall be distributed equally among the next-of-kin of equal degree of consanguinity to the intestate and those who legally represent them; but in no case shall representation be admitted among collaterals after brothers' and sisters' children.

Degrees of kindred

10. For the purposes of this Ordinance, degrees of kindred shall be computed by counting upward from the intestate to the nearest common ancestor and then downward to the relative; and the kindred of the half-blood shall inherit equally with those of the whole-blood in the same degree.

Descendants and relatives born after intestate's death

11. Descendants and relatives of the intestate, begotten before his death but born thereafter, shall inherit as if they had been born in the lifetime of the intestate and had survived him.

Advanced by portion to child

12. (1) Where a child of a person who has died wholly intestate has been advanced by the intestate by portion,

the portion shall be reckoned, for the purposes of this section only, as part of the estate of the intestate distributable according to law; if the advancement is equal to or greater than the share of the estate that the child would be entitled to receive as above reckoned, the child and his descendants shall be excluded from any share in the estate; but if the advancement is not equal to such share, the child and his descendants shall be entitled to receive so much only of the estate of the intestate as is sufficient to make all the shares of the children in the estate and advancement equal as nearly as can be estimated.

(2) The value of any portion advanced shall be deemed to be that which has been expressed by the intestate or acknowledged by the child in writing, otherwise the value shall be the value of the portion when advanced. Value of portion

(3) The onus of proving that a child has been maintained or educated, or has been given money, with a view to a portion, shall be upon the person so asserting, unless the advancement has been expressed by the intestate, or acknowledged by the child, in writing. Onus of proof

13. All such estate as is not disposed of by will shall be distributed as if the testator had died intestate and had left no other estate. Estate not disposed of by will

14. Illegitimate children and their issue shall inherit from the mother as if the children were legitimate, and shall inherit as if the children were legitimate through the mother, if dead, any estate or portion thereof that she would have taken, if living, by gift, devise or descent from any other person. Illegitimate children

15. Where an intestate, being an illegitimate child, dies leaving no widow or issue, his estate shall go to the mother, if living, and if the mother is dead his estate shall go to the other children of the same mother in equal shares, and if any child is dead the children of the deceased child shall take the share their parent would have taken if living; but where the only persons entitled are children of the deceased children of the mother, they shall take *per capita*. Intestate being an illegitimate child

Distribution
of estate of
intestate
woman

16. The estate of a woman dying intestate shall be distributed in the same proportions and in the same manner as the estate of a man so dying, the word "husband" being substituted for "widow", the word "her" for "his", the word "she" for "he", and the word "her" for "him", where such words respectively occur in sections 3, 4, 5, 6, 7, 8, 11 and 15.

Adultery
of wife

17. (1) Where a wife has left her husband and is living in adultery at the time of his death she shall take no part of her husband's estate.

(2) Where a husband has left his wife and is living in adultery at the time of her death, he shall take no part of his wife's estate.

REPEAL

Repeal

18. The following Ordinances are repealed:

- (i) *The Intestate Succession Ordinance*, chapter 1 of the Ordinances of 1925; and
- (ii) *An Ordinance to amend The Intestate Succession Ordinance*, chapter 1 of the Ordinances of 1932.

COMING INTO FORCE

Coming into
force

19. This Ordinance shall come into force on the day on which the Yukon Act, chapter 53 of the Statutes of 1952-53, comes into force.

CHAPTER 8

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING DISTRESS FOR RENT
AND EXTRAJUDICIAL SEIZURE

(Assented to November 20, 1954.)

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

SHORT TITLE

1. This Ordinance may be cited as the *Distress Ordinance*. Short title

COSTS

2. No person who makes a distress for rent or who is employed to make a distress or to do any act in the course of a distress or to carry a distress into effect shall levy, take or receive costs in respect of the distress other than the costs set forth in Schedule A. Charges for distress

3. No person who makes a seizure under a chattel mortgage, lien note or other extrajudicial process or who is employed to make a seizure or to do any act in the course of a seizure or to carry a seizure into effect shall levy, take or receive costs in respect of the seizure other than the costs set forth in Schedule B. Charges for extra-judicial seizure

4. No person shall charge for any service, work or thing referred to in Schedules A and B unless that service, work or thing has been actually done, made or provided. Work must be done

5. The Commissioner may amend the schedule of fees to this Ordinance from time to time as he sees fit. Amendment of schedule

6. Where costs are charged in respect of a distress or seizure contrary to section 2, 3 or 4, the person against whom such costs are charged may, by notice of motion, Remedy by person who is overcharged

summon the person charging such costs before a Judge and the Judge may order the person charging the costs to pay to the person against whom they were charged any sum not exceeding treble the amount charged together with the costs of the proceedings under this section.

SEIZURES

Seizure under chattel mortgage

7. (1) Chattels shall not be seized under a chattel mortgage by any person other than the Sheriff or a person duly authorized by the Sheriff for that purpose.

Indemnity

(2) The Sheriff or other person authorized by him to make the seizure may, upon being requested to make a seizure under subsection (1), require from a person requesting such seizure

(a) a sufficient sum to cover all fees and disbursements set out in Schedule B, and

(b) indemnification as to damages in an amount considered reasonable under the circumstances by the Sheriff or other person making the seizure.

Right to distrain by vendors and mortgagees of land

8. (1) The rights of a mortgagee or a vendor of land or their assigns, under a mortgage or agreement of sale, to distrain for interest in arrears or principal due upon the mortgage or agreement of sale are, notwithstanding anything to the contrary in the mortgage or agreement of sale or in any other agreement relating to the mortgage or agreement of sale, limited to the goods and chattels of the mortgagor or purchaser or their assigns that are not exempt from seizure under the *Exemptions Ordinance*.

Recovery of rent or rentable value

(2) A mortgagee or vendor of land may make an application in writing to the tenant or other person occupying the land or any part of the land for payment to the mortgagee or vendor of the rent or rentable value of the land or part of the land occupied to the extent of interest or principal due and payable to the mortgagee or vendor by the mortgagor or purchaser under the mortgage or agreement of sale and to the extent of the sums paid by the mortgagee or vendor in respect of taxes, levies and insurance premiums, or in respect

of any prior mortgage or charge upon the land, for which the mortgagor or purchaser is liable.

- (3) Rent or rentable value under subsection (2), whether or not the mortgagor or purchaser has attained, is payable to and recoverable by the mortgagee or vendor from the tenant or other person liable to pay the same or occupying the land or any part thereof by any remedy, proceeding or claim available as between a landlord and his tenant under the *Landlord and Tenant Ordinance*. Method of enforcement
- (4) A second or subsequent mortgagee may exercise the rights conferred by this section only with the consent in writing of all prior mortgagees, or, in the absence of such consent, only where all moneys, other than original principal, due and payable under prior mortgages and all taxes on land are satisfied. Second mortgagees, etc.
- (5) A vendor may exercise the rights conferred by this section only with the consent in writing of all prior mortgagees and vendors, or, in the absence of such consent, only where all moneys, other than original principal, due and payable under prior mortgages and agreements of sale and all taxes on the land are satisfied. Vendors
- (6) No mortgagee or vendor acting under this section is subject to the liabilities of a mortgagee in possession. Not subject to liabilities of mortgagee in possession
- (7) Goods and chattels distrained under this section shall be sold in the same manner as those distrained and sold for rent by a landlord under the *Landlord and Tenant Ordinance*. Sale of goods and chattels
- (8) This section applies to the personal representatives, successors and assigns of a mortgagee or vendor and applies to mortgages and agreements of sale made before as well as after the passing of this Ordinance. Application

REPEAL

9. *An Ordinance respecting Distress for Rent and Extrajudicial Seizure*, chapter 26 of the Consolidated Ordinances, 1914, is repealed. Repeal

SCHEDULE A

Part I

COSTS ON DISTRESS FOR RENT WHERE SUM
DEMANDED AND DUE DOES NOT EXCEED
ONE HUNDRED DOLLARS

- 1. Levying distress \$1.00
- 2. One man keeping possession, per day 5.00
- 3. Printed advertisement (if any) 3.00
- 4. Catalogues, sale and commission and delivery of goods—five cents on the dollar of the net proceeds of the sale.
- 5. Where the amount due is satisfied in whole or in part after seizure and before sale—three cents on the dollar of the amount realized.

Part II

COSTS ON DISTRESS FOR RENT WHERE SUM
DEMANDED AND DUE EXCEEDS
ONE HUNDRED DOLLARS

- 1. Levying distress \$1.50
- 2. One man keeping possession, per day 5.00
- 3. All reasonable and necessary disbursements for advertising.
- 4. Actual expenses reasonably incurred in removing and keeping the goods distrained or part thereof where such removal is necessary.
- 5. Catalogues, sale and commission and delivery of goods—five cents on the dollar of the net proceeds of the sale.
- 6. Where the amount is satisfied in whole or in part, after seizure and before sale—three cents on the dollar of the amount realized.
- 7. For actual mileage necessarily travelled in effecting seizure and return for each of the first ten miles twenty cents per mile, and for each subsequent mile, fifteen cents per mile.

SCHEDULE B

COSTS ON SEIZURE UNDER CHATTEL MORTGAGE
OR OTHER EXTRAJUDICIAL SEIZURE

- | | |
|--|--------|
| 1. Receiving, entering and return | \$.50 |
| 2. Perusal of documents | .50 |
| 3. Warrant to bailiff | .50 |
| 4. Seizure | 1.00 |
| 5. Bond from creditor | .50 |
| 6. Bond from debtor | 1.00 |
| 7. Possession fee | 2.50 |
| 8. Postage | .25 |
| 9. Keeping possession before sale, appraisal, advertising and sale of goods—actual expenses and disbursements. | |
| 10. For actual mileage necessarily travelled and sworn to from the place where the warrant is received or the Sheriff's office (whichever is the closest) to the place of execution in making seizure or sale of goods and return, for each of the first ten miles, twenty cents per mile, and for each subsequent mile, fifteen cents per mile. | |
| 11. Where the sum realized is less than four hundred dollars—two and one-half per cent of the sum realized. | |
| 12. Where the sum realized is more than four hundred dollars—two and one-half per cent on four hundred and one and one-quarter per cent on the balance. | |
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CHAPTER 9

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING HIRE RECEIPTS AND
CONDITIONAL SALE OF GOODS

(*Assented to November 20, 1954.*)

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

SHORT TITLE

- | | |
|--------------------|--|
| Short title | 1. This Ordinance may be cited as the <i>Conditional Sales Ordinance</i> . |
| Definitions | 2. In this Ordinance, |
| "Buyer" | (a) "buyer" means the person who buys or hires the goods covered by a conditional sale, or any legal successor in interest of such person; |
| "Conditional sale" | (b) "conditional sale" means <ul style="list-style-type: none"> (i) any contract for the sale of goods under which possession is or is to be delivered to the buyer and the property in the goods is to vest in him at a subsequent time upon payment of the whole or part of the price or the performance of any other condition, or (ii) any contract for the hiring of goods by which it is agreed that the hirer shall become, or have the option of becoming, the owner of the goods upon full compliance with the terms of the contract; |
| "Goods" | (c) "goods" means all chattels personal other than things in action or money, and includes emblements, industrial growing crops, and things attached to or forming part of the land that are agreed to be severed before sale or under the contract of sale; |

- (d) "proper officer" means the officer with whom bills of sale and chattel mortgages are registered or filed; "Proper officer"
 - (e) "registration district" means a registration district established under the *Bills of Sale Ordinance*; "Registration district"
 - (f) "seller" means the person who sells or lets to hire the goods covered by a conditional sale, or any legal successor in interest of such person. "Seller"
3. (1) After possession of goods has been delivered to a buyer under a conditional sale, every provision contained therein whereby the property in the goods remains in the seller, unless the requirements of this Ordinance are complied with, is void as against subsequent purchasers or mortgagees claiming from or under the buyer in good faith, for valuable consideration and without notice, and as against creditors of the buyer who at the time of becoming creditors have no notice of the provision and who subsequently obtained judgment, execution, or an attaching order, under which the goods, if the property of the buyer, might have been seized; and for the purpose of enforcing the rights of such creditors but not otherwise, is void as against a creditor suing on behalf of himself and other creditors, and as against an assignee for the general benefit of creditors, and as against a trustee under the *Bankruptcy Act*, a receiver of the estate and effects of the buyer, and a liquidator of a company under the *Winding-Up Act* of Canada or under any statute or ordinance for the winding-up of companies, without regard to whether or not the creditor so suing had notice of the provision, and the buyer shall, notwithstanding such provision, be deemed the owner of the goods. Conditional sales
- (2) The provision referred to in subsection (1) shall be evidenced by a writing signed prior to or at the time of, or within ten days after delivery of the goods, by the buyer or his agent, giving a description of the goods

by which they may be readily and easily known and distinguished, and stating the amount unpaid of the purchase price or the terms and conditions of the hiring; and the writing or a true copy thereof shall be filed within twenty days after it has been signed, with the proper officer of the registration district in which the buyer resided at the time of the making of the conditional sale, or, in case his residence is outside the Territory of the district where the goods are delivered.

- (3) Where the buyer resides in one registration district and the goods are delivered to him in another, an original of the writing made pursuant to this section or a true copy thereof shall be filed in the registration district in which the delivery is made as well as in that of the buyer's residence.
 - (4) Where the goods are after delivery removed by the buyer into another registration district, the original of the writing made pursuant to this section or a true copy thereof shall, within twenty days after such removal has come to the knowledge of the seller, be filed in the district into which the goods are removed.
 - (5) Where the goods, having been delivered at a place outside the Territory, are subsequently removed into the Territory by the buyer, the writing made pursuant to this section or a true copy thereof shall be filed in the registration district to which the goods are removed, within twenty days after such removal has come to the knowledge of the seller.
 - (6) Where the buyer is a corporation, the residence of that buyer shall for the purposes of this section be deemed to be at the place where the principal place of business of the corporation in the Territory is situated.
4. (1) Where a writing referred to in section 3 evidencing a conditional sale has been registered the rights of the seller to the chattels comprised in the conditional sale shall, after the expiration of three years from the

Renewal of
writing
evidencing a
conditional
sale

registration of the said writing cease to be valid as against subsequent purchasers and mortgagees claiming from or under the buyer in good faith for valuable consideration and without notice, whose conveyances or mortgages have been duly registered or are valid without registration unless before the expiration of that period a renewal statement is registered in accordance with this section.

- (2) A renewal statement made pursuant to this section shall set out the interest of the seller in the chattels described in the writing evidencing the conditional sale and the amount still owing on the purchase price and interest. Contents of renewal statement

- (3) A renewal statement made pursuant to this section may be in Form 1. Form of renewal statement

- (4) A renewal statement made pursuant to this section shall be registered Registration of renewal statement
 - (a) in the office of the proper officer of the registration district in which the writing evidencing the conditional sale or a copy thereof was registered, as regards the chattels still situate in that registration district; or

 - (b) in case of the permanent removal of any of the chattels comprised in the conditional sale and the registration of a certified copy of the writing evidencing the conditional sale pursuant to section 3, in the office of the proper officer of the registration district in which the certified copy of the writing evidencing the conditional sale was so registered as regards the chattels so removed.

- (5) A further renewal statement shall likewise be registered in accordance with subsections (2), (3) and (4) of this section within the period of three years from the registration of the first renewal statement and thereafter within each succeeding period of three years from the registration of the last renewal statement; Further renewal statement

and failing such registration the conditional sale shall, after the expiration of any such period, cease to be valid to the extent provided in subsection (1).

Registering amended renewal statement

(6) Where any mistake is made in a renewal statement defined by this section the seller may after the discovery of the mistake register an amended statement referring to the former statement and clearly pointing out the mistake therein and correcting it.

Effect of interest intervening before registration of amended renewal statement

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

Sale in course of business

5. Where the goods are delivered to a trader or other person and the seller expressly or impliedly consents that the buyer may resell them in the course of business, and such trader or other person resells the goods in the ordinary course of his business, the property in the goods shall pass to the purchaser notwithstanding the other provisions of this Ordinance.

Copy of contract to be delivered to buyer

6. The seller shall deliver a copy of the writing evidencing a conditional sale to the buyer within twenty days after the execution thereof, and if, after request, he neglects or refuses to do so a judge may, on summary application, make an order for the delivery of such copy.

Index books to be kept

7. (1) The proper officer shall make an entry of every writing that is filed in his office under this Ordinance in an index book to be kept for that purpose.

(2) The Commissioner may by regulation prescribe that separate index books shall be kept by the proper officer

of any registration district for the entries of writings respecting conditional sales of any certain class of goods.

8. An error of a clerical nature or in an immaterial or non-essential part of the copy of the writing, that does not mislead, does not invalidate the filing or destroy the effect of it. Errors

9. (1) The seller shall, within five days after the receipt of a request from any person proposing to purchase the goods or from any actual or intending creditor of the buyer or from any other interested person, accompanied by a sufficient amount in money or postage stamps to pay the postage on a reply by registered letter, furnish particulars of the amount remaining due to the seller and the terms of payment and in default he is liable, on summary conviction, to a fine not exceeding fifty dollars. Seller supplying statement

(2) The person making the request referred to in subsection (1) shall give a name and post office address to which a reply may be sent, and it is sufficient if the information is given by registered letter, postage pre-paid, deposited in a post office within the prescribed time addressed to the name and post office address so given.

10. (1) Except for temporary purposes for a period of not more than twenty days, the buyer shall not remove the goods into another registration district unless he has, at least ten days before such removal, given the seller personally or by registered mail, written notice of the place to which the goods are to be removed and the approximate time of the intended removal. Buyer to give notice of removal, sale, etc.

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

- (3) Where the buyer removes the goods or disposes of his interest in them contrary to this section, the seller may retake possession of the goods and deal with them as in case of default in payment of all or part of the purchase price.

Procedure if
goods are
taken posses-
sion of by
seller

11. (1) Where the seller retakes possession of the goods pursuant to any condition in the contract, he shall retain them for twenty days, and the buyer may redeem the same within that period by paying or tendering to the seller the balance of the contract price, together with the actual costs and expenses of taking and keeping possession, or by performance or tender of performance of the condition upon which the property in the goods is to vest in the buyer and payment of such costs and expenses; and thereupon the seller shall deliver up to the buyer possession of the goods so redeemed.

- (2) Where the goods are not redeemed within the period of twenty days, and subject to the giving of the notice of sale as prescribed by this section, the seller may sell the goods, either by private sale or at public auction, at any time after the expiration of that period.

- (3) Where the price of the goods exceeds thirty dollars and the seller intends to look to the buyer or any person guaranteeing payment of the amount due under the contract for any deficiency on a resale, the goods shall not be resold until after notice in writing of the intention to sell has been given to the buyer and such other person guaranteeing payment of the amount due under the contract.

- (4) The notice referred to in subsection (3) shall contain:

- (a) a brief description of the goods;
- (b) an itemized statement of the balance of the contract price due and the actual costs and expenses of taking and keeping possession up to the time of the notice;

- (c) a demand that the amount as stated in the notice shall be paid on or before a day mentioned, not less than five days from the delivery of the notice, where it is personally delivered, or not less than seven days from the mailing of the notice, where it is sent by mail; and
 - (d) a statement that, unless the amount as stated in the notice is paid within the time mentioned, the goods will be sold either at private sale or advertised and sold by public auction.
- (5) The notice may be given by personal delivery to the buyer or by mailing it by prepaid registered mail addressed to the buyer at his last-known address.
 - (6) The notice may be given during the twenty days mentioned in subsection (1).
 - (7) This section applies notwithstanding any agreement to the contrary.
12. (1) Upon payment or tender of the amount due in respect of the goods or performance of the conditions of sale, and upon written demand delivered personally or by registered mail by the buyer or any other person having an interest in the goods, the seller shall sign and deliver to the person demanding it a memorandum in writing stating that his claims against the goods are satisfied, and such memorandum shall be accompanied by an affidavit of execution of an attesting witness, and may on payment of the prescribed fee be filed. Memorandum
of satisfaction
of seller
- (2) If for ten days after the receipt of the demand mentioned in subsection (1), the seller unreasonably fails to mail or deliver the required memorandum, he is liable for the damages suffered by the person demanding it in consequence of his default.
 - (3) Upon the filing of the memorandum pursuant to subsection (1) the proper officer with whom the writing evidencing the conditional sale agreement or copy thereof is filed under section 3 shall enter satisfaction upon the writing or copy so filed.

Transfer of
property in
goods

13. A valid assignment in writing of a conditional sale transfers the assignor's rights of property in the goods therein comprised, his right of seizure, removal, and sale, and all other rights that he possesses for enforcement of the conditional sale.

Copies of
instrument as
evidence

14. A copy of any instrument filed under this Ordinance, certified by the proper officer, shall be received as *prima facie* evidence of the contents of the original instrument and also as *prima facie* evidence of the execution of the original instrument according to the purport of the copy; and the proper officer's certificate shall be received as *prima facie* evidence of the date and hour of filing.

Fees

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

- (a) for each filing, including stamping original or duplicate, (if any) with filing stamp, seventy-five cents;
- (b) for searching each name, fifty cents;
- (c) for each certificate or abstract of search, one dollar;
- (d) for copies of documents, including certificate thereof, every one hundred words, twenty cents.

(2) The fees mentioned in subsection (1) shall be paid to the Territorial Treasurer and shall form part of the Yukon Consolidated Revenue Fund.

Repeal

16. The following Ordinances are repealed:

- (i) *an Ordinance respecting Hire Receipts and Conditional Sales of Goods*, chapter 42 of the Consolidated Ordinances, 1914;
- (ii) *an Ordinance to amend an Ordinance respecting Hire Receipts and Conditional Sales of Goods*, chapter 15 of the Ordinances of 1945;
- (iii) *an Ordinance to amend an Ordinance respecting Hire Receipts and Conditional Sales of Goods*, chapter 9 of the Ordinances of 1948;
- (iv) *an Ordinance to amend an Ordinance respecting Hire Receipts and Conditional Sales of Goods*, chapter 1 of the Ordinances of 1951 (second session).

SCHEDULE
 FORM 1
 (Section 4 (3))

Renewal Statement of Conditional Sale

Statement setting out the interest of
in the chattels mentioned in the.....
 writing evidencing a conditional sale dated the
 day of....., 19....., made between.....
 of....., of the one part, and.....
 of....., of the other part; and registered in the
 office of.....of the registration district of
on the.....day of....., 19.....,
 and of the amount still owing on the purchase price and
 interest.

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

The amount still owing on the purchase price and interest
 is in the sum of \$.....

.....
 Signature of Mortgagee or Assignee

CHAPTER 10

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING THE CAPACITY,
PROPERTY AND LIABILITIES OF
MARRIED WOMEN

(Assented to November 20, 1954.)

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

Short title 1. This Ordinance may be cited as the *Married Women's Property Ordinance*.

Interpretation 2. In this Ordinance "property" includes a thing in action and any interest in real or personal property.

Capacity and liabilities of married woman 3. Subject to the provisions of this Ordinance, a married woman

- (a) continues to be liable in respect of any tort committed, contract entered into, or debt or obligation incurred by her before her marriage.
- (b) is capable of rendering herself and being rendered liable in respect of any contract, debt or obligation,
- (c) is capable of acquiring, holding and disposing of any property,
- (d) is capable of suing and being sued in tort, contract or otherwise,
- (e) is subject to the enforcement of judgments and orders, and
- (f) is capable of acting in any fiduciary or representative capacity,

in all respects as if she were unmarried.

4. (1) All property that Property of
married
woman
- (a) immediately prior to the coming into force of this Ordinance was the property of a married woman,
 - (b) belongs, at the time of her marriage, to a woman married after the coming into force of this Ordinance, or
 - (c) after the coming into force of this Ordinance is acquired by, or devolves upon, a married woman,
- belongs to her in all respects as if she were unmarried and may be dealt with accordingly.
- (2) Nothing in subsection (1) interferes with or renders inoperative a restriction upon anticipation or alienation attached to the enjoyment of any property and contained in an instrument executed prior to the coming into force of this Ordinance. Saving
provision
- (3) An instrument executed after the coming into force of this Ordinance, in so far as it purports to attach to the enjoyment of property by a married woman a restriction upon anticipation or alienation that could not be attached to the enjoyment of that property by a man, is void. Restrictions
upon antici-
pation
- (4) For the purposes of the provisions of this section relating to restrictions upon anticipation or alienation, When
restriction
deemed to
have been
imposed
- (a) an instrument executed after the coming into force of this Ordinance, attaching such a restriction pursuant to an obligation imposed prior to the coming into force of this Ordinance, is deemed to have been executed prior to the coming into force of this Ordinance;
 - (b) a restriction contained in an instrument made in exercise of a special power of appointment is deemed to be contained in that instrument only and not in the instrument by which the power was created; and

- (c) the will of a testator who dies at any time after three years from the coming into force of this Ordinance is, notwithstanding the actual date of the execution of the will, deemed to have been executed after the coming into force of this Ordinance.

Limitations
on husband's
liability

5. The husband of a married woman is not, by reason only of his being her husband, liable

- (a) in respect of a tort committed by her before or after marriage, or
- (b) in respect of a contract entered into, or a debt or obligation incurred by her before marriage.

Saving
provision

6. Nothing in this Ordinance

- (a) exempts a husband from liability in respect of any contract entered into, or debt or obligation incurred by his wife after marriage in respect of which he would be liable if this Ordinance had not been passed;
- (b) prevents a husband and wife from acquiring, holding or disposing of property jointly or as tenants in common or from rendering themselves or being rendered jointly liable in respect of any tort, contract, debt or obligation, or from suing or being sued in tort, contract or otherwise in like manner as if they were not married; or
- (c) prevents the exercise by a husband and wife of any joint power given to the husband and wife.

Remedies for
protection of
property

7. (1) A married woman has in her own name against all persons, including her husband, the same remedies for the protection and security of her property as if she were unmarried.

Idem.

(2) A married man has against his wife the same remedies for the protection and security of his property as his wife has against him for the protection and security of her property.

(3) Subject to subsections (1) and (2), no husband or wife is entitled to sue the other in tort, except in respect of a tort committed while living apart under a separation agreement or under a decree or order for judicial separation. Actions in tort

8. "An Ordinance respecting the Personal Property of Married Women", chapter 61 of the Consolidated Ordinances, 1914, is repealed. Repeal

9. This Ordinance shall come into force on the day upon which the "Yukon Act", chapter 53 of the statutes of 1952-53, comes into force. Coming into force

CHAPTER 11

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING ARBITRATION

(Assented to November 20, 1954.)

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

SHORT TITLE

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

INTERPRETATION

Definitions 2. (1) In this Ordinance

"Arbitrator" (a) "arbitrator" includes an umpire and a referee in the nature of an arbitrator;

"Award" (b) "award" includes umpirage and a certificate in the nature of an award; and

"Submission" (c) "submission" means a written agreement to submit differences to arbitration, whether or not an arbitrator is named in the agreement.

Rules of Court (2) The Commissioner may make rules of practice and procedure, including tariffs of fees and costs, for the better carrying out of the purposes of this Ordinance and for regulating the practice hereunder, and, until other rules are so made, the *Rules of Court* established under the *Judicature Ordinance* apply *mutatis mutandis*, to all causes, matters and proceedings under this Ordinance.

APPLICATION

Retrospective effect 3. This Ordinance applies to submissions made before as well as after the commencement of this Ordinance.

4. This Ordinance applies to every arbitration under any Ordinance whenever passed as if the arbitration were pursuant to a submission, except in so far as this Ordinance is inconsistent with the Ordinance regulating the arbitration or with rules or procedure authorized or recognized by that Ordinance.

Other Ordinances

REFERENCE BY SUBMISSION

5. (1) Unless a contrary intention is expressed in a submission or a Judge allows a submission to be revoked, a submission is irrevocable and has the same effect as if it had been made an order of a Judge.
- (2) A submission is not revoked by the death of the parties to it or either of them.
6. Where no other mode of reference is provided in a submission, the reference shall be to a single arbitrator.
7. Where the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.
8. (1) Where an arbitrator refuses to act or is incapable of acting or dies, the party by whom he was appointed may appoint an arbitrator in his stead, and this power may be exercised from time to time as vacancies occur.
- (2) Where an umpire refuses to act or is incapable of acting or dies, the arbitrators by whom he was appointed may appoint an umpire in his stead, and this power may be exercised from time to time as vacancies occur.
9. Where the arbitrators have allowed their time or extended time to expire without making an award or have delivered to any party to the submission or to the umpire a notice, in writing, stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.
10. Where a Judge is satisfied upon evidence submitted to him by a party to the submission that an arbitrator or umpire has misconducted himself in the arbitration, the Judge may remove the arbitrator or umpire and may appoint an arbitrator or umpire in his stead.

Submission irrevocable

Effect of death of party

When no other mode expressed

Umpire

Death of arbitrator, etc.

Umpire to act where arbitrators cannot agree

Removal for misconduct

STAY OF PROCEEDINGS

Stay of proceedings

11. Where a party to a submission or a person claiming through or under him commences legal proceedings against any other party to the submission or any person claiming through or under him, in respect of a matter agreed to be referred, a party to such proceedings may, after service upon him of a statement of claim and before he takes any step in the proceedings, apply to a Judge for a stay of proceedings, and the Judge, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission and that the applicant was at the time when the proceedings were commenced ready and willing to do all things necessary to the proper conduct of the arbitration and still remains ready and willing to do so, may make an order staying the legal proceedings.

APPOINTMENT OF ARBITRATOR OR UMPIRE BY A JUDGE

Service of notice in certain cases

12. (1) In any of the following cases

- (a) where a submission provides that the reference is to a single arbitrator and the persons whose concurrence is necessary do not, after differences have arisen, concur in the appointment of an arbitrator,
- (b) where an arbitrator or an umpire is to be appointed by any person and that person does not make the appointment, and
- (c) where an arbitrator or umpire refuses to act or is incapable of acting or dies and the person having the right to appoint a person to fill the vacancy has not made the appointment,

a party may serve the other party or the arbitrators or the person who has the right to make the appointment, as the case may be, with a written notice to concur in the appointment of a single arbitrator or to appoint an arbitrator or umpire.

Appointment by Judge

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

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

POWERS OF ARBITRATORS

13. (1) Unless a submission expresses a contrary intention, an arbitrator or umpire acting under the submission has power Powers
- (a) to administer oaths to the parties and witnesses,
 - (b) to state an award as to the whole or any part thereof in the form of a special case for the opinion of a Judge, and
 - (c) to correct in an award any clerical mistake or error arising from an accidental slip or omission.
- (2) An arbitrator or umpire may at any stage of the proceedings and shall, if so directed by a Judge, state in the form of a special case for the opinion of a Judge any question of law arising in the course of the reference.

WITNESSES AND EVIDENCE

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

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

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

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

Duty of parties

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

Oath

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

Evidence of prisoners

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

Copies

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

AWARDS

Arbitrator's time to make award

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

Umpire's time for making award

22. An umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired or on or before any later

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

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

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

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

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

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

APPEALS

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

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

Evidence

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

Statement by arbitrator in certain cases

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

Setting aside award

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

(a) that an arbitrator or umpire has misconducted himself, or

(b) that an arbitration or an award has been improperly procured,

and the Judge may, in his discretion, dismiss the application or set aside the award.

Production of exhibits

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

Time for appeal

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

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

Costs of appeal

COSTS

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

Costs of reference

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

Costs of orders

FEEES

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

Where fixed by agreement

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

Non-professional arbitrators

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

Professional arbitrators

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

Limit of witness fees

Where no
business done
at meeting

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

(2) The party in default or who has requested a postponement shall where an amount is charged against him under subsection (1) pay the same to the other party, whatever may be the event of the reference, and the arbitrator shall, in the award, make any direction necessary for that purpose and the amount so charged may be set off against and deducted from any amount awarded in his favour.

Taxation
of costs

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

Penalty for
excessive fees

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

(2) The penalty referred to in subsection (1) may be recovered by action before a Judge.

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

Action for fees

VALUATORS

42. (1) A Judge has power to appoint a valuator or an appraiser where it is provided by a written agreement that a valuation or an appraisement shall be made by a valuator or an appraiser.
- (2) A valuator or appraiser appointed under subsection (1) shall have the like powers to make a valuation or appraisement as if he had been appointed by consent of all parties to the agreement.

Appointment

Powers

REPEAL

43. The following Ordinances are repealed:
- (i) *The Arbitration Ordinance*, chapter 4 of the Consolidated Ordinances of 1914; and
- (ii) *An Ordinance to amend The Arbitration Ordinance*, chapter 4 of the Ordinances of 1921, (first session).

Repeal

SCHEDULE A

FEEs CHARGEABLE BY NON-PROFESSIONAL
ARBITRATORS

For every meeting where the reference is not proceeded with but a postponement is made due to the default of a party or at the request of a party,

not less than \$3.00 and not more than \$10.00

For every day's sittings to consist of not less than six hours,

not less than \$10.00 and not more than \$30.00

Where a day's sittings consists of more than six hours, for each additional hour,

not less than \$2.00 and not more than \$5.00

Where a sittings does not extend to six hours, for each hour occupied,

not less than \$2.00 and not more than \$5.00

SCHEDULE B

FEEs CHARGEABLE BY PROFESSIONAL
ARBITRATORS

For every meeting where the reference is not proceeded with but a postponement is made due to the default of a party or at the request of a party,

not less than \$6.00 and not more than \$15.00

For every day's sittings to consist of not less than six hours

not less than \$20.00 and not more than \$60.00

Where a day's sittings consists of more than six hours, for each additional hour,

not less than \$5.00 and not more than \$10.00

Where a sittings does not extend to six hours, for each hour occupied,

not less than \$5.00 and not more than \$10.00

CHAPTER 12

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING THE
PRACTICE OF DENTISTRY

(Assented to November 22, 1954.)

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

SHORT TITLE

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

INTERPRETATION

2. In this Ordinance Definitions
- (a) "Dentist" means a person who is licensed pursuant to this Ordinance to practise dentistry in the Territory; "Dentist"
- (b) "dentistry" means the treatment, advice, service or attendance that is usually rendered or performed by dentists in the practice of their profession and includes the practice of dental surgery; "Dentistry"
- (c) "licence" means a licence to practise dentistry in the Territory issued pursuant to this Ordinance, and "licensed" shall be construed accordingly; and "Licence"
- (d) "register" means the Dental Register. "Register"

REGISTRATION AND LICENSING

3. No person shall practice dentistry in the Territory unless he is licensed pursuant to this Ordinance. Licence required to practise
4. (1) The Territorial Secretary shall keep a register, called the Dental Register, in which shall be entered the name of all persons who are, pursuant to this Ordinance, entitled to be registered in the Dental Register, and licences may be issued to such person. Register of dentists

- (2) Licences issued under this Ordinance expire on the 31st day of March immediately following the day on which such licence came into force.

Qualifications

5. A person who . . .
- (a) is a graduate of a school or college of dentistry in Canada;
 - (b) has been issued a Certificate of Qualification
 - (i) by the Dominion Dental Council of Canada or the National Dental Examining Board of Canada, or
 - (ii) under the seal of a dental college, society or association established in any Province of Canada, stating that he has been duly registered as a practising dentist and has practised as such in a Province of Canada within two years immediately prior to his application for a licence under this Ordinance; or
 - (c) at the time this Ordinance comes into force was entitled by law to practise dentistry in the Territory; and who pays the fees required by this Ordinance, is entitled to be registered in the register.

Fee

6. The fee payable on registration in the register is fifty dollars.

Licence fee

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

- (a) twenty-five dollars, in the case of a person who resides in the Territory, and
- (b) seventy-five dollars, in the case of a person who does not so reside.

Removal of name from register

8. (1) The Territorial Secretary shall remove from the register the name of a person registered therein, who does not on or before the 30th day of June in any year, pay the annual licence fee required by section 6.

- (2) A person whose name is removed from the register pursuant to subsection (1) is not entitled to practise dentistry in the Territory until his name has been restored to the register pursuant to subsection (3). Not entitled to practise until name restored
- (3) A person whose name is removed from the register under subsection (1) is entitled to have his name restored to the register and to receive a licence if he pays a fee of ten dollars in addition to the annual fee required by section 6. Restoration of name

SPECIAL PERMITS

9. The Commissioner may issue a permit to practise dentistry in such parts of the Territory, for such periods of time, upon such terms and conditions and upon payment of such fees as the Commissioner may prescribe, to any person who Special permits

- (a) has completed at least four years' course of study in dentistry at a college or school of dentistry of recognized standing, and
- (b) has received a diploma or certificate of qualification from any such college or school,
- if, in the opinion of the Commissioner, such person is of good character and is qualified from the standpoint of his professional proficiency to practise dentistry; and for the purposes of this Ordinance, a person shall, when practising the profession of dentistry pursuant to this section, be deemed to be licensed.

PRACTICE OF DENTISTRY

10. No person is entitled to receive a fee or remuneration for professional services rendered or materials or appliances provided by him in the practice, of dentistry unless he is licensed under this Ordinance at the time the services are rendered or the materials or appliances are provided. Must be licensed

11. (1) The Commissioner may appoint two or more persons, described in paragraph (a) or (b) of section 5 to act as a Board of Inquiry for the purpose of investigating any complaint made against a person Board of Inquiry

practising as a dentist with respect to an alleged contravention of this Ordinance or any complaint of malpractice or infamous, disgraceful or improper conduct on the part of a person practising as a dentist.

Powers of Board

- (2) A Board of Inquiry appointed pursuant to subsection (1) may make rules and regulations under which the inquiry is to be held and has power
- (a) to summon and bring before it any person whose attendance it considers necessary to enable the Board properly to inquire into the matter complained of;
 - (b) to swear and examine all persons under oath;
 - (c) to compel the production of documents; and
 - (d) to do all things necessary to provide a full and proper inquiry.

Security for Costs

- (3) A Board of Inquiry may direct that the person who made the complaint it is appointed to investigate shall deposit with the Board, as security for the costs of the inquiry and to the person complained against, a sum not exceeding five hundred dollars.

Frivolous and vexatious complaint

- (4) Where the Board of Inquiry finds that a complaint is frivolous or vexatious, it may cause to be paid to the Territorial Treasurer out of the deposit for security mentioned in subsection (3) such portion of the costs of the inquiry and to the person complained against as it deems advisable, and where the Board does not so find or where there is any balance of the deposit remaining, the deposit or balance thereof shall be returned to the person who deposited it.

Quorum

- (5) A majority of the members of a Board of Inquiry is a quorum.

Findings and recommendations

- (6) A Board of Inquiry shall, after investigation of a complaint pursuant to this section, make a finding and shall immediately report its finding to the Commissioner,

and where it finds that the person complained against is guilty of a contravention of this Ordinance or of malpractice or of infamous, disgraceful or improper conduct, may, in its report to the Commissioner, recommend that such person be

- (a) reprimanded;
 - (b) fined in an amount named by the Board, such amount not to exceed five hundred dollars;
 - (c) struck off the register and his licence cancelled; or
 - (d) struck off the register and his licence suspended for a definite period named by the Board.
- (7) The Board of Inquiry shall, at the time it sends its report to the Commissioner pursuant to subsection (6), notify the person complained against of its finding and of the recommendations for punishment, if any, made by it in such report.

Notification
to person
complained
against

(8) Every person who

Offences

- (a) fails, without valid excuse, to attend an inquiry under this section,
 - (b) fails to produce any document, book or paper in his possession or under his control, as required under this section, or
 - (c) at an inquiry under this section
 - (i) refuses to be sworn in or affirm, or to declare, as the case may be, or
 - (ii) refuses to answer any proper question put to him by the Board of Inquiry,
 is guilty of an offence and is liable on summary conviction to a fine not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.
12. (1) A person against whom a finding has been made by a Board of Inquiry may, within thirty days after the finding has been made, appeal from such finding to a Judge.

Appeal to
Judge

Powers of Judge

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

Commissioner powers on recommendation by Board

- 13. (1) Where a dentist has been found guilty of a contravention of this Ordinance or of malpractice or of infamous, disgraceful or improper conduct by a Board of Inquiry and no appeal has been taken from the finding or the time for appeal has expired, the Commissioner shall, after receiving the report from the Board, impose the penalty recommended by it, and
 - (a) in the case of a reprimand, reprimand the dentist in writing and note the reprimand in the register;
 - (b) in the case of a fine, make an order fining the dentist, which order shall be filed in the appropriate court and have the same effect as an order of that court;
 - (c) in the case of a recommendation to strike off the register and cancel his licence, have the name of the dentist struck off the register and cancel his licence; and
 - (d) in the case of a recommendation to strike off the register and suspend his licence, have the name of the dentist struck off the register and suspend his licence for such time as the Board has recommended.

Commissioner to enforce order of Judge

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

Application for reinstatement

14. (1) A dentist whose name has been struck off the register and whose licence has been cancelled or suspended pursuant to section 13 may,

- (a) where he had not taken any appeal from the finding, within one year from the date of the finding of the Board of Inquiry, apply to the Commissioner to have his name restored to the register, or
- (b) where he had appealed from the finding, within one year from the date of an order made under subsection (2) of section 12, apply to a Judge for an order directing the Territorial Secretary to have his name restored to the register.
- (2) The Commissioner or a Judge may, upon application under subsection (1), order the Territorial Secretary to reinstate a dentist on the register and renew his licence and restore his rights and privileges in such manner and upon such conditions as the Commissioner or Judge may decide. Order by Commissioner or Judge
- (3) The Territorial Secretary shall, upon receiving an order under subsection (2) to do so, reinstate a dentist on the register and renew his licence and restore his rights and privileges in such manner and upon such conditions as the order directs. Territorial Secretary to reinstate

OFFENCES AND PENALTIES

15. A person who, not being licensed pursuant to this Ordinance, Person who practise illegally guilty of offence

- (a) practises dentistry;
- (b) wilfully or falsely pretends to be licensed to practise dentistry; or
- (c) purports by public advertisement, card, circular, sign or otherwise, to practise dentistry or in any way leads people to believe that he is qualified to practise dentistry in the Territory,

is guilty of an offence and is liable upon summary conviction therefor to a fine of fifty dollars and for every day on which he commits any such offence he shall be deemed to have committed a separate offence.

Burden of proof

16. In any prosecution for an offence under this Ordinance, the burden of proof as to the right of the defendant to practise dentistry in the Territory is on the defendant.

Limitation of action

17. No prosecution for an offence under this Ordinance shall be instituted after two years from the date the offence was committed.

APPLICATION

Emergency aid may be given

18. Nothing in this Ordinance shall be deemed to prohibit a person giving necessary aid to a person who appears to be in urgent need of aid, if the aid is not given for hire or gain and the giving of such aid is not made a business or means of gaining a livelihood.

Federal Government employees excepted

19. Nothing in this Ordinance applies to a person who practises dentistry in the Territory in the course of his duties as an employee of the Government of Canada, unless he practises dentistry on his own behalf in the Territory outside the course of his duties as an employee of the said Government.

DENTAL HYGIENISTS

Register of dental hygienists

20. The Territorial Secretary shall keep a register of dental hygienists in which he may, upon application, enter the name of any person qualified to practise as a dental hygienist by training at a recognized school or college of dentistry or dental hygiene.

Saving

21. No dental hygienist registered under section 20 is guilty of an offence for anything done by him in practising as a dental hygienist.

Prohibition

22. No person shall practise as a dental hygienist unless he is registered as a dental hygienist or licensed as a dentist pursuant to this Ordinance.

Regulations

23. The Commissioner may make regulations
(a) providing for the delegation to dental hygienists of the performance, under the direct control and supervision of a dentist, of the services of cleaning and polishing

teeth and the giving of instructions and demonstrations in oral hygiene and mouth care and other specific dental duties of a minor nature ;

- (b) prescribing the admission and annual fees payable by dental hygienists ; and
- (c) generally for defining, regulating and controlling the practice of dental hygiene.

24. A person who violates section 22 or a regulation is guilty of an offence and liable on summary conviction to a fine of fifty dollars and for every day on which he commits any such offence he shall be deemed to have committed a separate offence. Offences and penalties

REPEAL

25. The following Ordinances are repealed:

Repeal

- (i) the *Dental Profession Ordinance*, Chapter 15 of the Ordinances of 1952 (first session); and
- (ii) *An Ordinance to amend the Dental Profession Ordinance*, Chapter 7 of the Ordinances of 1952, (second session).

CHAPTER 13

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING THE
ADOPTION OF CHILDREN

(Assented to November 20, 1954.)

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

SHORT TITLE

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

INTERPRETATION

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

APPLICATION

Application 3. This Ordinance does not apply in respect of an applicant for adoption pending when this Ordinance comes into force.

ADOPTION

By husband and wife 4. (1) A husband and wife each of whom is over the age of twenty-five years may apply jointly to a judge for leave to adopt an unmarried minor as their child.

By widow or widower (2) A widow or widower over the age of twenty-five years may apply to a Judge for leave to adopt an unmarried minor as his or her child if such unmarried minor was living in the home of the applicant preceding the date of death of the husband or wife of the applicant, as the case may be, but if the unmarried minor was not living in the home of the applicant prior to the death of the husband or wife of the applicant, then the applicant

may only apply for leave to adopt an unmarried minor of the same sex as the applicant and who has attained the age of at least eight years and has been maintained for at least two years in the applicant's home as a member thereof.

- (3) A single person over the age of twenty-five years may apply to a Judge for leave to adopt an unmarried minor as his or her child if the unmarried minor is of the same sex as the applicant and has attained the age of at least eight years, and has been maintained for at least two years in the applicant's home as a member thereof. Single person
- (4) A Judge may, where by reason of blood relationship or other special circumstances he considers it to be in the best interests of the unmarried minor sought to be adopted, permit an application for adoption to be made in any case not otherwise provided for in this Ordinance. Other cases
5. (1) Every application under section 4 shall be in writing and shall contain Form of application
- (a) the name, age and sex of the applicant;
 - (b) the religious affiliation of the applicant;
 - (c) the average yearly income of the applicant for the preceding five years;
 - (d) the reason for making the application;
 - (e) the name, age, sex and religious affiliation of the unmarried minor; and
 - (f) a statement that the applicant has lived in the Territory for a period of one year immediately preceding the date of the application.
- (2) A health certificate from a duly qualified medical practitioner stating that he has examined the physical and mental condition of the applicant and is of opinion Health Certificate

that the applicant is not a mental defective and is not suffering from mental illness nor from a communicable disease shall accompany the application.

Proof of marriage or death

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

Consent of child

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

Consent of parents, etc.

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

Consenting person not debarred

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

Where consent not required

8. The consent of an unmarried minor under section 6 or of any of the persons named in section 7 is not required where
- (a) such person has been certified or found to be a mentally defective or mentally ill person;
 - (b) the parents or guardian of the unmarried minor, as the case may be, are deceased or have deserted him;

- (c) the unmarried minor has been in the home of the applicant for more than seven years and his parents or guardian have not in that time maintained him; or
- (d) the Judge for reasons that appear to him sufficient dispenses with such consent.
9. (1) Upon receipt of the application the Judge shall cause an inquiry to be made into the suitability of the applicant and the history of the unmarried minor and, if satisfied, may make an order for the adoption of the unmarried minor. Order for adoption
- (2) An order under subsection (1) has the effect of Effect
- (a) divesting the natural parent, guardian or person in whose custody the unmarried minor has been, of all legal rights in respect of him and freeing such person from all legal obligations and duties as to the maintenance of the unmarried minor;
- (b) making the unmarried minor, for the purposes of the custody of the person and rights of obedience, to all intents and purposes the child of the adopting parent; and
- (c) giving the unmarried minor the same right to any claim for nurture, maintenance and education upon his adopting parent as he would have had were the adopting parent his natural parent.
- (3) In and by the adoption order the Judge may in his discretion give to the adopted child the surname of his adopting parent and change his Christian name or names, giving the child such Christian name or names as the adopting parent may desire, and in such event the child is thenceforth entitled to be known by the surname of the adopting parent and the Christian name or names so given. Name
- (4) The fact that the child was born out of wedlock shall in no case appear upon the adoption order. Born out of wedlock

Appeal and review

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

Copies to be sent to Registrar

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

Attendance at hearing

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

Religion

11. No adoption order shall be made unless the religion of the child is the same as that of the applicant or one of the applicants or unless the person whose consent is required under sections 6 and 7 has requested otherwise in writing.

Receipt of consideration

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

Right of succession to property

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

Succession of deceased adopted child

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

Retention of right to inherit from natural parents

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

Use of word "child"

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

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

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

REGULATIONS

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

REPEAL

18. The following Ordinances are repealed: Repeal
- (i) the *Adoption of Infants Ordinance*, chapter 8 of the Ordinances of 1942; and
 - (ii) *An Ordinance to amend the Adoption of Infants Ordinance*, chapter 16 of the Ordinances of 1945.

CHAPTER 14

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING
THE LIENS OF WOODMEN

(Assented to November 20, 1954.)

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

SHORT TITLE

- Short title 1. This Ordinance may be cited as the *Woodmen's Lien Ordinance*.

INTERPRETATION

- Definitions 2. In this Ordinance
- "Defendant" (a) "defendant" means the person liable or alleged to be liable to a claim for a lien under this Ordinance;
- "Labour" (b) "labour" includes cutting, skidding, felling, hauling, scaling, robbing, banking, piling, driving, running, rafting or booming logs or timber and any work done by cooks, blacksmiths, artisans and others usually employed in connection therewith, and
- "Logs or timber" (c) "logs or timber" includes logs, timber, piles, telegraph poles, railway ties, pulpwood, shingle bolts, staves, fence posts and cordwood.

CREATION AND EFFECT OF LIEN

- Contracts where rights under this Ordinance are waived are void 3 (1) Every agreement entered into on the part of a workman; servant, labourer, mechanic or any other person employed in any kind of manual labour that this Ordinance shall not apply or that the remedies provided by it shall not be available for the benefit of any person entering into such agreement is null and void as against the workman, servant, labourer, mechanic or other person.

(2) This section does not apply to a manager, officer, foreman or other person whose wages are more than ten dollars a day exclusive of board and lodgings. Non-application

4. Every person who performs labour in connection with logs or timber has a lien thereon and on all lumber manufactured therefrom for the amount due for the labour, and such lien is a first charge on the logs or timber or lumber and has priority over all other claims or liens thereon except a lien or claim which a timber slide company, or owner of slides and booms may have thereon for or in respect of tolls. Labourer has lien on logs

REGISTRATION OF LIEN

5. (1) The lien provided for in section 4 expires sixty days after the last day of labour in respect of which the lien exists is performed unless a statement of claim in writing verified by the affidavit of the person claiming the lien or someone duly authorized on his behalf is filed as provided in subsection (2). Statement in writing must be filed

(2) A statement of claim shall be filed in the office of the Clerk of the Court. Where claim to be filed

6. The statement of claim shall be in Form A and shall set out briefly What statement to contain

- (a) the nature of the debt, demand or claim;
- (b) the amount due to the claimant as near as may be, over and above any legal set-off or counterclaim; and
- (c) a description of the logs or timber or lumber upon or against which the lien is claimed.

7. No mortgage, sale or transfer of the logs or timber upon which a lien is claimed under this Ordinance during the time limited for the filing of the statement of claim and previous to the filing thereof, or after the filing thereof and during the time limited for the enforcement thereof, affects the lien, but it remains in force against the logs or timber or lumber in whosoever possession the same may be found. Lien not affected by mortgage, sale etc.

ENFORCEMENT OF LIEN

8. (1) Any person who has a lien upon or against logs or timber or lumber under this Ordinance may enforce it by action in the Court. Lien enforceable in Court

When proceedings may be commenced

(2) Proceedings under this Ordinance may be commenced by writ of summons to enforce the lien if the amount claimed is due immediately after the statement of claim and affidavit have been filed in accordance with section 5, or, where credit was given, immediately after the expiry of the period of credit.

Lien expires unless proceedings commenced within 30 days

(3) The lien expires unless proceedings to enforce it are commenced within thirty days after the date upon which the statement of claim and affidavit were filed or, where credit was given, within thirty days after the date upon which the period of credit expires.

Statement of claim to be attached to writ of summons

9. Where proceedings have been commenced pursuant to section 8, there shall be attached to or indorsed upon the writ of summons a copy of the statement of claim, and no other statement of claim is necessary unless ordered by the Judge before whom proceedings are taken.

Judge may dispose of matter summarily

10. (1) The Judge before whom proceedings are taken to enforce a lien under this Ordinance may, upon such terms as to notice and otherwise as he deems fit, order that the proceedings be disposed of summarily by him in chambers without waiting for the regular sittings of the Court.

Judge may decide application to set aside

(2) The Judge before whom proceedings are taken may also entertain in chambers an application to set aside a writ of summons or attachment to release logs or timber or lumber seized and may summarily dispose of the application.

Under what circumstances attachment to issue

11. Upon the filing of a copy of the statement of claim and an affidavit verifying such statement, and an affidavit made and sworn to by the claimant of the amount of the claim due and owing, showing that the statement of claim and affidavit verifying it have been filed as provided by this Ordinance and stating

- (a) that he has good reason to believe, and does believe, that the logs or timber are about to be removed out of the Territory, or
- (b) that the person indebted for the amount of the lien has absconded or is about to abscond from the Territory with intent to defraud or defeat his creditors, or

- (c) that the logs or timber are about to be cut into lumber or timber or otherwise dealt with so that the same cannot be identified, and
- (d) that he is in danger of losing his claim if an attachment does not issue,

and an affidavit corroborating the affidavit of the plaintiff in respect of paragraph (a), (b) or (c) is also filed, the Clerk of the Court shall issue a writ of attachment directed to the Sheriff commanding him to attach, seize and safely keep the logs or timber, or such portion of them as may be necessary to satisfy the amount claimed and the costs of the suit and of proceedings to enforce the lien and to return the writ forthwith to the Court.

12. Where additional claims are made or the amount of claim is increased or a sufficient seizure has not been made, a subsequent seizure may be made.

13. (1) Where no writ of summons has issued, the writ of attachment shall summon the defendant to appear before the Court and a copy of the writ of attachment shall be served upon the defendant; if the defendant is not the owner of the logs or timber or lumber described in the writ of attachment, a copy of the writ shall also be served upon the owner of the logs or timber or lumber or upon the agent or person in whose possession, custody, or control for the owner they may be found.

(2) The owner may on his own application or by the direction of a Judge be made a defendant.

(3) A copy of the statement of claim shall be attached to the copy of the writ of attachment and served with it.

14. Where the defendant or owner cannot be found within the Territory or the owner cannot be ascertained and no agent or person is in possession for the owner, a writ of attachment under this Ordinance may be served in such manner as the Judge by order directs.

15. Where service upon the defendant or owner has not been personal the Judge, notwithstanding that a defence has not been entered, may at any time before the close of the

proceedings admit the defendant and the owner or either of them to make full defence upon such terms as he deems just.

No seizure when in transit

16. (1) Except where logs or timber or lumber are in the possession of any person for the purpose of being driven or sorted or delivered to the owners, or to satisfy any statutory lien, the Sheriff shall not seize or detain any logs, timber or lumber under this Ordinance when in transit from the place where the same were cut to the place of destination if the place of destination is within the Territory.

Service may be made on persons holding logs

(2) When logs or timber or lumber are in the possession of a person for any purpose mentioned in subsection (1), attachment of such logs or timber or lumber may be made by serving a copy of the writ of attachment upon the person driving or holding them, and from the time of the service such person shall be deemed to hold the logs or timber or lumber both on his own behalf and for the Sheriff to the extent of the lien, until the logs or timber or lumber can be driven and sorted out.

Sheriff may receive logs when sorted out

(3) When the logs or timber or lumber possessed by a person for any purpose mentioned in subsection (1) are driven or sorted out, the Sheriff may receive the same from such person, and the statutory lien of the person is not released by the holding of the Sheriff or his agents.

Logs to be released if bond furnished

17. When a writ of attachment is issued, if the owner of the logs or timber or lumber or any person in his behalf executes and files with the Clerk of the Court a good and sufficient bond to the person claiming the lien executed by two sureties and conditioned for the payment of the claim and for all damages, costs, charges, disbursements and expenses that may be recovered by the claimant in such proceedings together with the amount for which any other lien is claimed in any other suit, the Clerk shall, if he is satisfied as to the sufficiency of the bond, issue an order to the Sheriff directing the release of the logs, timber or lumber and upon service of the order upon him the Sheriff shall release them.

18. Any person who is served with a copy of the writ of attachment and who desires to dispute the claim shall within twenty days after service enter in the Court a notice that he disputes the claim upon the lien in whole or in part.

Dispute to be filed

19. (1) The defendant may at any time after service of a writ of summons or attachment and before the sale of the logs or timber or lumber pay into Court the amount for which the lien is claimed together with the amount for which any other lien is claimed and the costs of the proceedings to the date of such payment, as taxed by the Clerk of the Court if so required.

Defendant may pay into Court

(2) Upon the certificate mentioned in subsection (1) being filed in the office of the Clerk of the Court, the lien or liens are vacated and all further proceedings thereon shall cease and the person making payment is entitled to a certificate vacating the lien and to an order directing the delivery up of the logs or timber or lumber seized under the attachment or the cancellation of any bond given under section 17.

Effect of payment into Court

20. After the expiration of the time within which notice of dispute may be entered the Judge shall, in chambers as provided by section 10 or at the next sitting of the Court, after due notice to all parties to the proceedings and to all persons claiming liens on the logs or timber or lumber and whose liens are filed pursuant to this Ordinance or to their solicitors hear all such parties and claimants and take all accounts necessary to determine the amounts, if any, due to them or any of them or to any other holders of liens who may be called by the Judge to prove their liens and shall tax costs and determine by whom such costs shall be payable and settle their priorities and generally determine all matters necessary for the adjustment of the rights of all parties.

Judge to summon all interested persons

21. At the conclusion of the inquiry the Judge shall make his report and order which shall state his findings and direct payment into Court of the amounts, if any, found due and the costs within ten days thereafter, and in default of payment that the logs or timber or lumber be sold by the Sheriff within twenty days after the default for the satisfaction of the amounts found due to the several parties upon the inquiry and costs.

Judge to make report and order payment into Court

How logs to be sold in default of payment

22. (1) When the Sheriff is ordered to sell logs or timber or lumber pursuant to section 21, he shall do so in the manner and subject to the same provisions of law as goods and chattels seized or taken in execution unless the Judge directs that additional publicity be given to the sale; and the amount realized by the sale shall, after deducting the expenses thereof payable to the Sheriff, be paid into Court and shall upon the application of the several parties found to be entitled thereto under the order of the Judge be paid out to them by the Clerk of the Court.

Where amount realized not sufficient, apportionment to be *pro rata*

(2) Where the amount realized upon a sale under subsection (1) is not sufficient to pay the claims in full and costs, the Judge shall apportion the amount realized *pro rata* among the different claimants.

If balance still due execution may issue

23. Where after the sale and distribution of the proceeds thereof any balance remains due to any person under the order made pursuant to section 21, judgment may be entered therefor against the person or persons by whom the claim was directed to be paid and execution may be issued thereupon as in the case of other judgments in the Court.

Lien may be discharged where nothing found due

24. Where nothing is found due upon a claim filed under this Ordinance or upon any lien in respect of which proceedings have been taken the Judge before whom the proceedings are taken may direct that the lien be discharged and the logs or timber or lumber be released or the security given therefor be delivered up and cancelled and he shall also direct payment forthwith of any costs which are found due to the defendant or owner of the logs or timber or lumber.

Surplus of sale to be paid to party entitled

25. Where more money is paid into Court as the proceeds of the sale of logs or timber or lumber than is required to satisfy the liens which have been proved and the interest and costs, the remaining money shall be paid over to the party entitled to it.

Application to Judge to dismiss proceedings

26. Any person affected by proceedings under this Ordinance may apply to the Judge before whom the proceedings are taken to dismiss the proceedings for want of prosecution and the Judge may upon such application make such order as to costs or otherwise as he deems just.

27. The Judge before whom proceedings are taken may at any stage of the proceedings on the application of any party, or as he sees fit, order that any person who is deemed a necessary party to the proceedings be added as a party thereto or be served with any process or notice provided for by this Ordinance; and the Judge may make such order as to the costs of adding such person or as to such service as he deems just.

Other parties may be added

28. Where proceedings are taken to enforce a lien but no lien is found to exist, judgment may be directed for any amount found due as in an ordinary case.

Where no lien exists judgment may be given as in ordinary case

29. Nothing in this Ordinance disentitles a person to any other remedy provided by any other law for the recovery of any amount due in respect of labour or any part thereof performed upon or in connection with logs or timber.

Other remedies not barred

30. Any number of lienholders may join in taking proceedings under this Ordinance or may assign their claims to any one or more persons, but in such case the statement of claim shall include a particular statement of the claim of every person so joining and shall be verified by the affidavit of such person or separate statements of claim may be filed and verified and one writ of attachment issued on behalf of all such persons.

Lien holders may join in action

31. Where more than one suit is commenced under this Ordinance in respect of the same logs or timber or lumber, any defendant may apply to have the suits consolidated, and any defendant who causes additional costs by failure to apply for or assist in such consolidation is liable for such costs.

Defendant may have suits consolidated

32. Where no proceedings have been commenced to enforce a lien under this Ordinance the Clerk of the Court shall, upon request by any person affected thereby, furnish a certificate in Form B.

Where no proceedings, Clerk to issue certificate

33. The practice and procedure regulating actions in the Territorial Court of the Yukon Territory shall, so far as not inconsistent with this Ordinance, regulate proceedings under this Ordinance.

Procedure to be that of Territorial Court

TRANSITIONAL

Transitional 34. Where a lien has been filed under the *Woodman's Lien Ordinance*, chapter 53 of the Consolidated Ordinances, 1914, and no further proceedings have been taken but the thirty days mentioned in section 7 of the said Ordinance have not expired, proceedings for enforcement of the lien may be taken under this Ordinance at any time before the expiration of the thirty days.

REPEAL

Repeal 35. The following Ordinances are repealed:

- (i) *The Woodman's Lien Ordinance*, chapter 53 of the Consolidated Ordinances, 1914;
- (ii) An Ordinance to amend the *Woodman's Lien Ordinance*, chapter 18 of the Ordinances of 1945; and
- (iii) An Ordinance to amend the *Woodman's Lien Ordinance*, chapter 15 of the Ordinances of 1948.

SCHEDULE
FORM A
(Section 6)

STATEMENT OF CLAIM OF LIEN

A.B., (name of claimant), of (here state residence of claimant), (if claim made as assignee then say as assignee of, stating name and address of assignor) under the *Woodmen's Lien Ordinance* claims a lien upon certain logs, timber or lumber of (here state the name and residence, if known, of the owner of the logs, timber or lumber upon which the lien is claimed) composed of (state the kind of logs, timber or lumber such as spruce, tamarack or other logs, ties, poles, posts, etc., also where situate at the time of filing of statement), in respect of the following labour, that is to say (here give a short description of the labour for which the lien is claimed) which labour was performed for (here state the name and residence of the person upon whose credit the labour was performed) between the _____ day of _____, 19____, and the _____ day of _____, 19____, at _____ per day (or month or quantity).

The amount claimed as due (or to become due) is the sum of _____. (when credit has been given add: The said labour was performed on credit and the period of credit will expire on the _____ day of _____, 19____).

.....
Signature of Claimant

AFFIDAVIT TO BE ATTACHED TO
STATEMENT OF CLAIM

I, _____, make oath and say that I have read (or have heard read) the foregoing statement of claim and I say that the facts set forth therein are to the best of my knowledge and belief true and the amount claimed to be due to me in respect of my lien is the just and true amount due and owing to me after giving credit for all sums of money, goods or merchandise to which the said (naming the debtor) is entitled to credit as against me.

<p>..... (Signature of Claimant)</p>	}	<p>Sworn before me at in the this day of , 19 Commissioner for Oaths (or as the case may be)</p>
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FORM B
(Section 33)

CERTIFICATE

In the matter of the statement of claim of lien filed on the _____ day of _____, 19____, by (name of claimant) of (here state residence of claimant) under the *Woodmen's Lien Ordinance*, claiming a lien upon certain logs, timber or lumber of (here state name and residence of the owner of the logs, timber or lumber) of (here state name and residence of the owner of the logs, timber or lumber as set forth in the statement of claim of lien):

I certify that no proceedings have been commenced in the Territorial Court of the Yukon Territory for the enforcement of the said lien.

Dated at _____ in the Yukon Territory,
this _____ day of _____, 19____.

Clerk of the Territorial Court..

CHAPTER 15

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING
THE DRIVING OF SAW LOGS AND OTHER TIMBER
ON LAKES, RIVERS, CREEKS AND STREAMS

(Assented to November 20, 1954.)

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

SHORT TITLE

Short Title 1. This Ordinance may be cited as the *Saw Logs Driving Ordinance*.

INTERPRETATION

Definitions 2. In this Ordinance

“Logs” (a) “logs” includes saw logs, timber, posts, ties, cordwood and other parts of trees;

“Water” (b) “water” means lakes, ponds, rivers, creeks, and streams in the Territory.

LIENS

Persons floating logs in river, etc., not to obstruct floating or navigation 3. Any person putting or causing to be put logs into any water for the purpose of floating them in, upon or down the water, shall make all reasonable endeavours and put on a sufficient force of men to break jams of the logs and clear them from the banks and shores with reasonable despatch, and run and drive them so as not to delay or hinder unnecessarily the removal, floating, running or driving of other logs, or to obstruct unnecessarily the floating or navigation of the water.

In case of neglect person obstructed may clear river, etc. 4. (1) Where any person neglects to comply with section 3, any other person who desires to float, run or drive

logs in, upon or down water and whose logs would, because of such neglect, be obstructed may break jams of the first mentioned person's logs, clear that person's logs from banks and shores and float, run and drive them in, upon or down the water.

- (2) A person who acts pursuant to subsection (1) shall do so with reasonable economy and despatch and shall take care not to leave logs on banks or shores.

Person clearing obstruction to use due care

5. A person who acts pursuant to section 4 has a lien upon the logs for the reasonable charges and expenses of breaking the jams and the clearing, floating, running, driving, booming and keeping possession of the logs, and may take and keep possession of them or so much thereof as may be reasonably necessary to satisfy the amount of such charges and expenses pending a decision by arbitration.

Person clearing obstruction has lien for expenses

6. When logs of any person upon or in water or the banks or shores of water are so intermixed with logs of another person that they cannot be conveniently separated for the purposes of being floated in, upon or down the water, each person who owns or controls part of the intermixed logs shall make adequate provisions, and put on a fair proportion of the men required to break jams of such intermixed logs, and to clear them from the banks and shores with reasonable despatch, and to float, run and drive them in, upon and down the water, and the costs and expenses thereof shall be borne by the parties in such proportions as they may agree upon, and in default of agreement as may be determined by arbitration.

Provision when logs of several owners cannot conveniently be separated

7. (1) Where any person whose logs are intermixed with those of any other person neglects to comply with section 6, the other person may put on a sufficient number of men to do the things neglected and may break jams of intermixed logs, and clear the logs from the banks and shores of such water, and float, run and drive them in, upon and down the water.

Provision when owner of any portion of logs in default

- (2) A person who acts pursuant to subsection (1) shall do so with reasonable economy and despatch, and shall take reasonable care not to leave logs on the banks or shores.

Person acting under this section to employ due economy

Lien on logs

8. A person who does any act under section 7 has a lien upon the logs owned or controlled by the person guilty of the neglect mentioned in that section for a fair proportion of the charges and expenses of breaking the jams, and clearing, floating, running, driving, booming and keeping possession of the intermixed logs, and he may take and keep possession of the logs, or so much thereof as may be reasonably necessary to satisfy the amount of such fair proportion of charges and expenses, pending a decision by arbitration.

Separation of logs

9. When logs of any person, upon or in water, or the banks or shores of water, are intermixed with logs of another person, any person whose logs are intermixed may, at any time during the drive, require his logs to be separated from the other logs at some suitable and convenient place, and after such separation he shall secure them at his own cost and expense, in such manner as to allow free passage for the other logs, but when any logs so intermixed reach their place of original destination, if known, they shall be separated from the other logs, and after such separation the owner shall secure them at his own cost and expense.

Proviso

Expenses of separation to be shared

10. Each person who owns or controls part of the intermixed logs shall make adequate provisions and put on a fair proportion of the men required to make a separation of such logs, and the cost and expense of such separation shall be borne by the parties in such proportions as they may agree upon, and in default of agreement, as may be determined by arbitration.

Provision when owner does not provide for his share of the work

11. Where any person whose logs are intermixed with those of any other person neglects to comply with section 9 when a separation is made, the other person may put on a sufficient number of men to do the things neglected, and the logs owned or controlled by the person guilty of such neglect are, in such a case, subject to a lien in favour of the person who so puts on the men for a fair proportion of the charges and expenses of making the separation, and for the reasonable charges and expenses of booming and keeping possession, and such person may take and keep possession of the logs, or so much thereof as may be reasonably necessary to satisfy the amount of such fair proportion of charges and expenses, pending a decision by arbitration.

- 12. (1) A person who takes possession of logs under section 5, 8 or 11 shall use all reasonable care not to take such logs beyond the place of their original destination, if known, but may securely boom and keep possession of them at or above such place. Person who takes possession of logs under this Ordinance to use reasonable care not to take logs beyond destination
- (2) A person who has a lien under section 5, 8 or 11 shall forthwith notify the owner or the person who controls the logs, if known, of the whereabouts of the logs and if satisfactory security be given in accordance with subsection (3), for the amount of charges and expenses, or a proper proportion thereof, due by such owner or person, possession of the logs shall be given up to him. Lienholder to notify owner of logs
- (3) The security referred to in subsection (2) may be by bond in Form A or by deposit of money or in such other way as the parties may agree upon. Form of security

13. Where a person under the assumed authority of this Ordinance and without just cause takes possession of or detains logs of another person, or, after refusing reasonable security, detains such logs, or has through want of reasonable care left logs of another person on banks or shores, or has taken logs of another person beyond the place of their original destination, he is liable to damages as determined by arbitration. Damages where person has wrongfully detained logs or refused security

14. A lien given by this Ordinance is subject to any lien of any person for tolls or dues, for the use of any works or improvements made use of in running or driving logs. Lien under this Ordinance subject to lien for tolls

ARBITRATION

15. Claims, disputes and differences arising under this Ordinance shall be determined by arbitration and not by action. Disputes to be settled by arbitration

- 16. (1) A person who claims Appointment of arbitrators
 - (a) that another person has not complied with the provisions of this Ordinance,
 - (b) payment of any charges or expenses under this Ordinance,

(c) a lien upon any logs, or

(d) damages under section 13, shall give to such other person notice in writing, stating the substance of the claim made, and appointing an arbitrator, and calling upon such other person to appoint an arbitrator within ten days after the service of the notice.

(2) If a person who receives a notice under subsection (1) does not within ten days appoint an arbitrator, the person who gave the notice may apply to a Judge to appoint a second arbitrator, and the Judge shall appoint such arbitrator.

(3) The two arbitrators appointed under this section shall, within ten days after the appointment of the second arbitrator, appoint a third, and if they do not do so either party may apply to a Judge to appoint the third arbitrator, and the Judge shall appoint such arbitrator.

Parties may agree to have only one arbitrator

17. The parties may agree that the arbitration shall be by one arbitrator instead of by three, and they may either agree upon the arbitrator or may apply to a Judge to appoint one and such arbitrator shall have all the powers given under this Ordinance to arbitrators.

Counterclaim

18. A person upon whom a notice is served under section 16 may at any time before arbitration, or with leave of the arbitrators, during the arbitration, give the claimant notice in writing by way of counterclaim, stating the substance of any claim arising under this Ordinance which such person may have against the claimant and such counterclaim shall be determined in the arbitration and an award made in respect of it.

Sale by person having lien

19. (1) Where the award of the arbitrators is in favour of a person who has a lien on logs under this Ordinance such person may sell the logs in the manner, time and place determined by the arbitrators.

How money from sale apportioned

(2) Money received from a sale pursuant to subsection (1) shall be expended first in payment of the charges

and expenses connected with the sale, then in satisfaction of the amount owing on the lien and costs of arbitration and the balance, if any, shall be transmitted to the owner of the logs.

20. A claim arising under this Ordinance is barred unless commenced under section 16 or by counterclaim under section 18 within one year after it arises. Limitations

EXEMPTION

21. (1) The Commissioner may declare that any part of the Territory or any water therein is exempt from the operation of this Ordinance, and thereupon such part or water shall be exempt. Commissioner may exempt part of Territory from Ordinance

(2) The Commissioner may again bring within the operation of this Ordinance any part of the Territory or water exempted from its operation pursuant to subsection (1). Territory exempt may be again brought under Ordinance

REPEAL

22. *The Saw Logs Driving Ordinance*, chapter 59 of the Consolidated Ordinances, 1914, is repealed.

CHAPTER 16

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE GOVERNING THE
STORAGE, TRANSPORTATION AND DISTRIBUTION
OF INFLAMMABLE PETROLEUM PRODUCTS
IN THE YUKON TERRITORY

(Assented to November 20, 1954.)

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

SHORT TITLE

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

INTERPRETATION

Definitions 2. In this Ordinance

“Approved” (a) “approved” means approved by the Commissioner or by a person authorized by the Commissioner;

“Fireproof” (b) “fireproof” means composed, constructed or made of fire resistant or incombustible materials;

“Highway” (c) “highway” includes a common and public road, a trail on a frozen lake, river or other body of water or watercourse, a street, avenue, parkway, driveway, square, bridge, viaduct, trestle or other passageway, designed and intended for, or used by, the general public for the passage of vehicles;

“Inflammable petroleum products” (d) “inflammable petroleum products” means any product obtained or recovered from petroleum, whether by distillation, condensation, absorption, or otherwise that

have a flash point below one hundred and seventy-five degrees Fahrenheit according to the Tagliabue Closed Cup Tester, and include any combination of such products;

- (e) "motor vehicle" includes an automobile, motorcycle, pedal bicycle with motor attachment, snowmobile, or any other vehicle propelled or driven otherwise than by muscular power, but does not include a vehicle that is drawn by an animal, a tractor used for farming operations, a car of an electric or steam railway or a vehicle that runs or is intended to run only upon rails or tracks; "Motor vehicle"
- (f) "officer" means a person appointed or authorized to be an officer under this Ordinance; "Officer"
- (g) "service station" means any building or premises where inflammable petroleum products are delivered by means of pumps or other dispensing equipment directly into vehicle fuel tanks; "Service Station"
- (h) "storage tank" means a drum, tank, or container of any kind, other than a vehicle fuel tank, in which inflammable petroleum products are kept or stored; "Storage tank"
- (i) "store" means any building or premises, other than a service station, where inflammable petroleum products are kept for sale or delivery to the public; "Store"
- (j) "vehicle" includes a motor vehicle, trailer and a vehicle drawn, propelled or driven by any kind of power including muscular power, but does not include the car of an electric or steam railway or a vehicle that runs or is intended to run only upon rails or tracks; and "Vehicle"
- (k) "vehicle fuel tank" means a vehicle's tank or container that is designed, intended or used to carry the fuel required to propel that vehicle and is connected for that purpose to the fuel system of the vehicle and includes any tank or container carried in or upon the vehicle that is capable of being easily connected to the fuel system of the vehicle. "Vehicle fuel tank"

Classification 3. For the purposes of this Ordinance, inflammable petroleum products are classified as follows:

"Class A" (a) "Class A" which includes all inflammable petroleum products that have a flash point at or below eighty-five degrees Fahrenheit according to the Tagliabue Closed Cup Tester; and

"Class B" (b) "Class B" which includes all inflammable petroleum products that have a flash point above eighty-five degrees Fahrenheit and below one hundred and seventy-five degrees Fahrenheit according to the Tagliabue Closed Cup Tester.

PART I

TRANSPORTATION ON HIGHWAYS

APPLICATION

Application 4. This Part applies to the transportation of Class A and Class B inflammable petroleum products on a highway by means of a vehicle but does not apply to the carriage of such products in a vehicle fuel tank.

STORAGE TANKS FOR CLASS A PRODUCTS

Package Transportation 5. No person shall transport or carry Class A inflammable petroleum products in storage tanks that have a capacity of fifty gallons or less than fifty gallons if the storage tanks do not meet the requirements and specifications prescribed from time to time by the Board of Transport Commissioners for Canada.

CONDITION OF STORAGE TANKS

Defective tanks 6. (1) Leaky or otherwise defective storage tanks shall not be used for the transportation of inflammable petroleum products.

Tanks to be secure (2) All portable storage tanks shall be properly secured to the carrying vehicle during transit.

PERSONNEL AND EQUIPMENT

No smoking during loading, etc. 7. No person who loads or unloads or who is near a person who is loading or unloading inflammable petroleum products

from a vehicle shall smoke or have in his possession a lighted pipe, cigar, cigarette, any open flame.

8. (1) The electrical circuits of a motor vehicle used for the transportation of inflammable petroleum products shall be equipped with fuses, automatic circuit breakers or other suitable overcurrent protection to the satisfaction of an officer and all wiring shall have sufficient capacity and strength and shall be properly secured and insulated. Fire extinguisher

(2) A motor vehicle used for the transportation of inflammable petroleum products shall be equipped with at least one approved hand fire extinguisher of a non-freezing type and in good working condition and placed in a position readily accessible to the person operating the vehicle.

9. (1) Every outlet, faucet or tap on a motor vehicle used for the transportation of inflammable petroleum products shall have attached to it an approved tag designating the class of the contents in the tank or compartment from which the faucet or tap leads. Faucets

(2) The tag used to designate Class A inflammable petroleum products shall be coloured red and the tag used to designate Class B inflammable petroleum products shall be coloured in some other colour than red. Color of tags

10. (1) No person shall use a vehicle to transport or carry any inflammable petroleum products that have a Reid Vapour Pressure exceeding sixteen pounds per square inch except in approved storage tanks. Limit of vapour pressure

(2) The procedure and means of testing vapour pressure for the purpose of subsection (1) shall be one that is approved or designated by the Commissioner. Testing of vapour pressure

PART II
HANDLING AND STORAGE IN BULK

APPLICATION

Application 11. This Part applies to plants, buildings, storage tanks and equipment constructed or used for the handling and storage of inflammable petroleum products in bulk but does not apply to the equipment of refinery plants other than that used for the bulk storage of inflammable petroleum products.

POSITION AND USE OF STORAGE TANKS

Outside tanks to be used in built up area 12. (1) Subject to subsection (3), no person shall store inflammable petroleum products in bulk in storage tanks located inside buildings within a settlement where the storage tanks are near a built up or heavily populated area.

Diking (2) In an area described in subsection (1), all storage tanks shall be diked to prevent their contents from flowing into the area adjacent to the tanks.

Inside storage may be permitted by Commissioner (3) The Commissioner or a person authorized by him may permit the bulk storage of Class B inflammable petroleum products in approved storage tanks inside hospitals, schools, public buildings, dwelling houses and business premises where

- Requirements
- (a) the inflammable petroleum products have a flash point of not less than one hundred degrees Fahrenheit according to the Tagliabue Closed Cup Tester;
 - (b) the capacity of the approved storage tank does not exceed the annual individual fuel requirements of the hospital, school, public building, dwelling house or business premises in which it is located; and
 - (c) the storage tank is kept in a safe condition and does not create an undue hazard to adjacent premises.

Inspection (4) Storage tanks referred to in subsection (3) shall be inspected by an officer at intervals not exceeding three years.

- 13. (1) No part of an underground storage tank shall be installed underneath a highway. Underground tanks not to be under highway
- (2) No underground storage tank shall be installed underneath a basement floor. Basement floors
- (3) No underground storage tank shall be located less than three feet from a building, basement wall or property line. Walls, etc.
- (4) No underground storage tank shall be abandoned without first being rendered harmless.
- 14. (1) No storage tank, whether underground or above ground, shall be placed any closer to real property, buildings or structures that are not owned by the owner of the tank or the person who is in charge or has control over it than the distance specified in Schedule A and where the storage tank is used for the storage of crude petroleum, the distance shall be twice that specified in Schedule A. Distance from property other than property of owner
- (2) No storage tank, whether underground or aboveground, shall be placed any closer to another storage tank than the distance specified in Schedule B and, where the storage tank is used for the storage of crude petroleum, the distance shall be twice that specified in Schedule B. Distance from other tanks
- 15. No owner or person who is in charge of or has control over a storage tank shall permit loading or unloading operations to be carried out with respect to the tank unless a competent person is in immediate and constant attendance during such operations. Competent persons to attend loading, etc.

ABOVEGROUND STORAGE TANKS

- 16. (1) Every aboveground storage tank shall be adequately vented and equipped with an approved screen or other protective device to prevent the entrance of flame. Venting
- (2) Manhole frames shall be constructed of steel or an equivalent material and shall be securely fastened to the storage tank. Manhole frames
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| Manhole covers | (3) Manhole covers shall be made of steel and shall be securely bolted and fitted with suitable gaskets that make them liquid-tight. |
| Self-closing covers | (4) Self-closing roof manhole and gauge hatch covers shall be fitted with non-sparking metal where they join their seats. |
| Fireproof hatches | (5) All roof manholes and gauge hatches shall be fireproof and gas-tight. |
| Grounding | 17. Every aboveground storage tank shall be grounded through direct contact with the earth by means of connecting pipe lines or suitable grounding cables and plates buried in the earth. |
| Vents | 18. Every aboveground storage tank shall be vented for the emergency relief of excessive internal pressures with a vent of a diameter not less than that specified in Schedule C. |
| Safety precautions for vertical tanks | 19. Vertical aboveground storage tanks, shall, in addition to the vents referred to in section 18, be constructed with a roof that is weaker than the sides of the tank and shall contain an emergency explosion hatch in the roof. |
| Contents to be marked | 20. The name of the inflammable petroleum product contained in an aboveground storage tank shall be clearly marked <ul style="list-style-type: none"> (a) on a part of the tank plainly visible from the outlet valve; or (b) on a tag fastened to the outlet valve. |

UNDERGROUND STORAGE TANKS

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|------------------------------|--|
| Thickness of plates | 21. (1) Underground storage tanks shall be constructed of open hearth steel or wrought iron of a thickness not less than that specified in Schedule D. |
| Protection against rust | (2) Every underground storage tank shall be thoroughly coated on the outside with rust-resisting material. |
| To be of strong construction | (3) Underground storage tanks shall be tightly constructed and sufficiently strong to bear without injury the most severe strains to which they may be subjected in use. |

- (4) The shells of underground storage tanks shall be reinforced where connections are made and all connections shall be made through the top of the tank and above the liquid level. Connections

22. No person shall subject an underground storage tank to pressure by means of compressed air, water or gas in order to dislodge or deliver the contents of the tank. Pressure not to be used

GENERAL REQUIREMENTS

23. (1) No storage tank with more than one compartment shall, at the same time, contain in its compartments or any of them inflammable petroleum products with different flash points, unless the compartments are separated by double bulkheads with suitably drained intervening air space or with some other means, suitable to the Commissioner, capable of preventing the intermixture of the inflammable petroleum products. Precautions against mixing of different products

- (2) Where, prior to the commencement of this Ordinance, storage tanks have been constructed that do not conform to the requirements of subsection (1), they may be used but Class A and Class B inflammable petroleum products shall not be stored in the same tank at the same time. Exception

24. (1) Every storage tank that may contain inflammable vapour shall be fitted with a vent pipe, the lower end of which shall not extend through the top into the tank for a distance of more than one inch. Vent pipe

- (2) Vent openings shall be of sufficient area to permit the escape of air or vapour during filling operations and, unless they work automatically, shall have a diameter of not less than one inch. Vent openings

- (3) Vent pipes shall be provided with weatherproof hoods and flame arresters. Flame arresters

- (4) Vent pipes shall terminate twelve feet above the general grade level and not less than two feet from a window or other opening in a building. Termination

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|---------------------------|--|
| Individual pipes | (5) An individual vent pipe shall be provided for each storage tank and for each compartment of a storage tank. |
| Location of filling pipes | 25. (1) The end of the filling pipe for an underground storage tank shall be located outside a building and not less than five feet from an entrance, door or other opening of a building. |
| To be kept locked | (2) The end of the filling pipe shall be kept locked at all times other than those in which filling operations are being carried out. |
| Top to be protected | (3) The top of every filling pipe that is at, below or near grade level shall be set in a covered metal box. |
| Exhaust pipes of engine | 26. Where an internal combustion engine is operated near equipment or storage tanks used for the storage in bulk of inflammable petroleum products, its exhaust pipe shall be placed at a safe distance from the equipment or tanks. |
| Pumping Equipment | 27. Where pumps used in handling bulk inflammable petroleum products are driven by electric motors or internal combustion engines, the motors or engines shall be kept in a room separated from that in which the pumps are housed by a gas-proof partition and suitable care shall be taken to protect connecting shafts with stuffing boxes or other approved devices. |
| Switches | 28. Every switch that is exposed to inflammable gases shall be of an approved explosive-proof type. |

PART III

RETAIL OUTLETS

SERVICE STATIONS

- | | |
|-----------------------------|--|
| Underground tanks | 29. (1) Inflammable petroleum products shall be stored at service stations in underground storage tanks where practicable. |
| Subject to certain sections | (2) Storage tanks and pumping equipment at service stations shall be constructed and used in compliance with the provisions of sections 13, 21, 22, 24, 25, 26, 27 and 28. |

- (3) Every rubber hose used in loading and unloading vehicles transporting inflammable petroleum products shall be anti-static. Rubber loading hose

- 30. (1) No operator of a motor vehicle shall permit the engine of the vehicle to run during the period that an inflammable petroleum product is being delivered to its vehicle fuel tank. No delivery while engine running

- (2) No person at a service station shall deliver an inflammable petroleum product into the vehicle fuel tank of a motor vehicle while the engine of the motor vehicle is running.

- 31. (1) The nozzle of every hose connected to a service station pump through which an inflammable petroleum product is delivered by gravity or by electric power shall be made of a non-magnetic material and shall be equipped with automatic valves or with valves requiring hand pressure to hold them open and that close automatically when the hand pressure is released. Hose valves

- (2) Every hose connected to a service station pump through which an inflammable petroleum product is delivered shall be anti-static and equipped with a metallic connection between the inlet and outlet of the hose. Anti-static hose

GENERAL PROVISIONS FOR SERVICE STATIONS AND STORES

- 32. (1) Subject to subsection (3), portable storage tanks in which Class A petroleum products are sold or delivered to the public shall be of an approved metal safety type. Portable containers

- (2) A label shall be attached by the vendor to portable storage tanks referred to in subsection (1) on which shall be plainly printed a warning that the contents should not be exposed to fire or flame and should not be used for cleaning purposes in a building. Label

- (3) This section does not apply to Exceptions
 - (a) the bulk sale or delivery of gasoline in quantities of five gallons or more that is contained in gasoline

drums or containers that meet the requirements and specifications prescribed from time to time by the Board of Transport Commissioners for Canada;

- (b) the delivery of gasoline required to refuel a motor vehicle that has stalled for lack of fuel; or
- (c) samples taken by the representatives of oil companies or by officers under this Ordinance for the purpose of making tests.

Prohibition against handling near fire

33. No person shall draw, handle or use an inflammable petroleum product in the presence of any open fire or flame or in places where the vapour of the product may be communicated to any open fire or flame.

No self-service

34. No person shall provide for or permit the supplying of Class A petroleum products to the public by any type of self-serve method.

Empty drums

- 35. (1) All storage tanks of the drum, barrel or small metal container type shall, when empty, be tightly closed.
- (2) An officer may prohibit or limit the storage of storage tanks referred to in subsection (1) in any place where he deems it unsafe or inadvisable to store them.

Disposal of waste products

36. (1) Every service station and store shall be equipped with a suitable means of disposal for crankcase oil or other used or waste inflammable petroleum products.

Not to allow waste to enter sewers, etc.

- (2) The owner or the person who is in charge of or has control over a service station or store shall not permit any of the substances referred to in subsection (1) to enter a sewer or sub-surface drainage system or a water system or stream, well or body of water.

Fire protection

37. Every service station and store shall be equipped with approved fire extinguishing devices in good working order.

PART IV
GENERAL

IMPROPER STORAGE

38. No person shall store inflammable petroleum products in storage tanks with a capacity of fifty gallons or less on a highway unless he has been permitted to do so by an officer. Highways

39. Where in the opinion of the Commissioner or of a person authorized by him, inflammable petroleum products are stored in a place or subject to conditions that create unnecessary danger, the Commissioner or a person authorized by him may direct the owner or the person who has control over them to remove such products and, where the owner or person who has control over them neglects or refuses to remove them after being so directed, may direct that they be removed at the expense of the owner. Removal where danger is created

OFFICERS

40. (1) The Commissioner may appoint persons to be officers for the purpose of carrying out the provisions of this Ordinance and may regulate their employment, powers and duties. Appointment of officers

(2) Members of the Royal Canadian Mounted Police are *ex officio* officers under this Ordinance. R.C.M.P.

REGULATIONS

41. The Commissioner may make regulations to carry out the purposes and provisions of this Ordinance. Regulations

OFFENCE AND PENALTY

42. Every person who violates a provision of this Ordinance or the regulations is guilty of an offence and is liable upon summary conviction to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment. Offence and penalty

REPEAL

43. The *Petroleum Products Ordinance*, chapter 4 of the Ordinance of 1945, is repealed. Repeal

SCHEDULE A

Distance at Which Storage Tanks shall be Placed from Property other than that of Tank Owners

Capacity of Tank (Imp. Gals.)	Minimum Distance
0 to 15,000	5 feet
15,001 to 24,000	10 feet
24,001 to 50,000	15 feet
50,001 to 100,000	25 feet
100,001 and over	$\frac{1}{2}$ of the diameter of the tank but not less than 25 feet.

SCHEDULE B

Distances at Which Storage Tanks Shall be Placed from Each Other.

Capacity of Tank (Imp. Gals.)	Minimum Distance
0 to 15,000	3 feet
15,001 to 24,000	5 feet
24,001 to 50,000	10 feet
50,001 to 100,000	15 feet
100,001 and over	$\frac{1}{2}$ of the diameter of the tank but not less than 25 feet.

SCHEDULE C

Emergency Vents

Capacity of Tank (Imp. Gals.)	Vent Diameter
500 to 1,000	1½ inches
1,001 to 4,000	2½ inches
4,001 to 15,000	4 inches

SCHEDULE D

Thickness of Material for Underground Storage Tanks

Capacity of Tank	Minimum Thickness in U.S. Standard Gauge	Lbs. Square Feet
1 to 250	16	2½
251 to 500	14	3½
501 to 1,000	12	4¾
1,001 and over	7	7½

CHAPTER 17

ORDINANCES OF YUKON TERRITORY

1954 (Third Session)

AN ORDINANCE RESPECTING CHOSSES IN ACTION

(Assented to November 20, 1954.)

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

SHORT TITLE

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|-------------------------------|--|
| Short title | 1. This Ordinance may be cited as the <i>Choses in Action Ordinance</i> . |
| Assignment | 2. (1) Every debt and every chose in action arising out of contract is assignable at law by any form of writing containing apt words in that behalf, but subject to such conditions and restrictions with respect to the right of transfer as may appertain to the original debt or as may be connected with or be contained in the original contract; and the assignee thereof may bring an action thereon in his own name as the party might to whom the debt was originally owing or to whom the right of action originally accrued, or he may proceed in respect of the same as though this Ordinance had not been passed. |
| "Assignee" | (2) The word "assignee" in this section includes a person who is entitled, by any first or subsequent assignment or transfer or any derivative title, to a debt or chose in action and possessing at the time when the action is instituted the right to receive the subject or proceeds thereof and to give effectual discharge therefor. |
| Action for debt on assignment | 3. The plaintiff in an action for the recovery of the subject of an assignment made in conformity with section 2 shall in his statement of claim set forth briefly the chain of assignments showing how he claims title, but in all other respects the proceedings may be the same as if the action were brought in the name of the original creditor or of the person to whom the cause of action accrued. |

4. An assignment of a debt or chose in action arising out of contract and not assignable by delivery is subject to any defence or set-off in respect of the whole or any part of the debt or chose in action existing at the time of the notice of assignment to the debtor or person sought to be made liable, in the same manner and to the same extent as such defence or set-off would be effectual in case there had been no assignment thereof, and such defence or set-off shall apply as between the debtor and any assignee of the debt or chose in action.

Equities of
debtor against
assigner
before notice

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

Assignee's
rights after
notice to
debtor

6. The bonds or debentures of corporations made payable to bearer or any person named therein or bearer may be transferred by delivery alone and such transfer vests the property in such bonds or debentures in the transferee or in the holder thereof and any such holder may bring any action on or in respect of any such bonds or debentures in his own name.

Securities
transferable
by delivery

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

Negotiable
instruments

8. "An Ordinance respecting Choses in Action", chapter 15 of the Consolidated Ordinances, 1914. is repealed.

Repeal

CHAPTER 18

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING
WAREHOUSEMEN'S LIENS

(Assented to November 20, 1954.)

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

SHORT TITLE

Short title 1. This Ordinance may be cited as the *Warehousemen's Lien Ordinance*.

INTERPRETATION

Definitions 2. In this Ordinance,

"Goods" (a) "goods" includes personal property of every description that is deposited with a warehouseman as bailee;

"Warehousemen" (b) "Warehouseman" means a person lawfully engaged in the business of storing goods as a bailee for hire.

LIEN

Lien 3. (1) Subject to section 4, every warehouseman has a lien on goods deposited with him for storage, whether deposited by the owner of the goods or by his authority, or by any person entrusted with the possession of the goods by the owner or by his authority.

Charges covered by lien (2) The lien is for the amount of the following warehouseman's charges:

 (a) all lawful charges for storage and preservation of the goods;

- (b) all lawful claims for money advanced, interest, insurance, transportation, labour, weighing, cooperating, and other expenses in relation to the goods; and
 - (c) all reasonable charges for any notice required to be given under this Ordinance, and for notice and advertisement of sale, and for sale of the goods where default is made in satisfying the warehouseman's lien.
4. (1) Where the goods on which a lien exists were not deposited by the owner or by his authority, but by a person entrusted by the owner or by his authority with the possession of the goods, the warehouseman shall, within two months after the date of the deposit, give written notice of the lien
- Notice of
Lien in
certain
cases
- (a) to the owner of the goods, including the person in whom the right of property therein is vested where a valid receipt note, hire receipt or other instrument evidencing a bailment or conditional sale of the goods is registered under the *Conditional Sales Ordinance* at the date of deposit of the goods; and
 - (b) to the grantee of the goods under any bill of sale or chattel mortgage registered under the *Bills of Sale Ordinance*, at the date of deposit of the goods.
- (2) The notice shall contain
- Contents of
notice
- (a) a brief description of the goods;
 - (b) a statement showing the location of the warehouse where the goods are stored, the date of their deposit with the warehouseman, and the name of the person by whom they were deposited; and
 - (c) a statement that a lien is claimed by the warehouseman in respect of the goods under this Ordinance.

Loss of lien
from failure to
give notice

- (3) Where the warehouseman fails to give the notice required by this section, his lien, as against the person to whom he has failed to give notice, is void as from the expiration of the period of two months from the date of the deposit of the goods.

ENFORCEMENT OF LIEN

Enforcement
of lien by
sale of goods

5. (1) In addition to all other remedies provided by law for the enforcement of liens or for the recovery of warehouseman's charges, a warehouseman may sell by public auction, in the manner provided in this section any goods upon which he has a lien for charges which have become due.

Notice of
sale

- (2) The warehouseman shall give written notice of his intention to sell
- (a) to the person liable as debtor for the charges for which the lien exists;
 - (b) to the owner of the goods, including the person in whom the right of property therein is vested, where a valid receipt note, hire receipt or other instrument evidencing a bailment or conditional sale of the goods is registered under the *Conditional Sales Ordinance* at the date of deposit of the goods;
 - (c) to the grantee of the goods under any bill of sale or chattel mortgage registered under the *Bills of Sale Ordinance*, at the date of deposit of the goods; and
 - (d) to any other person known by the warehouseman to have or who claims an interest in the goods.

Contents of
notice

- (3) The notice shall contain
- (a) a brief description of the goods;
 - (b) a statement showing the location of the warehouse where the goods are stored, the date of their deposit with the warehouseman and the name of the person by whom they were deposited;

- (c) an itemized statement of the warehouseman's charges showing the sum due at the time of the notice;
 - (d) a demand that the amount of the charges as stated in the notice and such further charges as may accrue shall be paid on or before a day mentioned, not less than twenty-one days from the delivery of the notice if it is personally delivered, or from the time when the notice should reach its destination according to the due course of mail if it is sent by mail; and
 - (e) a statement that unless the charges are paid within the time mentioned the goods will be advertised for sale and sold by public auction at a time and place specified in the notice.
- (4) Where the charges are not paid on or before the day mentioned in the notice, and advertisement of the sale, describing the goods to be sold, and stating the name of the person liable as debtor for the charges for which the lien exists, and the time and place of the sale, shall be published at least once a week for two consecutive weeks in a newspaper circulating in the locality where the sale is to be held. Advertisement of sale
- (5) The sale shall be held not less than thirty days from the date of the first publication of the advertisement. Time of sale
6. Where a notice of lien under section 4, or a notice of intention to sell under section 5 has been given, but such provisions have not been strictly complied with, if the Judge before whom any question respecting the notice is tried or inquired into considers that such provisions have been substantially complied with, or that it would be inequitable to hold that the lien or sale is void by reason of such non-compliance, no objection to the sufficiency of the notice shall in any such case be allowed to prevail so as to release or discharge the goods from the lien or vitiate the sale. Substantial compliance with Ordinance
7. The warehouseman shall satisfy his lien from the proceeds of the sale and shall pay over the surplus, if any, to the person entitled thereto, and the warehouseman shall Disposition of proceeds of sale

when paying over the surplus, deliver to the person to whom he pays it a statement of account showing how the amount has been computed.

Payment into
court

8. (1) Where the surplus is not demanded by the person entitled thereto within ten days after the sale, or where there are different claimants or the rights there-to are uncertain, the warehouseman shall pay the surplus into court upon the order of a Judge.
- (2) The order may be made *ex parte* upon such terms and conditions as to costs and otherwise as the Judge may direct, and may provide to what fund or name the amount shall be credited.
- (3) The warehouseman at the time of paying the amount into Court shall file in Court a copy of the statement of account showing how the amount has been computed.

Where
charges paid
before sale

9. At any time before the goods are sold any person claiming an interest or right of possession in the goods may pay the warehouseman the amount necessary to satisfy his lien, including the expenses incurred in serving notices and advertisement and preparing for the sale up to the time of payment and the warehouseman shall deliver the goods to the person making the payment if he is the person entitled to the possession of the goods on payment of the warehouseman's charges thereon, but if he is not so entitled the warehouseman shall retain possession of the goods according to the terms of the contract of deposit.

Manner of
giving
notices

10. Where by this Ordinance any notice in writing is required to be given, the notice shall be given by delivering it to the person to whom it is to be given, or by mailing it in the post office, postage paid and registered, addressed to the person to whom it is to be given at his last known address.

CHAPTER 19

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

THE DEVOLUTION OF REAL PROPERTY ORDINANCE

(Assented to November 20, 1954.)

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

SHORT TITLE

1. This Ordinance may be cited as the *Devolution of Real Property Ordinance*. Short Title

2. In this Ordinance

Definitions

(a) "lunatic" includes an idiot and a person of unsound mind; "Lunatic"

(b) "personal representative" means the executor, original or by representation, or administrator for the time being of a deceased person. "Personal representative"

3. (1) Real property to which a deceased person was entitled for an interest not ceasing on his death shall on his death, notwithstanding any testamentary disposition, devolve upon and become vested in his personal representative as if it were personal property. Devolution of real property upon personal representatives

(2) A testator shall be deemed to have been entitled at his death to any interest in real property passing under any gift contained in his will which operates as an appointment under a general power to appoint by will.

(3) The personal representative is the representative of the deceased in regard to his real property to which he was entitled for an interest not ceasing on his death as well as in regard to his personal property.

(4) Probate and letters of administration may be granted in respect of real property only, although there is no personal property.

Personal representative to hold as trustee

4. Except as provided in this Ordinance, the personal representative of a deceased person holds the real property as trustee for the persons by law beneficially entitled thereto, and those persons have the same right to require a transfer of real property as persons beneficially entitled to personal property have to require a transfer of such personal property.

Rules of law to apply

5. Except as provided in this Ordinance, all enactments and rules of law, and any jurisdiction of the Court with respect to the appointment of administrators or to probate or letters of administration, or dealings before probate in the case of personal property, and with respect to costs and other matters in the administration of personal property in force before the commencement of this Ordinance, and all powers, duties, rights, equities, obligations, and liabilities of a personal representative in force at the commencement of this Ordinance with respect to personal property, apply and attach to the personal representative and have effect with respect to real property vested in him.

Savings as to administration of assets

6. Without prejudice to the rights and powers of a personal representative, the appointment of a personal representative in regard to real property does not, except as otherwise provided in this Ordinance, affect

- (a) any rule as to the marshalling or administration of assets,
- (b) the beneficial interest in real property under any testamentary disposition,
- (c) any mode of dealing with any beneficial interest in real property or the proceeds of the sale thereof, or
- (d) the right of any person claiming to be interested in the real property to take proceedings for the protection or recovery thereof against any person other than the personal representative.

Administration of real property

7. In the administration of the assets of a deceased person his real property shall be administered in the same manner,

subject to the same liabilities for debts, costs and expenses and with the same incidents, as if it were personal property, but nothing in this Ordinance alters or affects the order in which real and personal assets respectively are now applicable, as between different beneficiaries, in or toward the payment of funeral and testamentary expenses, debts or legacies, or the liability of real property to be charged with payment of legacies.

8. When any part of the real property of a deceased person vests in his personal representative under this Ordinance, the personal representative, in the interpretation of any Ordinance or in the construction of any instrument to which the deceased was a party or under which he was interested, shall, while the estate remains in the personal representative be deemed in law the heir of the deceased, as respects such part, unless a contrary intention appears, but nothing in this section shall affect the beneficial right to any property or the construction of words of limitation of any estate in or by any deed, will or other instrument.

Personal
representa-
tives to be
deemed
"heirs"

9. (1) At any time after the date of probate or letters of administration, the personal representative may convey the real property to any person entitled thereto, and may make the conveyance either subject to a charge for the payment of any money which the personal representative is liable to pay, or without any such charge, and on the conveyance being made subject to a charge for all monies, if any, which the personal representative is liable to pay, all liabilities of the personal representative in respect of the real property shall cease, except as to any acts done or contracts entered into by him before such conveyance.

Orders for
conveyance
or sale

(2) At any time after the expiration of one year from the date of probate or of letters of administration if the personal representative has failed, on the request of the person entitled to any real property, to convey the real property to that person, the Court may, if it thinks fit, on the application of that person and after notice to the personal representative, order that the conveyance be made, and in default may make an order vesting the real property in such person as fully and completely as might have been done by a conveyance thereof from the personal representative.

- (3) If, after the expiration of one year, the personal representative has failed, either to convey the real property or any portion thereof to the person entitled thereto or to sell and dispose of it, the Court may, on the application of any person beneficially interested, order that the real property or portion be sold on such terms and within such period as may appear reasonable, and, on the failure of the personal representative to comply with such order, may direct a sale of the real property or portion upon such terms as to cash or credit, or partly one and partly the other, as may be deemed advisable.

Powers of sale

10. The personal representative may sell the real property for the purpose not only of paying debts but also of distributing the estate among the persons beneficially entitled thereto, whether there are or are not debts, and it shall not be necessary that the persons beneficially entitled shall concur in any such sale except where it is made for the purpose of distribution only.

Sale for distribution only

11. (1) Except as provided in this Ordinance, no sale of real property for the purpose of distribution only is valid as respects any person beneficially interested unless he concurs therein.

(2) Where, in the case of such a sale, a lunatic is beneficially interested or adult beneficiaries do not concur in the sale, or where under a will there are contingent interests or interests not yet vested or the persons who may be beneficiaries are not yet ascertained, the Court may, upon proof satisfactory to it that such sale is in the interest and to the advantage of the estate of the deceased and the persons beneficially interested therein, approve such sale, and any sale so approved is valid as respects such contingent interests and interests not yet vested and is binding upon such lunatic, non-concurring persons and beneficiaries not yet ascertained.

(3) If an adult accepts a share of the purchase money, knowing it to be such, he is deemed to have concurred in the sale.

12. No sale, where an infant is interested, shall be valid without the written consent or approval of the Public Administrator or, in the absence of such consent or approval, without an order of the Court.

Where an
infant
interested

13. The personal representative may, with the concurrence of the adult persons beneficially interested, with the approval of the Public Administrator on behalf of infants or lunatics if any infants or lunatics are interested, divide or partition and convey the real property of the deceased person, or any part thereof, to or among the persons beneficially interested.

Distribution
or division

14. (1) The personal representative may subject to the provisions of any will affecting the property,

Other powers
of personal
representa-
tives

(a) lease the real property or any part thereof for any term not exceeding one year;

(b) lease the real property or any part thereof, with the approval of the Court, for a longer term; and

(c) raise money by way of mortgage of the real property or any part thereof for the payment of debts, or for payment of taxes on the real property to be mortgaged, and, with the approval of the Court, for payment of other taxes, the erection, repair, improvement or completion of buildings, or the improvement of lands, or for any other purpose beneficial to the estate.

(2) Where infants or lunatics are interested, the approvals or order required by sections 12 and 13 in case of a sale is required in the case of a mortgage, under clause (c) of subsection (1) of this section, for payment of debts or payment of taxes on the real property to be mortgaged.

15. (1) A person who purchases real property in good faith and for value from the personal representative, or from a person beneficially entitled thereto to whom it has been conveyed by the personal representative, holds it freed and discharged from any debts or liabilities of the deceased owner except such as are specifically charged thereon otherwise than by his will, and, where the purchase is from the personal representative, freed and discharged from all claims of the persons beneficially interested.

Real property
sold or
distributed

(2) Real property which has been conveyed by the personal representative to a person beneficially entitled thereto continues to be liable to answer the debts of the deceased owner so long as it remains vested in such person, or in any person claiming under him not being a purchaser in good faith and for value, as it would have been if it had remained vested in the personal representative, and in the event of a sale or mortgage thereof in good faith and for value by a person beneficially entitled he shall be personally liable for such debts to the extent to which the real property was liable when vested in the personal representative but not beyond the value thereof.

Concurrence
of personal
representa-
tives

16. (1) Subject to subsection (2), where there are two or more personal representatives, a conveyance, mortgage, lease or other disposition of real property devolving under this Ordinance shall not be made without the concurrence therein of all such representatives or an order of the Court.

(2) Where probate is granted to one or some of two or more persons named as executors, whether or not power is reserved to the other or others to prove, any conveyance, mortgage, lease or other disposition of the real property may be made by the proving executor or executors for the time being, without an order of the Court, and shall be as effectual as if all the persons named as executors had concurred therein.

Rights hereby
conferred to be
additional

17. The rights and immunities conferred by this Ordinance upon personal representatives are in addition to, and not in derogation of, the powers conferred by any other Ordinance or by the will.

18. Nothing in this Ordinance shall alter any duty payable in respect of real property or impose any new duty thereon.

19. This Ordinance comes into force on the day the *Yukon Act*, chapter 53 of the Statutes of Canada, 1952-53, comes into force.

CHAPTER 20

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)AN ORDINANCE RESPECTING
LANDLORDS AND TENANTS*(Assented to November 20, 1954.)*

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

SHORT TITLE

1. This Ordinance may be cited as the *Landlord and Tenant Ordinance*. Short Title

INTERPRETATION

2. In this Ordinance
- | | |
|---|----------------------|
| | Definitions |
| (a) "crops" means the products of the soil, and includes all sorts of grain, grass, hay, hops, fruits, vegetables and other products of the soil; | "Crops" |
| (b) "land" includes land of any tenure, and mines and minerals, whether or not held apart from the surface, buildings or parts of buildings, whether the division is horizontal, vertical or made in any other way, also a rent charged upon or payable in respect of any land, and an easement, right, privilege or benefit in, over or derived from land, but not an undivided share in land; | "Land" |
| (c) "landlord" includes every lessor, owner, or person giving or permitting the occupation of land and their respective successors in title; and | "Landlord" |
| (d) "mines and minerals" include any strata or seam of minerals or substances in or under any land and powers of working and getting the same, but not an undivided share thereof. | "Mines and minerals" |

PART I

COVENANTS AND CONDITIONS

COVENANTS RUNNING WITH THE LAND AND THE REVERSION

Rent, etc.,
annexed to
reversionary
estate

3. (1) Rent reserved by a lease, and the benefit of every covenant or provision therein contained, relating to the leased premises and on the tenant's part to be observed or performed, and every condition of re-entry and other condition therein contained, is annexed and incident to and goes with the reversionary estate in the land, or in any part thereof, immediately expectant on the term granted by the lease, notwithstanding severance of that reversionary estate.

Recovery by
person entitled
to income

- (2) Any rent, covenant or provision is capable of being recovered, received, enforced, and taken advantage of, by the person from time to time entitled, subject to the term, to the income of the whole or any part, as the case may require, of the land leased.

Recovery by
person entitled
by conveyance

- (3) Where a person becomes entitled by conveyance or otherwise, he may recover, receive, enforce or take advantage of the rent, covenant or provision notwithstanding that he becomes so entitled after the condition of re-entry or forfeiture has become enforceable, but this subsection does not render enforceable any condition of re-entry or other condition waived or released before a person becomes so entitled.

Application

- (4) This section applies to leases made before or after the commencement of this Ordinance, but does not affect the operation of

(a) any severance of the reversionary estate, or

(b) any acquisition by conveyance or otherwise of the right to receive or enforce any rent, covenant or provision

effected before the commencement of this Ordinance.

Covenants of
landlord an-
nexed to rever-
sionary estate

4. (1) The obligation under a condition or of a covenant entered into by a landlord relating to his leased premises shall, if and as far as the landlord had power

to bind the reversionary estate immediately expectant on the term granted by the lease, be annexed and incident to and shall go with that reversionary estate, or the several parts thereof, notwithstanding severance of that reversionary estate, and may be taken advantage of and enforced by the person in whom the term is for the time being vested by conveyance, devolution in law, or otherwise; and, if and as far as the landlord has power to bind the person from time to time entitled to that reversionary estate, the obligation may be taken advantage of and enforced against any person so entitled.

- (2) This section applies to leases made before or after the commencement of this Ordinance, whether the severance of the reversionary estate was effected before or after such commencement. Application
- (3) This section takes effect without prejudice to any liability affecting a covenantor or his estate.

APPORTIONMENT OF CONDITION OF RE-ENTRY

5. Notwithstanding the severance by conveyance, surrender or otherwise, of the reversionary estate in any land comprised in a lease, and notwithstanding the avoidance or cesser in any other manner of the term granted by a lease as to part only of the land comprised therein, every condition or right of re-entry, and every other condition contained in the lease, shall be apportioned, and shall remain annexed to the severed parts of the reversionary estate as severed, and shall be in force with respect to the term whereon each severed part is reversionary, or the term in any land which has not been surrendered or as to which the term has not been avoided or has not otherwise ceased, in like manner as if the land comprised in each severed part, or the land as to which the term remains subsisting, as the case may be, had alone originally been comprised in the lease. Condition of re-entry where land severed

MERGER, ETC., OF REVERSIONS

6. Where a reversion expectant on a lease of land is surrendered or merged the estate or interest which, as against the tenant for the time being, confers the next vested right Merger of reversions

to the land shall be deemed the reversion for the purpose of preserving the same incidents and obligations as would have affected the original reversion if there had been no surrender or merger thereof.

Waste

WASTE BY TENANTS

Tenant for years and tenant for life

7. (1) Subject to the express terms of any lease, or of any valid and subsisting covenant, agreement or stipulation affecting the tenancy,

(a) every tenant for years and every tenant for life is liable to his landlord and to every other person for the time being having a reversionary interest in the leased premises for voluntary waste and for permissive waste in respect of the premises to the extent by which the interest of the landlord and other persons, if any, having a reversionary interest in the premises is detrimentally affected thereby; and

Tenant at will

(b) every tenant at will is liable to his landlord and every other person having a reversionary interest in the leased premises for voluntary waste in respect of the premises to the extent by which the interest of the landlord and other persons, if any, having a reversionary interest in the premises is detrimentally affected thereby.

Remedies

(2) Every landlord and every person having a reversionary interest in any leased premises may in respect of any waste by a tenant in respect of the premises in an action brought in any court obtain damages or an injunction, or both.

DEFECTS IN LEASE MADE UNDER POWERS OF LEASING

Defective lease to take effect as contract for grant of lease

8. (1) Where in the intended exercise of any power of leasing whether conferred by a statute, Ordinance or by any other instrument, a lease is granted, which by reason of any failure to comply with the terms of the power is invalid, the lease, if it was made in good faith and the lessee has entered thereunder, shall

(a) as against the person entitled after the determination of the interest of the grantor to the reversion, or

(b) as against any other person, who, subject to any lease properly granted under the power, would have been entitled to the land comprised in the lease,

take effect as a contract for the grant, at the request of the lessee, of a valid lease under the power, of like effect as the invalid lease, subject to such variations as may be necessary in order to comply with the terms of the powers; but a lessee under an invalid lease is not, by virtue of any such implied contract, entitled to obtain a variation of the lease if the other persons who would have been bound by the contract are willing and able to confirm the lease without variation.

- (2) Where a lease granted in the intended exercise of a power of leasing conferred by a statute, Ordinance or other instrument is invalid by reason of the grantor not having power to grant the lease at the date thereof, but the grantor's interest in the land comprised therein continues after the time when he might, in the exercise of the power, have properly granted a lease in the like terms, the lease takes effect as a valid lease in like manner as if it had been granted at that date. Continuance of grantor's interest
- (3) Where during the continuance of the possession taken under an invalid lease the person for the time being entitled, subject to such possession, to the land comprised therein or to the rents and profits thereof, is able to confirm the lease without variation, the lessee, or other person who would have been bound by the lease had it been valid, is, at the request of the person so able to confirm the lease, bound to accept a confirmation thereof, and thereupon the lease has effect and is deemed to have had effect as a valid lease from the grant thereof. Confirmation during possession
- (4) Confirmation under subsection (3) may be by a memorandum in writing signed by or on behalf of the persons respectively confirming and accepting the confirmation of the lease. Memorandum
- (5) Where a receipt or a memorandum in writing confirming the invalid lease is, upon or before the acceptance Effect of receipt for rent

of rent thereunder, signed by or on behalf of the person accepting the rent, that acceptance is, as against that person, deemed to be a confirmation of the lease.

Remedies preserved

- (6) This section does not affect prejudicially
 - (a) any right of action or other right or remedy to which, but for this section, the lessee named in an invalid lease would or might have been entitled under any covenant on the part of the grantor for title or quiet enjoyment contained therein or implied thereby; or
 - (b) any right of re-entry or other right or remedy to which, but for this section, the grantor or other person for the time being entitled to the reversion expectant on the termination of the lease, would or might have been entitled by reason of any breach of the covenants, conditions or provisions contained in the lease and binding on the lessee.

Power of leasing to be deemed

- (7) Where a valid power of leasing is vested in or may be exercised by a person who grants a lease that, by reason of the determination of the interest of the grantor or otherwise cannot have effect and continuance according to the terms thereof independently of the power, the lease shall for the purposes of this section be deemed to have been granted in the intended exercise of the power although the power is not referred to in the lease.

Leases in name of estate owner not prejudiced

- (8) This section takes effect without prejudice to the provision of this Ordinance for the grant of leases in the name and on behalf of the estate owner of the land affected.

IMPLIED POWERS OF LESSOR

Implied powers of lessor

9. In every lease, unless a different intention appears therein, there shall be implied powers in the lessor

Entry and view

- (a) that, by himself or his agents, he may enter upon the demised land and view the state of repair thereof, and may serve upon the lessee, or leave at his last or usual

place of abode, or upon the demised land, a notice in writing of any defect, requiring him within a reasonable time, to be therein mentioned, to repair the same, in so far as the tenant is bound so to do; and

- (b) that in case the rent or any part thereof is in arrears for the space of two calendar months, or in case default is made in the fulfilment of any covenant in such lease on the part of the lessee, whether express or implied, and is continued for the space of two calendar months, or in case the repairs required by such notice as aforesaid are not completed within the time therein specified, the lessor may enter upon and take possession of the demised land.

10. In every lease whenever made there is implied an agreement that if the tenant or any other person is convicted of keeping a common bawdy house, within the meaning of the *Criminal Code*, on the demised premises, or any part thereof, the landlord may at any time thereafter, into the demised premises, or any part thereof, re-enter and the same have again, re-possess and enjoy as of his former estate.

Re-entry on
bawdy house
conviction

LICENCES TO TENANTS

- 11. (1) Where a licence is granted to a tenant to do any act, the licence, unless otherwise expressed, extends only
 - (a) to the permission actually given,
 - (b) to the specific breach of any provision or covenant referred to, or
 - (c) to any other matter specifically authorized to be done,
 and the licence does not prevent any proceeding for any subsequent breach unless otherwise specified in the licence.

Effect of
licence

- (2) Notwithstanding any licence,
 - (a) all rights under covenants and powers of re-entry contained in the lease remain in full force and are available as against any subsequent breach of

Remedies
preserved

covenant, condition or other matter not specifically authorized or waived, in the same manner as if no licence had been granted; and

- (b) the condition or right of entry remains in force in all respects as if the licence had not been granted, save in respect of the particular matter authorized to be done.

Re-entry where co-lessees

- (3) Where in any lease there is power or condition of re-entry on the tenant assigning, subletting or doing any other specified act without a licence, and a licence is granted

- (a) to any one of two or more tenants to do any act, or to deal with his equitable share or interest, or

- (b) to any tenant, or to any one of two or more tenants to assign or underlet part only of the property, or to do any act in respect of part only of the property,

the licence does not operate to extinguish the right of entry in case of any breach of covenant or condition by the co-lessees of the other shares or interests in the property, or by the tenant or tenants of the rest of the property, as the case may be, in respect of such shares or interest or remaining property, but the right of entry remains in force in respect of the shares, interests or property not subject to the licence.

Cannot create undivided share in legal estate

- (4) Subsection (3) does not authorize the grant after the commencement of this Ordinance of a licence to create an undivided share in a legal estate.

LICENCES TO ASSIGN, SUBLET, ETC.

Licence to sublet, etc.

- 12. (1) In every lease containing a covenant, condition or agreement against assigning, subletting, or parting with the possession, or disposing of the land leased without licence or consent, such covenant, condition, or agreement shall, unless the lease contains an express provision to the contrary, be deemed to be subject

- (a) to a proviso to the effect that such licence or consent shall not be unreasonably withheld; and
 - (b) to a proviso to the effect that no fine or sum of money in the nature of a fine shall be payable for or in respect of such licence or consent, but this proviso does not preclude the right to require the payment of a reasonable sum in respect of any legal or other expense incurred in relation to such licence or consent.
- (2) Where the landlord refuses or neglects to give a licence or consent to assign or sublet, a Judge, upon the application of the tenant or assignee or subtenant, may make an order determining whether or not such licence or consent is unreasonably withheld, and where it is so withheld, permitting the assignment or sublease to be made, and such order shall be the equivalent of the licence or consent of the landlord within the meaning of any covenant or condition requiring the same, and such assignment or sublease shall not be a breach thereof.

Court may order licence

NOTICE OF PROCEEDINGS

13. A tenant to whom there is delivered any process of any court for the recovery of premises demised to or held by him, or to whose knowledge any such process comes, shall forthwith give notice thereof to his landlord or his agent, and if he fails so to do, he shall be answerable for all damages sustained by the landlord by reason of the failure to give the notice.

Tenant to notify landlord of process for recovery of premises

14. Where a landlord is proceeding by action to enforce a right of re-entry or forfeiture under any covenant, proviso or stipulation in a lease, every person claiming any right, title or interest in the demised premises under the lease, if it be known to the landlord that he claims such right or interest or if the instrument under which he claims is registered in the Land Titles Office shall be made a party to the action.

Landlord to notify all claimants in action for re-entry or forfeiture

15. Where the actual waiver by a lessor or the persons deriving title under him of the benefit of any covenant or condition in any lease is proved to have taken place in any

Effect of waiver

particular instance, such waiver shall not, unless a contrary intention appears, be deemed to extend to any instance, or to any breach of covenant or condition save that to which such waiver specially relates, nor operate as a general waiver of the benefit of any such covenant or condition.

IMPLIED COVENANTS

Covenants to pay taxes

16. In every lease, unless a contrary intention appears therein, there shall be implied covenants by the lessee

- (a) that he will pay the rent thereby reserved at the times therein mentioned, and all rates and taxes which may be payable in respect of the demised land during the continuance of the lease;
- (b) that he will, at all times during the continuance of the lease, keep and, at the termination thereof, yield up the demised land in good and tenantable repair, accidents and damage to buildings from fire, storm and tempest or other casualty and reasonable wear and tear excepted.

NOTICE TO TERMINATE TENANCIES

Periods of notice

17. (1) Subject to any express agreement to the contrary, sufficient notice to quit shall be deemed to have been given where there is given:

- (a) in the case of a weekly tenancy, a week's notice ending with the week;
- (b) in the case of a monthly tenancy, a month's notice ending with the month;
- (c) in the case of a tenancy from year to year, three months' notice ending, in the case of a tenancy originally from year to year, with an anniversary of the last day of the first year thereof, and in the case of all other tenancies from year to year, with an anniversary of the last day of the original tenancy.

Overholding tenant where express tenure

(2) Where a tenant, upon the determination of his lease, whether created by writing or by parol, remains in possession with the consent, express or implied, of the

landlord, he is deemed to be holding subject to the terms of the lease, so far as they are applicable.

- (3) Where the tenancy created by the lease was neither a weekly nor monthly tenancy nor a tenancy from year to year, the overholding tenant is deemed to be holding as a tenant from year to year.

Overholding tenant where no express tenure

18. Where any rent is payable or reserved by virtue of any deed, transfer or other assurance, or by will, and there exists no express right of distress for the recovery thereof, the person entitled to receive the rent has the same right of distress for the recovery thereof as if the same were rent reserved upon lease.

Right of distress for rent deemed

DISTRESS FOR RENT

19. Upon the determination of any lease the person entitled as landlord to receive any rent made payable thereby may at any time

- (a) within six months next after the determination of the lease,
- (b) within such six months during the continuance of the landlord's interest, and
- (c) within such six months during the possession of the tenant from whom the rent became due,

distrain for any rent due and in arrears in the same manner as he might have done if the lease were not determined.

20. A person entitled to any rent or land for the life of another may recover by action or distress the rent due and owing at the time of the death of the person for whose life such rent or land depended as he might have done if the person by whose death the estate in such rent or land determined had continued in life.

Where rent for the life of another

21. (1) No person shall take under distress more goods than are reasonably sufficient to satisfy the rent in arrear and the costs of the distress.

Goods shall not exceed rent and costs

- (2) Where chattels are distrained for rent due, the person making the distress is not liable to any action for

Restoration of chattels.

excessive distress, if within seven days after the making of the distress he abandons the excess and thereafter holds under the distress no more chattels than are reasonably necessary to satisfy the rent due with the costs of the distress.

Time 22. No distress for rent shall be made at any time in the interval between five o'clock in the afternoon and eight o'clock in the following morning.

PROPERTY LIABLE TO DISTRESS

Goods not on premises 23. Subject to this Ordinance, goods or chattels that are not at the time of the distress upon the premises in respect of which the rent distrained for is due shall not be distrained for rent.

Exemptions 24. The following goods and chattels are not liable to seizure by a distress by a landlord for rent, namely:

- (a) the beds, bedding and bedsteads, including perambulators or cradles, in ordinary use by the debtor and his family;
- (b) the necessary and ordinary wearing apparel of the debtor and his family;
- (c) one cooking stove with pipes and furnishings, one other heating stove with pipes, two towels, one wash-basin, one kitchen table, one tea kettle, one teapot, one saucepan, one frying pan and for each member of the family the following, namely: one chair, one cup and saucer, one plate, one knife, one fork and one spoon;
- (d) all necessary fuel, meat, fish, flour and vegetables for the ordinary consumption of the debtor and his family for thirty days;
- (e) the tools, agricultural implements and necessaries used by the debtor in the practice of his trade, profession or occupation to the value of six hundred dollars; and
- (f) one axe and one saw.

Horses, cattle, etc. 25. The landlord may take under a distress for rent any horses, cattle, sheep, swine, poultry, fowl, livestock, and

other domestic animals which are grazing, pasturing or feeding upon any highway or road allowance or upon any way belonging or appertaining to the premises in respect of which the rent distrained for is payable.

26. Where a tenant of land under any kind of tenancy under which rent is payable, fraudulently or clandestinely removes or causes to be removed from the land so held by him at a time when there are any arrears of rent payable in respect thereof that are recoverable by distress any goods or chattels liable to such distress with intent to prevent the landlord from distraining the same for arrears of rent so payable, the landlord or any person by him duly authorized may, within thirty days next after such removal, take and seize as a distress for such arrears any goods and chattels so removed, wherever the same are found, except any such goods and chattels which have been sold or mortgaged for valuable consideration before the seizure to a person not having notice of the fraudulent or clandestine removal, and may sell or otherwise dispose of the goods and chattels so taken in such manner as if the same had actually been distrained by the landlord for arrears of rent upon the premises from which the same had been so removed.

Goods fraudulently removed

27. (1) Every person lawfully charged with the duty of executing a warrant of distress for rent who has reason to believe that any goods or chattels have been fraudulently or clandestinely removed for the purpose of preventing the landlord from distraining the same, and that the said goods are in any building, yard, enclosure or place in such circumstances as to prevent them from being taken or seized as a distress for arrears of rent, may at any time between eight o'clock in the morning and five o'clock in the afternoon enter into and upon the building, yard, enclosure or place and every part thereof for the purpose of searching for any goods and chattels so removed and seized any such goods and chattels there found for arrears of rent as he might have done if they were in an open field or place upon the premises from which they were removed, and for that purpose may obtain entry upon and access to the premises by breaking or removing any doors or any locks or other fastenings whereby such entry and access is hindered.

Execution of warrant

Resistance

- (2) Where a person encounters any resistance in doing any of the acts and things that he is authorized to do by subsection (1), he may call upon any peace officer to assist him in overcoming that resistance, and such person in the presence of a peace officer and the peace officer may use such force as is reasonably necessary for the purpose of overcoming that resistance.

Double value where goods fraudulently removed

28. Every tenant who fraudulently or clandestinely removes any goods and chattels for the purpose of preventing the landlord from distraining the same for arrears of rent, and every person who wilfully and knowingly aids or assists him in so doing or in concealing any goods or chattels so removed, is liable to the landlord for double value of the said goods, which amount is recoverable by action in any court.

Property subject to distress

29. No goods and chattels may be taken under a distress for rent excepting the goods and chattels of the tenant and

- (a) goods and chattels that are claimed by a person other than the tenant
- (i) by virtue of any execution against the tenant,
 - (ii) by virtue of any purchase, gift, transfer or assignment from the tenant whether absolute or in trust or by way of mortgage or otherwise,
 - (iii) being the wife, husband, daughter, son, daughter-in-law or son-in-law of the tenant or by any other relative of the tenant who lives upon the premises in respect of which the rent distrained for is payable as a member of the household of the tenant;
- (b) the interest of the tenant in any goods and chattels under a contract for the purchase thereof or under a contract whereby the tenant may become the owner thereof upon the performance of any condition;
- (c) goods and chattels that have been exchanged between the tenant and another person, or that have been borrowed by the one from the other, for the purpose of defeating the claim of or the right of distress by the landlord.

IMPOUNDING, APPRAISEMENT AND SALE

30. (1) Any goods or chattels taken in distress for rent may be impounded or otherwise secured either upon the premises chargeable with the rent or some part thereof, or in some other suitable and convenient place situate within ten miles of the premises chargeable with the rent and the same may be appraised, sold and disposed of upon the premises in which they are so impounded or secured. Impounding

(2) Any person may come and go, to and from the place at which any distress for rent is so impounded and secured, to view, appraise, and buy and to carry off or remove the same on account of the purchaser thereof. Buyer's right of access

31. (1) Where any goods or chattels are distrained for rent and the tenant does not replevy the same within five days next after notice in writing of the distress, setting out the cause of the taking, has been posted upon a conspicuous place on the premises in respect of which the rent is payable and, where the distress is impounded elsewhere, at the place of impoundment, then after the expiration of the said five days, the person distraining shall cause the goods and chattels so distrained to be appraised by two appraisers. Appraisal

(2) Before making any appraisement the appraisers shall each be sworn to appraise the goods taken in distress truly, according to the best of their understanding, and a memorandum of the said oath shall be endorsed on the inventory. Oath of appraiser

32. After the appraisement has been made the person distraining may sell the goods and chattels distrained for the best price that can be got for the same towards satisfaction of the rent for which the same were distrained and of the costs of such distress, appraisement and sale, and shall hold the overplus, if any, for use of the person lawfully entitled thereto and pay the same over to him on demand. Sale

SET-OFF AGAINST RENT

33. (1) A tenant may set-off against rent a debt due to him by the landlord, in which case he shall give notice Debt due to tenant by landlord

in writing of the claim of set-off in Form A, which notice may be given before or after seizure.

Distress of
balance

- (2) Upon the giving of a notice under subsection (1) the landlord may distress or proceed with the distress, as the case may be, for the balance of the rent due after deducting the amount of the debt mentioned in the notice that is due and owing by the landlord to the tenant.

Service of
notice

- (3) The notice mentioned in subsection (1) may be served either personally upon the landlord or upon any other person authorized to receive rent on his behalf or by leaving it with a grown-up person in and apparently residing on the premises occupied by the landlord.

- (4) No notice given under this section is rendered invalid for any want of form.

DISTRAINABLE GOODS TAKEN IN EXECUTION

Where arrears
less than one
year's

34. (1) Goods or chattels lying or being in or upon any land or premises leased for life or lives, or term of years, at will, or otherwise are not liable to be taken by virtue of any execution on any pretence whatsoever, unless the party at whose suit the execution is sued out before the removal of such goods or chattels from the land or premises by virtue of such execution pays to the landlord or his bailiff all money due for rent of the land or premises at the time of the taking of such goods or chattels by virtue of such execution if the arrears of rent do not amount to more than one year's rent.

Where arrears
exceed one
year's rent

- (2) Where arrears of rent exceed one year's rent the party at whose suit such execution is sued out, on paying the landlord or his bailiff one year's rent, may proceed to execute his judgment.

Payment to
execution
creditor

- (3) The sheriff or other officer shall levy and pay to the execution creditor as well the money paid for rent under subsection (2) as the execution money.

WRONGFUL OR IRREGULAR DISTRESSES

35. Where a distress is made for any kind of rent due, and any irregularity is afterwards done by the person distraining, or by his agent, or if there has been an omission to make the appraisal under oath, the distress itself is not on that account deemed to be unlawful, nor is the person making it on that account deemed a trespasser *ab initio*, but the person aggrieved by such irregularity may recover by action full satisfaction for the special damage sustained thereby. Effect

36. (1) Subject to section 21, a distrainer who makes an excessive distress, or makes a distress wrongfully, is liable in damages to the owner of the goods or chattels distrained. Liability of distrainer

(2) Where a distress and sale are made for rent pretended to be in arrears and due when, in truth, no rent is in arrears or due to the person distraining, or to the person in whose name or right such distress is made, the owner of the goods or chattels distrained and sold, his executors or administrators may, by action to be brought against the person so distraining, recover full satisfaction for the damage sustained by the distress and sale. Recovery of damages

RIGHTS OF LANDLORD ON TENANT'S BANKRUPTCY

37. (1) Where an assignment for the general benefit of creditors, or where an order for the winding-up of an incorporated company, or where a receiving order in bankruptcy or authorized assignment is made against or by a tenant, the right of the landlord to distrain or realize his rent by distress ceases from and after the date of the assignment or order and the assignee, trustee or liquidator may take immediate possession of the property of the tenant; but in the distribution of the property of the tenant the assignee, trustee or liquidator shall pay to the landlord, in priority to all other debts, an amount not exceeding the value of the distrainable assets and restricted to the arrears of rent due during the period of three months next preceding and the costs of distress, if any, and the rent for the three months following the date of the assignment or order, and from thence to long as the Priority of claim for rent

assignee, trustee, or liquidator retains possession of the premises, but any payment to be made to the landlord in respect of accelerated rent shall be credited against the amount payable by the assignee, trustee or liquidator for the period of his occupation.

Powers of assignee, trustee or liquidator

- (2) Notwithstanding any provision, stipulation or agreement in any lease or agreement or the legal effect thereof, where an assignment for the general benefit of creditors, or where an order for the winding-up of an incorporated company, or where a receiving order in bankruptcy or authorized assignment has been made against or by a tenant, the assignee, trustee or liquidator may at any time within three months after the date of the assignment or order for the purposes of the trust estate and before he has given notice of intention to surrender possession or disclaim, by notice in writing elect to retain the leased premises for the whole or any portion of the unexpired term and any renewal thereof, upon the terms of the lease and subject to the payment of the rent as provided by such lease or agreement, and he may upon payment to the landlord of all arrears of rent, assign the lease with rights of renewal, if any, to any person who will covenant to observe and perform its terms and agree to conduct upon the demised premises a trade or business that is not reasonably of a more objectionable or hazardous nature than that which was thereon conducted by the debtor, and who shall on application of the assignee trustee or liquidator be approved by a Judge as a person fit and proper to be put in possession of the leased premises.

Notice to surrender possession

38. (1) The assignee, trustee or liquidator shall have the right at any time before electing by notice in writing to the landlord under section 37 to surrender possession or disclaim any such lease, and his entry into possession of the leased premises and their occupation by him, while required for the purpose of the trust estate, shall be deemed not to be evidence of an intention on his part to elect to retain possession pursuant to this section.

- (2) Where the assignor, or person against whom a receiving order in bankruptcy, or a winding-up order has been made, being a lessee, has, before the making of the assignment or order demised by way of under-lease, approved or consented to in writing by the landlord, any premises and the assignee, trustee, or liquidator surrenders, disclaims or elects to assign the lease the under-lessee shall, if he so elects in writing within three months of the assignment or order stand in the same position with the landlord as though he were a direct lessee from the landlord but subject, except as to rental payable, to the same liabilities and obligations as the assignor, bankrupt or insolvent was subject to under the lease at the date of the assignment or order, but the under-lessee shall in such event covenant to pay to the landlord a rental not less than that payable by the under-lessee to the debtor, and if such last mentioned rental was greater than that payable by the debtor to the landlord the under-lessee shall covenant to pay to the landlord the like greater rental. Under-lease
- (3) Any dispute arising under this section shall be disposed of upon summary application by a Judge. Dispute

ATTORNMENT

39. (1) An attornment of a tenant of any land to a stranger claiming title to the estate of his landlord is null and void, and the possession of his landlord is deemed not to be changed, altered or affected by the attornment, but nothing in this section vacates or affects an attornment made To stranger
- (a) pursuant to and in consequence of a judgment or order of a Judge; or
- (b) with the privity and consent of the landlord.
- (2) Nothing in this section shall alter, prejudice or affect any rights that a vendor, mortgagee or incumbrancee at the commencement of this Ordinance has under any law or Ordinance. Rights of vendor, etc.

Grants... 40. (1) A grant or conveyance of any rent or of the reversion or remainder of any land is good and effectual without any attornment of the tenant of the land out of which such rent issues, or of the particular tenant upon whose particular estate any such reversion or remainder is expectant or depending.

Notice of grant (2) A tenant is not prejudiced or damaged by the payment of rent to any grantor or by breach of any condition for non-payment of rent before notice to him of such grant by the grantee.

RENEWAL OF LEASES

No surrender of under-leases 41. (1) Where a lease is duly surrendered in order to be renewed, and a new lease is made and executed by the chief landlord, the new lease is, without a surrender of all or any of the under-leases, as good and valid as if all the under-leases derived thereout had been likewise surrendered at or before the time of taking of the new lease.

Rights of under-lessees and chief landlord (2) A person in whom any estate for life, or lives, or for years, is from time to time vested by virtue of a new lease, is entitled to the rents, covenants and duties, and has like remedy for recovery thereof, and the under-lessees shall hold and enjoy the land in the respective under-leases comprised as if the original lease had been kept on foot and continued, and the chief landlord has and is entitled to the same remedy by distress or entry in and upon the land comprised in any under-lease for the rents and duties reserved by the new lease, so far as the same do not exceed the rents and duties reserved in the lease out of which such sub-lease was derived, as he would have had if the respective under-leases had been renewed under the new principal lease.

Renewal by court order 42. (1) Where a person who, in pursuance of any covenant or agreement in writing, if within the Territory and amenable to legal process, might be compelled to execute any lease by way of renewal, is not within the Territory or is not amenable to legal process, a Judge upon the application of any person entitled to such renewal, whether such person is or is not under

any disability, may direct such person as he thinks proper to appoint for that purpose to accept a surrender of the subsisting lease, and to make and execute a new lease in the name of the person who ought to have renewed the same.

- (2) A new lease executed by the person appointed under subsection (1) is as valid as if the person in whose name the lease was made was alive and not under any disability and had himself executed it. Validity
- (3) A Judge may direct an action to be brought to establish the right of the person seeking renewal under this section, but he may not make the order for such new lease unless by the judgment to be made in such action, or until after it has been entered. Action
- (4) A renewed lease shall not be executed by virtue of this section in pursuance of any covenant or agreement, unless the sum of money, if any, that ought to be paid on such renewal and the things, if any, that ought to be performed in pursuance of such covenant or agreement by the tenant are first paid and performed, and counterparts of every such renewed lease shall be duly executed by the tenant. Payment and performance of covenants on renewal
- (5) All sums of money that are had, received or paid for or on account of, the renewal of any lease by any person out of the Territory or not amenable to legal process after a deduction of all necessary incidental charges and expenses, shall be paid to such person or in such manner or into Court to such account and be applied and disposed of as a Judge directs. Payment into court
- (6) The Judge may order the costs and expenses of and relating to the application, orders, directions, conveyances and transfers, or any of them, to be paid and raised out of or from the land, or the rents in respect of which the same are respectively made, in such manner as he deems proper. Costs

PART II
OVERHOLDING TENANTS

LIABILITY OF TENANTS OVERHOLDING

After notice
by landlord

43. Where a tenant or other person who is in possession of any land by, from or under or by collusion with such tenant wilfully holds over the land or any part thereof after the determination of the term, if notice in writing requiring delivery of the possession thereof is given by his landlord or the person to whom the remainder or reversion of such land belongs or his agent thereunto lawfully authorized, the tenant or other person so holding over shall, for and during the time he so holds over or keeps the person entitled out of possession, pay to such person or his assigns at the rate of double the yearly value of the land so detained for so long as the same is detained, to be recovered by action before a Judge, against the recovering of which penalty there is no relief.

After notice

44. Where a tenant gives notice of his intention to quit the premises by him holden at a time mentioned in the notice, and does not then deliver up the possession of the premises the tenant shall from thenceforward pay to the landlord double the rent or sum that he should otherwise have paid, to be levied, sued for and recovered at the same times and in the same manner as the single rent or sum before the giving of such notice could be levied, sued for or recovered, and such double rent or sum shall continue to be while such tenant continues in possession.

PROCEEDINGS AGAINST OVERHOLDING TENANTS

Definition of
"tenant"

45. In sections 45 to 51 "tenant" includes every lessee, occupant, subtenant and their assigns and legal representatives.

Application
by landlord

46. (1) When a tenant, upon the determination of his lease or right of occupation, whether created by writing or by parol, wrongfully refuses or neglects upon demand made in writing to go out of possession of the land demised to him or which he has been permitted to occupy, the landlord may apply, upon affidavit, to a Judge, to make the inquiry provided for in sections 45 to 52.

(2) The landlord shall

Affidavit

- (a) set forth on an affidavit the terms of the demise or right of occupation, if verbal;
- (b) annex a copy of the instrument creating or containing the lease or right of occupation, if in writing, or if for any cause a copy cannot be so annexed, make a statement setting forth the terms of the demise or occupation and the reason why such copy cannot be annexed;
- (c) annex a copy of the demand;
- (d) state the refusal of the tenant to go out of possession, and the reasons given for such refusal, if any were given; and
- (e) add such explanation in regard to the ground of such refusal as the truth of the case may require.

(3) The Judge shall, in writing, appoint a time and place at which he will inquire and determine whether the tenant holds possession against the right of the landlord, and whether the tenant, having no right to continue in possession, wrongfully refuses to go out of possession.

Appointment of hearing

(4) A copy of the appointment of the Judge and of the affidavit on which it was obtained, and copies of the documents to be used upon the application other than of the instrument creating or containing the lease or right of occupation, shall be served upon the tenant or left at his place of abode at least three days before the day appointed, if the place appointed is not more than twenty miles from the tenant's place of abode, and one day in addition to every twenty miles above the first twenty, reckoning any broken number above the first twenty as twenty miles.

Service on tenant

47. The Judge may, upon an application being made to him under section 46, or at any time thereafter pending the proceedings, having regard to the convenience of the parties, the costs of the proceedings and other considerations, and

Postponement of hearing

subject to such conditions as may to him seem just, direct that the case stand over to be heard and disposed of.

Application of Judicature Ordinance

48. Except as otherwise varied by this Part, the provisions of the *Judicature Ordinance* apply to applications made and proceedings had under this Part.

Style of cause

49. The proceedings under this Part shall be styled: "In the matter of _____, landlord, against _____, tenant".

Failure to appear

50. (1) Where, at the time and place appointed the tenant fails to appear, the Judge, where it appears to him that the tenant wrongfully holds against the right of the landlord, may order a writ of possession in Form B, directed to the sheriff, commanding him forthwith to place the landlord in possession of the land.

Summary hearing

(2) Where the tenant appears the Judge shall, in a summary manner hear the parties and their witnesses and examine into the matter and may take evidence orally or by affidavit as he thinks fit, and if it appears to the Judge that the tenant wrongfully holds against the right of the landlord he may order the issue of the statement of claim.

Costs

(3) Upon an application under section 46 the Judge may by order award costs according to the tariff of costs from time to time in force under the *Judicature Ordinance*, or may order payment of a lump sum by way of costs.

Order for costs

(4) An order for the payment of costs by the Judge may be filed in the office of the Clerk of the Court and shall thereupon become a judgment of the Court.

Where proceedings improperly taken

(5) No order under subsection (4) shall be made if it appears to the Judge that, in the circumstances of the case, the right to possession should not be determined by proceedings under this Part and in such case the taking of proceedings under this Part does not affect or detract from any other remedy which a landlord may have against his tenant.

51. The Judge has the same power to amend or excuse irregularities in the proceedings as he has in an action. Irregularities
52. The decision of the Judge respecting the order granting or refusing a writ of possession is final. Decision
53. Nothing in this Part shall require a landlord to proceed under this Part instead of by bringing an action. Action by landlord

PART III

SUMMARY PROCEEDINGS FOR NON-PAYMENT OF RENT

54. (1) Where a tenant fails to pay his rent within seven days of the time agreed on, and wrongfully refuses or neglects upon demand made in writing, to pay the rent or deliver up the premises demised, which demand shall be served upon the tenant or upon some grown-up person upon the premises, or if the premises be vacant, be affixed to the dwelling or other building or otherwise posted up upon the premises, the landlord or his agent may file with the Clerk of the Court an affidavit setting forth the terms of the lease or occupancy, the amount of rent in arrears and the time for which it is so in arrears, producing the demand made for the payment or rent or delivery of the possession and stating the refusal of the tenant to pay the rent or to deliver up possession, and the answer of said tenant, if any answer were made, and that the tenant has no right of set-off or reason for withholding possession. Application by affidavit
- (2) Upon filing the documents mentioned in subsection (1) the Clerk shall cause to be issued a summons in Form C, calling upon the tenant, three days after service, to show cause why an order should not be made for delivering up possession of the premises to the landlord, and the summons shall be served in the same manner as the demand. Summons
- (3) Upon the return of the summons mentioned in subsection (2) a Judge shall hear the evidence adduced upon oath, either orally or by affidavit as he may deem proper, and make such order, either to confirm the tenant in possession or to deliver up possession to the Hearing

landlord, as the facts of the case may warrant, and such order for delivery of possession may be in Form D.

- Ejection (4) Where the order mentioned in subsection (3) recites that the tenant shall deliver up possession and he refuses, the sheriff or any of his officers shall, with such assistance as he may require, forthwith proceed under the order to eject and remove the tenant together with all goods and chattels that he may have on or about the premises, and make the rent in arrears and place the landlord in possession of the premises.
- Stay of proceedings (5) Where any tenant before the execution of the order mentioned in subsection (3) pays the rent in arrears and all costs, the proceedings shall be stayed and the tenant may continue in possession as of his former tenancy.
- Entry of premises (6) Where the premises in question are vacant, or the tenant is not found in possession, or if in possession he refuses on demand made in the presence of a witness to admit the sheriff or any of his officers, the latter, after a reasonable time has been allowed to the tenant or person in possession to comply with the demand for admittance, may force open any outer door in order to gain an entrance, and may also force any inner door for the purpose of ejecting the tenant or occupant and giving proper possession of the premises to the landlord or his agent.
- Costs 55. (1) The Judge may by order award costs according to the tariff of costs from time to time in force under the *Judicature Ordinance*, or may order payment of a lump sum by way of costs.
- Costs added to rent (2) Where the landlord is awarded costs against the tenant, the costs so awarded may be added to the cost of the levy for rent, if such levy is or is to be made.
- Order for costs (3) An order for the payment of costs by the Judge may be filed in the office of the Clerk of the Court and shall thereupon become a judgment of the Court.
- No appeal 56. No appeal lies from the order of a Judge made under section 54.

57. In this section and in sections 58 and 59 Definitions
- (a) "lease" means every agreement in writing, and every parol agreement whereby one person as landlord confers upon another person as tenant the right to occupy land, and every sublease, and every agreement for a sublease and every assurance whereby any rent is secured by condition; "Lease"
- (b) "mining lease" means a lease, grant or licence for mining purposes, including the searching for, workings, getting, making merchantable, smelting or otherwise converting or working for the purposes of any manufacture, carrying away or disposing of mines or minerals, and substances in, on or under the land, obtainable by underground or by surface working or purposes connected therewith; "Mining lease"
- (c) "sublease" includes an agreement for a sublease where the sublessee has become entitled to have his sublease granted; "Sublease"
- (d) "subtenant" includes any person deriving title under a sublease; "Subtenant"
- (e) "tenant" includes every lessee, occupant, subtenant and their assigns and legal representatives. "Tenant"
58. (1) A right of re-entry or forfeiture under any proviso or stipulation in a lease for a breach of any covenant or condition in the lease other than a proviso in respect of the payment of rent, is not enforceable, in any case in which the breach is capable of remedy or of being compensated by money payment, unless and until Right of re-entry or forfeiture
- (a) the landlord serves on the tenant a notice specifying the particular breach, and requiring the tenant to remedy or to make compensation in money for the breach, and Notice by landlord
- (b) the tenant fails, within a reasonable time after the service of the notice, to remedy the breach, or to make compensation in money to the satisfaction of the landlord for the breach. Failure to compensate

Relief of
tenant

(2) Where a landlord is proceeding by action or otherwise to enforce any right of re-entry or forfeiture, whether for non-payment of rent or for other cause, the tenant may in landlord's action, if any, or if there is no such action pending, then in an action brought by himself, apply to a Judge for relief, and the Judge may grant such relief as having regard to the proceedings and conduct of the parties under the foregoing provisions of this section and to all the other circumstances the Judge thinks fit, and on such terms as to payment of rent, costs, expenses, damages, compensation, penalty, or otherwise, including the granting of an injunction to restrain any like breach in the future as the Judge may deem just.

Implied and
express
proviso

(3) This section applies whether the proviso or stipulation under which the right of re-entry or forfeiture accrues is inserted in the lease or is implied therein.

Term of
lease

(4) For the purposes of this section a lease limited to continue as long as the tenant abstains from committing a breach of covenant is and takes effect as a lease to continue for any longer term for which it could subsist, but determinable by a proviso for re-entry on such a breach.

Payment
into court

(5) Where an action is brought to enforce a right of re-entry or forfeiture for non-payment of rent and the tenant, at any time before judgment, pays into Court all the rent in arrears and the costs of the action, the cause of action shall be at an end.

Grant of
relief

(6) Where relief is granted under this section the tenant shall hold and enjoy the demised premises according to the lease thereof made without any new lease.

Covenant to
insure

(7) Where the right of re-entry or forfeiture is in respect of a breach of a covenant or condition to insure, relief shall not be granted if at the time of the application for relief there is not a policy of insurance in force in conformity with the covenant or condition to insure except in addition to any other terms which the Judge may impose, upon the term that the insurance is effected.

- (8) This section applies to leases made either before or after the commencement of this Ordinance and notwithstanding any stipulation to the contrary. Application
- (9) This section does not extend Exemptions
- (a) to a covenant or condition against the assigning, underletting, parting with the possession or disposing of the land leased; Covenant to sublease
- (b) in the case of a mining lease, to a covenant or condition for allowing the landlord to have access to or inspect books, accounts, records, weighing machines or other things, or to enter or inspect the mine or the working thereof; or Covenant in mining lease to inspect
- (c) to a condition for forfeiture on the bankruptcy of the tenant or on the taking in execution of the lessee's interest if contained in Condition re bankruptcy and execution
- (i) a lease of agriculture or pastoral land,
- (ii) a mining lease,
- (iii) a lease of a house let as a dwelling-house with the use of any furniture, books, works of art or other chattels not being of the nature of fixtures; or
- (iv) a lease of land with respect to which the personal qualifications of the tenant are of importance for the preservation of the value or character of the property, or on the ground of neighbourhood to the landlord, or to any person holding under him.
- (10) Where the whereabouts of the tenant cannot be ascertained after reasonable enquiry or if the tenant is evading service, the notice referred to in subsection (1) may be served on the tenant by leaving the same at the place of residence of the tenant with any adult person for the time being in charge thereof, and if the premises are unoccupied, the notice may be served by posting up the same in a conspicuous manner upon some part of the demised premises. Service of notice

Application
by subtenant

59. Where a landlord is proceeding by action or otherwise to enforce a right of re-entry or forfeiture under any covenant, proviso or stipulation in a lease or for non-payment of rent, a Judge, on application by any person claiming as subtenant any estate or interest in the property comprised in the lease or any part thereof, either in the landlord's action, if any, or in any action brought or summary application made to the Judge by such person for that purpose, may make an order vesting for the whole term of the lease or any less term the property comprised in the lease, or any part thereof, in any person entitled as subtenant to any estate or interest in such property upon such conditions, as to execution of any deed or other document, payment of rent, costs, expenses, damages, compensation, giving security or otherwise, as the Judge in the circumstances of each case thinks fit, but in no case is the subtenant entitled to require a lease to be granted to him for any longer term than he had under his original sublease.

SCHEDULE

FORM A

Notice of Set-Off

Take notice that under the Landlord and Tenant Ordinance I wish to set-off against rent due by me to you the debt which you owe to me on your promissory note for

dated (or as the case

may be)

Dated this day of (tenant).

FORM B

Writ in Possession

Canada, Elizabeth the Second, by the Grace of God of
To Wit: the United Kingdom, Canada and Her other
Realms and Territories, Queen, Head of the
Commonwealth, Defender of the Faith.

(L.S.)

To the sheriff (or bailiff) of Greeting.

Whereas

Judge of the Territorial Court of the Yukon Territory by
his order, dated the day of 19
made in pursuance of the Landlord and Tenant Ordinance,
on the complaint of against

adjudged that was
entitled to the possession of
with the appurtenances, in your bailiwick, and ordered that
a writ should be issued by our said Judge accordingly, and
also ordered and directed that the said
should pay the costs of the proceedings under the said
Ordinance, which by our said Judge have been taxed at the
sum of dollars;

Therefore, we command you that without delay you
cause the said to have possession of the said
lands and premises, with the appurtenances; and we also
command you that of the goods and chattels of the said
in your bailiwick, you cause to be made
the sum of dollars, being the said costs
so taxed by our said Judge as aforesaid, and have that money
before our said Judge immediately after the execution here-
of, to be rendered to the said

And in what manner you shall have executed this
writ, make appear to our said Judge immediately after the
execution hereof; and have there then this writ.

Witness, etc.

(Signed)
(Clerk of the Court)

FORM C

Summons for Eviction

In the matter of _____ landlord,
and _____ tenant,

and the Landlord and Tenant Ordinance.

To the above named

You are hereby summoned to appear before

Judge, at his chambers in the _____,

on the third day after service of a copy hereof upon you, or
as provided by the Landlord and Tenant Ordinance in that
behalf, at the hour of _____ o'clock

in the _____ noon, to show cause why an order should not
be made for the delivery up to the said

as landlord, of the premises mentioned in his demand, that
is to say _____ ; and, further to

show cause why an order should not at the same time be made
for payment by you of the rent alleged to be in arrears for
said premises to said landlord, to be made or levied by distress
or otherwise, and also as to the costs of these proceedings.

In default of you so appearing, the said landlord
may proceed to obtain such order against you as to the
Judge it may seem proper to grant.

Dated at _____, this _____ day of

A.D. 19 _____.

By the Court,

(Signed)
(Clerk of the Court)

FORM D
Order for Possession

In the matter of _____ landlord,
and _____
tenant,

and the Landlord and Tenant Ordinance.

Upon reading the notice of demand in this case, the affidavit of service thereof, the affidavit of proof of the terms of the demise, of the summons issued herein by me and the affidavit of service thereof on the said tenant, and no cause being shown by said tenant upon the return of said summons (or, and the said tenant appearing but failing to disprove the allegations of said landlord, as the case may be), I do order that the said tenant do, upon the production to him of this Order, forthwith deliver up possession of the premises in question, namely (_____), to the said landlord, or his proper agent or attorney, of whose authority the possession of this warrant shall be sufficient proof; and in case of refusal by said tenant so to deliver up possession, or of said tenant being absent or said premises vacant, I do hereby, in accordance with the provisions of the Ordinances in that behalf, authorized _____ with such assistance as he may require, forthwith to proceed to eject and remove the said tenant, together with his goods and chattels, if any, from and out of the said premises, and whether said tenant be found in possession thereof or said premises be vacant, put the landlord in possession, that the said landlord take and hold possession thereof freed from said demise; and I do further order that the said _____

do make the rent in arrears for said premises, amounting to the sum of _____ dollars to the landlord, as his costs of this proceeding, to be paid by said tenant or, in default of payment, to be proceeded for and recovered as allowed by law.

Dated at _____ this _____ day of

A.D. 19 _____ .

(Signed)

Judge.

CHAPTER 21

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING INSANE PERSONS

(Assented to November 22, 1954.)

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

SHORT TITLE

Short title 1. This Ordinance may be cited as the *Insane Persons Ordinance*.

INTERPRETATION

Definitions 2. In this Ordinance

"Court" (a) "Court" means a justice of the peace or a Judge of the Territorial Court, as the case may be;

"Insane person" (b) "insane person" means a person,

 (i) in whom there is such a condition of arrested or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, or

 (ii) who is suffering from such a disorder of the mind, that he requires care, supervision and control for his protection and the protection of his property and has been so found by the Court;

"Person charged" (c) "persons charged" means a person respecting whom an application has been made alleging that he is or is suspected and believed to be insane; and

"Public Administrator" (d) "Public Administrator" means the person appointed to that office in the manner authorized by law.

3. (1) An application under this Ordinance may be made to a justice of the peace having jurisdiction in the area in which a person charged resides or may be, or a Judge of the Territorial Court, either of whom have jurisdiction to entertain the application and make such orders under this Ordinance as may be necessary. Jurisdiction
- (2) Where an application is made to a justice of the peace, he shall, having regard to the urgency with which such application should be dealt with for the safety of life and property, exercise jurisdiction under this Ordinance or direct that it should be made to a Judge of the Territorial Court. Justice of the peace may deal with application or refer it to higher court
4. (1) Any person may make an application to the Court, supported by his affidavit giving reasons therefor, alleging that a person is or is suspected and believed to be an insane person and requesting an order declaring that such person is an insane person, respecting his custody or commitment and respecting the management of his property. Application
- (2) Subject to a direction pursuant to section 3, the Court may, if satisfied that the application and supporting affidavit warrant a hearing, issue a warrant in Form A in the Schedule, to apprehend the person charged and bring him before the Court for a hearing. Warrant for hearing
- (3) Any person apparently mentally ill or mentally defective and conducting himself in a manner which may be dangerous to himself or others, may be apprehended without a warrant by a constable or peace officer, and detained until the question of his mental condition is determined by the Court. Detention without warrant
5. (1) The Court shall, at the hearing of the person charged, hear evidence concerning, Evidence at hearing
 - (a) the alleged insanity, including medical evidence;
 - (b) the residence, name, age and other particulars of the person charged;
 - (c) the means of support of the person charged and the property, both real and personal, of the person charged;

- (d) his marital status and dependents, if any; and
- (e) such other matters as the Court deems relevant to the case.

Powers at hearing

- (2) The Court has full power to compel the attendance of witnesses, the production of documentary or other evidence and take such other steps as it deems necessary for a full and proper hearing.

Dismissal of Application

- 6. (1) Where the Court is not satisfied that the person charged is insane, it shall order dismissal of the application and make such order as to costs or otherwise as it deems just in the circumstances.

Where found insane

- (2) Where the Court is satisfied that the person charged is insane, it shall make an order to that effect, and shall commit such person, by warrant in Form B of the Schedule, to the custody of the Royal Canadian Mounted Police to remain in such custody until the pleasure of the Commissioner is known or such person is discharged by law.

To notify Commissioner

- (3) Where an order and warrant are made under subsection (2), the Court shall cause copies thereof and of the evidence produced before it to be sent, as soon as possible, to the Commissioner.

Powers of Commissioner

- (4) The Commissioner may make such order as he deems advisable as to the future custody of the insane person or may, in his discretion, direct that the hearing be re-opened or that a new hearing be held or that such other inquiry or steps be taken as he deems advisable.

Management of estate

- 7. (1) Where the Court has declared that a person is an insane person, it may appoint one or more trustees to manage his property, and if no such trustees are appointed, the Public Administrator shall manage his property as an estate.

Powers of Public Administrator

- (2) Subject to any further order by the Court or by the Commissioner, the Public Administrator or the trustees appointed under subsection (1), as the case may

be, have full power to manage, administer and care for the estate of an insane person and may sell, purchase, mortgage, lease, repair or do any matter or thing and take any proceeding they deem necessary for this purpose.

- (3) The Public Administrator or the trustees appointed under subsection (1), as the case may be, shall carry out any order of the Court or of the Commissioner respecting an estate of an insane person and may apply to the Court or the Commissioner for directions as to the performance of their duties. To carry out
Court Orders

- (4) Within six months after the Public Administrator commences management of an estate, he shall file with a Judge of the Territorial Court and with the Commissioner an inventory of the property comprised in the estate, and the income and profits thereof and all debits and credits pertaining to such estate. Inventory

- (5) Where any property of the insane person is discovered after the filing of an inventory under subsection (4) or where a Judge of the Territorial Court or the Commissioner requires further information, the Public Administrator shall file further affidavits respecting such additional property or as otherwise requested. Additional
property, etc.

- (6) The Public Administrator is liable to render an account of his management of the estate of an insane person to a Judge of the Territorial Court and to the Commissioner. Liability

8. The Commissioner may order or any person may apply to a Judge of the Territorial Court for an order that an insane person shall be declared to be no longer insane and to be discharged by law and respecting such other matters respecting his return from custody and the return of his estate to him as may be deemed just and proper. Discharge of
insane
person

9. The following Ordinances are repealed: Repeal

- (a) *an Ordinance respecting Insane Persons*, chapter 46 of the Consolidated Ordinances, 1914;

- (b) *an Ordinance to amend an Ordinance respecting Insane Persons, chapter 4 of the Ordinances of 1938;*
- (c) *an Ordinance to amend an Ordinance respecting Insane Persons, chapter 3 of the Ordinances of 1940; and*
- (d) *an Ordinance to amend an Ordinance respecting Insane Persons, chapter 15 of the Ordinances of 1947.*

COMING INTO FORCE

10. This Ordinance shall come into force on the day on which the Yukon Act, chapter 53 of the Statutes of Canada, 1952-53, comes into force.

SCHEDULE
FORM A

Warrant of Apprehension

^s Canada Yukon Territory To Wit:	}	To all peace officers in the Yukon Territory
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Whereas an application has been made to this Court for an order declaring that _____ of _____ is an insane person;

I hereby command you, in the name of Her Majesty the Queen, to apprehend the said _____ and bring him (or her) before this Court, in order that an inquiry may be made respecting the sanity of the said _____ and that he (or she) may be further dealt with according to law.

Given under my hand this _____ day of _____, 19____, at _____ in the Yukon Territory.

.....
Justice of the Peace
(or Judge of the Territorial Court)

FORM B

Warrant of Committal

Canada Yukon Territory To Wit:	}	To all peace officers of the Yukon Territory
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Whereas an inquiry was duly held by me respecting the
 sanity of _____ of _____
 and I have found and declared the
 said _____
 to be an insane person.

I hereby command you, in the name of Her Majesty the
 Queen, to take the said _____ and
 convey him (or her) to the Royal Canadian Mounted Police
 at _____ and to deliver him (or her) to them
 together with this warrant.

And I hereby command, in the name of Her Majesty the
 Queen, the said Royal Canadian Mounted Police to receive
 the said _____ into custody and safely keep
 him (or her) until the pleasure of the Commissioner be known
 or until the said _____ is discharged by law.

And this shall be your and their full and sufficient author-
 ity for so doing.

Given under my hand this _____ day of _____
 19 _____, at _____ in the Yukon Territory.

.....
 Justice of the Peace
 (or Judge of the Territorial
 Court)



CHAPTER 22

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING
THE SALE OF GOODS

(Assented to November 20, 1954.)

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

SHORT TITLE

Short title 1. This Ordinance may be cited as the *Sale of Goods Ordinance*.

INTERPRETATION

Definitions 2. (1) In this Ordinance

"Action" (a) "action" includes counterclaim and set off;

"Buyer" (b) "buyer" means a person who buys or agrees to buy goods;

"Contract of sale" (c) "contract of sale" includes an agreement to sell as well as the sale;

"Delivery" (d) "delivery" means voluntary transfer of possession from one person to another;

"Document of title to goods" (e) "document of title to goods" has the same meaning as it has in the *Factors Ordinance*;

"Fault" (f) "fault" means wrongful act or default;

"Future goods" (g) "future goods" means goods to be manufactured or acquired by the seller after the making of the contract of sale;

- (h) "goods" includes all chattels personal, other than things in action or money, and includes emblements, industrial growing crops and things attached to or forming part of the land that are agreed to be severed before sale or under the contract of sale; "Goods"
- (i) "property" means the general property in goods and not merely a special property; "Property"
- (j) "quality of goods" includes their state or condition; "Quality of goods"
- (k) "sale" includes a bargain and sale as well as a sale and delivery; "Sale"
- (l) "seller" means a person who sells or agrees to sell goods; "Seller"
- (m) "specific goods" means goods identified and agreed upon at the time a contract of sale is made; "Specific goods"
- (n) "warranty" means an agreement with reference to goods that are the subject of a contract of sale but collateral to the main purpose of such contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated. "Warranty"
- (2) A thing is deemed to be done "in good faith" within the meaning of this Ordinance when it is in fact done honestly, whether it is done negligently or not.
- (3) A person is deemed to be insolvent within the meaning of this Ordinance who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due.
- (4) Goods are in a "deliverable state" within the meaning of this Ordinance when they are in such a state that the buyer would under the contract be bound to take delivery of them.

PART I

FORMATION OF THE CONTRACT

CONTRACT OF SALE

Sale and agreement to sell

3. (1) A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a money consideration called the price; there may be a contract of sale between one part owner and another.
- (2) A contract of sale may be absolute or conditional.
- (3) Where under a contract of sale the property in the goods is transferred from the seller to the buyer the contract is called a sale; but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled the contract is called an agreement to sell.
- (4) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred.

Capacity to buy and sell

4. (1) Subject to subsection (2), capacity to buy and sell is regulated by the general law concerning capacity to contract and to transfer and acquire property.

Proviso

- (2) Where necessaries are sold and delivered to an infant or minor or to a person who by reason of mental incapacity or drunkenness is incompetent to contract he is bound to pay a reasonable price therefor.
- (3) The expression "necessaries" in subsection (2) means goods suitable to the condition in life of the infant, minor or other person and to his actual requirements at the time of the sale and delivery.

FORMALITIES OF THE CONTRACT

Contract of sale how made

5. (1) Subject to the provisions of this Ordinance and of any Ordinance in that behalf a contract of sale may be made in writing, either with or without seal, or by word of mouth or partly in writing and partly by word of mouth or may be implied from the conduct of the parties.

- (2) Nothing in this section affects the law relating to corporations. Proviso
6. (1) A contract for the sale of goods of the value of fifty dollars or upwards is not enforceable by action unless the buyer accepts part of the goods so sold and actually receives the same or gives something in earnest to bind the contract or in part payment or unless some note or memorandum in writing of the contract is made and signed by the party to be charged or his agent in that behalf. Contract of sale for \$50 and upwards
- (2) This section applies to every contract for the sale of goods of the value of fifty dollars or upwards notwithstanding that the goods may be intended to be delivered at some future time or may not at the time of the contract be actually made, procured or provided or fit or ready for delivery or some act may be requisite for the making or completing thereof or rendering them fit for delivery.
- (3) There is an acceptance of goods within the meaning of this section when the buyer does any act in relation to the goods that recognizes a pre-existing contract of sale whether there be an acceptance in performance of the contract or not.

SUBJECT MATTER OF CONTRACT

7. (1) The goods that form the subject of a contract of sale may be either existing goods owned or possessed by the seller or goods to be manufactured or acquired by the seller after the making of the contract of sale, in this Ordinance called "future goods". Existing or future goods
- (2) There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency that may or may not happen.
- (3) Where by a contract of sale the seller purports to effect a present sale of future goods the contract operates as an agreement to sell the goods.

Goods which have perished

8. Where there is a contract for the sale of specific goods and the goods without the knowledge of the seller have perished at the time when the contract is made, the contract is void.

Goods perishing before sale but after agreement to sell

9. Where there is an agreement to sell specific goods and subsequently the goods without any fault on the part of the seller or buyer perish before the risk passes to the buyer the agreement is thereby avoided.

THE PRICE

Ascertainment of price

10. (1) The price in a contract of sale may be fixed by the contract or may be left to be fixed in manner there-by agreed or may be determined by the course of dealing between the parties.

(2) Where the price is not determined in accordance with the foregoing provisions the buyer is bound to pay a reasonable price; what is a reasonable price is a question of fact dependent on the circumstances of each particular case.

Agreement to sell at valuation

11. (1) Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party and the third party cannot or does not make such valuation the agreement is avoided; but where the goods or any part thereof have been delivered to and appropriated by the buyer he is bound to pay a reasonable price therefor.

(2) Where the third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain an action for damages against the party in fault.

CONDITIONS AND WARRANTIES

Stipulation as to time

12. (1) Unless a different intention appears from the terms of the contract, stipulations as to time of payment are deemed not to be of the essence of a contract of sale; whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract.

(2) In a contract for sale "month" means *prima facie* calendar month.

13. (1) Where a contract of sale is subject to a condition to be fulfilled by the seller, the buyer may waive the condition or may elect to treat the breach of the condition as a breach of warranty, and not as a ground for treating the contract as repudiated.

When condition to be treated as warranty

(2) Whether a stipulation in a contract of sale is a condition the breach of which may give rise to a right to treat the contract as repudiated or a warranty the breach of which may give rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated, depends in each case on the construction of the contract; a stipulation may be a condition though called a warranty in the contract.

(3) Where a contract of sale is not severable and the buyer has accepted the goods or part thereof or where the contract is for specific goods the property in which has passed to the buyer, the breach of a condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated unless there is a term of the contract expressed or implied to that effect.

(4) Nothing in this section affects a condition or warranty fulfilment of which is excused by law by reason of impossibility or otherwise.

14. In a contract of sale unless the circumstances of the contract are such as to show a different intention there is

Implied undertaking as to title, etc.

(a) an implied condition on the part of the seller that in the case of a sale he has a right to sell the goods and that in the case of an agreement to sell he will have a right to sell the goods at the time when the property is to pass;

(b) an implied warranty that the buyer shall have and enjoy quiet possession of the goods; and

- (c) an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party not declared or known to the buyer before or at the time when the contract is made.

Sale by description

15. When there is a contract for the sale of goods by description, there is an implied condition that the goods shall correspond with the description; and if the sale is by sample as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.

Implied conditions as to quality or fitness

16. Subject to the provisions of this Ordinance and of any Ordinance in that behalf there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale except as follows:

- (a) Where the buyer expressly or by implication makes known to the seller the particular purpose for which the goods are required so as to show that the buyer relies on the seller's skill or judgment and the goods are of a description that it is in the course of the seller's business to supply, whether he is the manufacturer or not, there is an implied condition that the goods shall be reasonably fit for such purpose;
- (b) where goods are bought by description from a seller who deals in goods of that description, whether he is the manufacturer or not, there is an implied condition that the goods shall be of merchantable quality; except that if the buyer has examined the goods there is no implied condition as regards defects that such examination ought to have revealed;
- (c) an implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade; and
- (d) an express warranty or condition does not negative a warranty or condition implied by this Ordinance unless inconsistent therewith.

SALE BY SAMPLE

17. (1) A contract of sale is a contract for sale by sample where there is a term in the contract express or implied to that effect. Sale by sample
- (2) In the case of a contract for sale by sample,
- (a) there is an implied condition that the bulk shall correspond with the sample in quality;
 - (b) there is an implied condition that the buyer shall have a reasonable opportunity of comparing the bulk with the sample; and
 - (c) there is an implied condition that the goods shall be free from any defect rendering them unmerchantable that would not be apparent on reasonable examination of the sample.

PART II

EFFECTS OF THE CONTRACT

TRANSFER OF PROPERTY AS BETWEEN SELLER AND BUYER

18. Where there is a contract for the sale of unascertained goods no property in the goods is transferred to the buyer unless and until the goods are ascertained. Goods must be ascertained
19. (1) Where there is a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred. Property passes when intended to pass
- (2) For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case.
20. Unless a different intention appears the following are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer: Rules for ascertaining intention

Rule I.—Where there is an unconditional contract for the sale of specific goods in a deliverable state the property in the goods passes to the buyer when the contract is made and it is immaterial whether the time of payment or the time of delivery or both is postponed.

Rule II.—Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state the property does not pass until such thing is done and the buyer has notice thereof.

Rule III.—Where there is a contract for the sale of specific goods in a deliverable state but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing is done and the buyer has notice thereof.

Rule IV.—When goods are delivered to the buyer on approval or “on sale or return” or other similar terms the property therein passes to the buyer

- (a) when he signifies his approval or acceptance to the seller or does any other act adopting the transaction, or
- (b) where he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection and a time has been fixed for the return of the goods, on the expiration of such time; and where no time has been fixed, on the expiration of a reasonable time; what is a reasonable time is a question of fact.

Rule V.—(1) Where there is a contract for the sale of unascertained or future goods by description and goods of that description and in a deliverable state are unconditionally appropriated to the contract either by the seller with the assent of the buyer or by the buyer with the assent of the seller the property in the goods thereupon passes to the buyer; such assent may be expressed or implied and may be given either before or after the appropriation is made;

(2) Where in pursuance of the contract the seller delivers the goods to the buyer or to a carrier or other bailee, whether named by the buyer or not, for the purpose of transmission to the buyer and does not reserve the right of disposal he is deemed to have unconditionally appropriated the goods to the contract.

21. (1) Where there is a contract for the sale of specific goods or where goods are subsequently appropriated to the contract the seller may by the terms of the contract or appropriation reserve the right of disposal of the goods until certain conditions are fulfilled; in such case, notwithstanding the delivery of the goods to the buyer or to a carrier or other bailee for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller are fulfilled.

Reservation
of right of
disposal

(2) Where goods are shipped and by the bill of lading the goods are deliverable to the order of the seller or his agent the seller is *prima facie* deemed to have the right of disposal.

(3) Where the seller of goods draws on the buyer for the price and transmits the bill of exchange and bill of lading to the buyer together to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if he does not honour the bill of exchange and if he wrongfully retains the bill of lading the property in the goods does not pass to him.

22. (1) Subject to subsections (2) and (3), unless otherwise agreed the goods remain at the seller's risk until the property therein is transferred to the buyer; but when the property therein is transferred to the buyer the goods are at the buyer's risk whether delivery has been made or not.

Risk
prima facie
passes
with property

(2) Where delivery has been delayed through the fault of either buyer or seller, the goods are at the risk of the party in fault as regards any loss that might not have occurred but for such fault.

- (3) Nothing in this section affects the duties or liabilities of either seller or buyer as a bailee or custodian of the goods of the other party.

TRANSFER OF TITLE

Sale by person not owner

23. (1) Subject to the provisions of this Ordinance, where goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell.

- (2) Nothing in this Ordinance affects
- (a) the provisions of the *Factors Ordinance* or any enactment enabling the apparent owner of goods to dispose of them as if he were the true owner thereof, or
 - (b) the validity of any contract or sale under any special common law or statutory power of sale or under the order of a court of competent jurisdiction.

Sale under voidable title

24. When the seller of goods has a voidable title thereto but his title has not been voided at the time of sale the buyer acquires a good title to the goods if he buys them in good faith and without notice of the seller's defect of title.

Seller or buyer in possession after sale

25. (1) When a person having sold goods continues or is in possession of the goods or of the document of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving them in good faith and without notice of the previous sale has the same effect as if the person making the delivery or transfer was expressly authorized by the owner of the goods to make it.
- (2) Where a person having bought or agreed to buy goods obtains with the consent of the seller possession of the

goods or the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving them in good faith and without notice of any lien or other right of the original seller in respect of the goods has the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner.

- (3) In this section the term "mercantile agent" has the same meaning as in the *Factors Ordinance*.

PART III

PERFORMANCE OF THE CONTRACT

26. It is the duty of the seller to deliver the goods and of the buyer to accept and pay for them in accordance with the terms of the contract of sale.

Duties of
seller and
buyer

27. Unless otherwise agreed delivery of the goods and payment of the price of concurrent conditions; that is to say, the seller must be ready and willing to give possession of the goods to the buyer in exchange for the price and the buyer must be ready and willing to pay the price in exchange for possession of the goods.

Payment and
delivery are
concurrent
conditions

28. (1) Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract expressed or implied between the parties; apart from any such contract express or implied the place of delivery is the seller's place of business if he has one and, if not, his residence; but if the contract is for the sale of specific goods that to the knowledge of the parties when the contract is made are in some other place, then that place is the place of delivery.

Rules as to
delivery

(2) Where under the contract of sale the seller is bound to send the goods to the buyer but no time for sending them is fixed, the seller is bound to send them within a reasonable time.

- (3) Where the goods at the time of the sale are in possession of a third person, there is no delivery by seller to buyer unless and until the third person acknowledges to the buyer that he holds the goods on his behalf.
- (4) Nothing in this section affects the operation of the issue or transfer of any document of title to goods.
- (5) Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour; what is a reasonable hour is a question of fact.
- (6) Unless otherwise agreed the expenses of and incidental to putting the goods into a deliverable state shall be borne by the seller.

Delivery of
wrong
quantity

- 29. (1) Where the seller delivers to the buyer a quantity of goods less than he contracted to sell the buyer may reject them; but if the buyer accepts the goods so delivered he is bound to pay for them at contract rate.
- (2) Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell the buyer may accept the goods included in the contract and reject the rest or he may reject the whole; when the buyer accepts the whole of the goods so delivered he is bound to pay for them at the contract rate.
- (3) Where the seller delivers to the buyer goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods that are in accordance with the contract and reject the rest or he may reject the whole.
- (4) The provisions of this section are subject to any usage of trade, special agreement or course of dealing between the parties.
- 30. (1) Unless otherwise agreed the buyer of goods is not bound to accept delivery thereof by instalments.
- (2) Where there is a contract for the sale of goods to be delivered by stated instalments that are to be separately paid for and the seller makes defective deliveries

in respect of one or more instalments or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case depending on the terms of the contract and the circumstances of the case whether the breach of contract is a repudiation of the whole contract or whether it is a severable breach giving rise to a claim for compensation but not to a right to treat the whole contract as repudiated.

31. (1) Where in pursuance of a contract of sale the seller is authorized or required to send the goods to the buyer, delivery of the goods to a carrier, whether named by the buyer or not for the purpose of transmission to the buyer is *prima facie* deemed to be a delivery of the goods to the buyer. Delivery to carrier
- (2) Unless otherwise authorized by the buyer, the seller is bound to make such contract with the carrier on behalf of the buyer as may be reasonable having regard to the nature of the goods and the other circumstances of the case; when the seller omits to do so and the goods are lost or damaged in course of transit the buyer may decline to treat the delivery to the carrier as a delivery to himself or may hold the seller responsible in damages.
- (3) Unless otherwise agreed where goods are sent by the seller to the buyer by a route involving sea transit under circumstances in which it is usual to insure, the seller is bound to give such notice to the buyer as may enable him to insure them during their sea transit; and where the seller fails to do so the goods are deemed to be at his risk during such sea transit.
32. Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are when sold the buyer is nevertheless bound, unless otherwise agreed, to take any risk of deterioration in the goods necessarily incident to the course of transit. Risk where goods delivered at distant place
33. (1) Where goods are delivered to the buyer that he has not previously examined he is deemed not to have accepted them unless and until he has had a reasonable Buyer's right of examining goods

opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract.

- (2) Unless otherwise agreed when the seller tenders delivery of goods to the buyer he is bound on request to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract.

Acceptance

34. The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them or when the goods have been delivered to him and he does any act in relation to them that is inconsistent with the ownership of the seller or when after the lapse of a reasonable time he retains the goods without intimating to the seller that he has rejected them.

Buyer not bound to return rejected goods

35. Unless otherwise agreed where goods are delivered to the buyer and he refuses to accept them having the right so to do, he is not bound to return them to the seller but it is sufficient if he intimates to the seller that he refuses to accept them.

Liability of buyer for neglecting or refusing delivery of goods

36. (1) When the seller is ready and willing to deliver the goods and requests the buyer to take delivery and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery and also for a reasonable charge for the care and custody of the goods.

(2) Nothing in this section affects the rights of the seller where the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract.

PART IV

RIGHTS OF UNPAID SELLER AGAINST THE GOODS

Unpaid seller defined

37. (1) The seller of the goods is deemed to be an "unpaid seller" within the meaning of this Ordinance.

- (a) when the whole of the contract price has not been paid or tendered; or

- (b) when a bill of exchange or other negotiable instrument has been received as conditional payment and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.
- (2) In this Part the term "seller" includes a person who is in the position of a seller; for example, an agent of the seller to whom the bill of lading has been indorsed or a consignor or agent who has himself paid or is directly responsible for the price.
38. (1) Subject to the provisions of this Ordinance and of any Ordinance in that behalf, notwithstanding that the property in the goods may have passed to the buyer the unpaid seller of goods as such has by implication of law,
- (a) a lien on the goods or right to retain them for a price while he is in possession of them;
- (b) in the case of the insolvency of the buyer a right of stopping the goods in transit after he has parted with the possession of them; and
- (c) a right of re-sale as limited by this Ordinance.
- (2) Where the property in goods has not passed to the buyer the unpaid seller has in addition to his other remedies a right of withholding delivery similar to and co-extensive with his rights of lien and stoppage *in transitu* where the property has passed to the buyer.

Unpaid
seller's
rights

UNPAID SELLER'S LIEN

39. (1) Subject to this Ordinance the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price, in any of the following cases, namely,
- (a) where the goods have been sold without any stipulation as to credit;
- (b) where the goods have been sold on credit but the term of credit has expired; and
- (c) where the buyer becomes insolvent.

Seller's
lien

- (2) The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer.

Part
delivery

40. Where an unpaid seller has made part delivery of the goods he may exercise his right of lien or retention of the remainder unless such part delivery has been made under such circumstances as to show an agreement to waive the lien or right of retention.

Termination
of lien

41. (1) The unpaid seller of goods loses his lien or right of retention thereon

(a) when he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;

(b) when the buyer or his agent lawfully obtains possession of the goods; or

(c) by waiver thereof.

- (2) The unpaid seller of goods having a lien or right of retention thereon does not lose his lien or right of retention by reason only that he has obtained judgment or decree for the price of the goods.

STOPPAGE IN TRANSITU

Right of
stoppage
in transitu

42. Subject to this Ordinance when the buyer of goods becomes insolvent the unpaid seller who has parted with the possession of the goods has the right of stopping them *in transitu*; that is to say, he may resume possession of the goods as long as they are in course of transit and may retain them until payment or tender of the price.

Duration of
transit

43. (1) Goods are deemed to be in course of transit from the time when they are delivered to a carrier, by land or water, or other bailee for the purpose of transmission to the buyer, until the buyer or his agent in that behalf takes delivery of them from such carrier or other bailee.

- (2) When the buyer or his agent in that behalf obtains delivery of the goods before their arrival at the appointed destination the transit is at an end.
 - (3) Where, after the arrival of the goods at the appointed destination, the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in possession of them as bailee for the buyer or his agent the transit is at an end and it is immaterial that a further destination for the goods may have been indicated by the buyer.
 - (4) Where the goods are rejected by the buyer and the carrier or other bailee continues in possession of them the transit is deemed not to be at an end even if the seller has refused to receive them back.
 - (5) Where goods are delivered to a ship chartered by the buyer it is a question depending on the circumstances of the particular case whether they are in the possession of the master as a carrier or as agent to the buyer.
 - (6) Where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agent in that behalf the transit is deemed to be at an end.
 - (7) Where part delivery of the goods has been made to the buyer or his agent in that behalf the remainder of the goods may be stopped *in transitu* unless such part delivery has been made under such circumstances as to show an agreement to give up possession of the whole of the goods.
44. (1) The unpaid seller may exercise his right of stoppage *in transitu* either by taking actual possession of the goods or by giving notice of his claim to the carrier or other bailee in whose possession the goods are; such notice may be given either to the person in actual possession of the goods or to his principal; in the latter case the notice to be effectual must be given at such time and under such circumstances that the principal by the exercise of reasonable diligence may communicate it to his servant or agent in time to prevent delivery to the buyer.

How stoppage
in transitu
effected

- (2) When notice of stoppage *in transitu* is given by the seller to the carrier or other bailee in possession of the goods he must redeliver the goods to or according to the direction of the seller; the expenses of such redelivery are to be borne by the seller.

RESALE BY BUYER OR SELLER

Effect of
subsale or
pledge by
buyer

- 45. (1) Subject to this Ordinance the unpaid seller's right of lien or retention or stoppage *in transitu* is not affected by any sale or other disposition of the goods which the buyer may have made unless the seller has assented thereto.

- (2) Where a document of title of goods has been lawfully transferred to any person as buyer or owner of the goods and that person transfers the document to a person who takes the document in good faith and for valuable consideration then, if such last-mentioned transfer was by way of sale, the unpaid seller's right of lien or retention or stoppage *in transitu* is defeated and if such last-mentioned transfer was by way of pledge or other disposition for value the unpaid seller's right of lien or retention or stoppage *in transitu* can only be exercised subject to the rights of the transferee.

Sale not
generally
rescinded
by lien or
stoppage
in transitu

- 46. (1) Subject to this section a contract of sale is not rescinded by the mere exercise by an unpaid seller of his right of lien or retention or stoppage *in transitu*.

- (2) Where an unpaid seller who has exercised his rights of lien or retention or stoppage *in transitu* resells the goods the buyer acquires a good title thereto as against the original buyer.

- (3) Where the goods are of a perishable nature or where the unpaid seller gives notice to the buyer of his intention to resell and the buyer does not within a reasonable time pay or tender the price, the unpaid seller may resell the goods and recover from the original buyer damages for any loss occasioned by his breach of contract.

- (4) Where the seller expressly reserves a right of resale in case the buyer should make default and on the buyer making default resells the goods the original contract of sale is thereby rescinded but without prejudice to any claim the seller may have for damages.

PART V

ACTIONS FOR BREACH OF THE CONTRACT

REMEDIES OF THE SELLER

47. (1) Where under a contract of sale the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract the seller may maintain an action against him for the price of the goods. Action for price
- (2) Where under a contract of sale the price is payable on a certain day, irrespective of delivery, and the buyer wrongfully neglects or refuses to pay such price, the seller may maintain an action for the price although the property in the goods has not passed and the goods have not been appropriated to the contract.
- (3) Nothing in this section shall be construed to prejudice the right of the seller to recover interest on the price from the date of tender of the goods or from the date on which the price was payable, as the case may be.
48. (1) Where the buyer wrongfully neglects or refuses to accept and pay for the goods the seller may maintain an action against him for damages for non-acceptance. Damages for non-acceptance
- (2) The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from the buyer's breach of contract.
- (3) Where there is an available market for the goods in question the measure of damages is *prima facie* to be ascertained by the difference between the contract price and the market or current price at the time or times when the goods ought to have been accepted or if no time was fixed for acceptance then at the time of the refusal to accept.

REMEDIES OF THE BUYER

Damages
for non-
delivery

49. (1) Where the seller wrongfully neglects or refuses to deliver the goods to the buyer the buyer may maintain an action against the seller for damages for non-delivery.
- (2) The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from the seller's breach of contract.
- (3) Where there is an available market for the goods in question, the measure of damages is *prima facie* to be ascertained by the difference between the contract price and the market or current price of the goods at the time or times when they ought to have been delivered or if no time was fixed then at the time of the refusal to deliver.

Specific
performance

50. In any action for breach of contract to deliver specific or ascertained goods the court may if it thinks fit on the application of the plaintiff by its judgment or decree direct that the contract shall be performed specifically without giving the defendant the option of retaining the goods on payment of damages; the judgment or decree may be unconditional or upon such terms and conditions as to damages, payment of the price and otherwise as to the court may seem just and the application by the plaintiff may be made at any time before judgment or decree.

Remedy for
breach of
warranty

51. (1) Where there is a breach of warranty by the seller or where the buyer elects or is compelled to treat any breach of a condition on the part of the seller as a breach of warranty, the buyer is not by reason only of such breach of warranty entitled to reject the goods; but he may
- (a) set up against the seller the breach of warranty in diminution or extinction of the price, or
- (b) maintain an action against the seller for damages for the breach of warranty.
- (2) The measure of damages for breach of warranty is the estimated loss directly and naturally resulting in the ordinary course of events from the breach of warranty.

- (3) In the case of breach of warranty of quality such loss is *prima facie* the difference between the value of the goods at the time of delivery to the buyer and the value they would have had if they had answered to the warranty.
- (4) The fact that the buyer has set up the breach of warranty in diminution or extinction of the price does not prevent him from maintaining an action for the same breach of warranty if he has suffered further damage.

52. Nothing in this Ordinance affects the right of the buyer or the seller to recover interest or special damages in any case where by law interest or special damages may be recoverable or to recover money paid where the consideration for the payment of it has failed.

Interest and special damages

PART VI
SUPPLEMENTARY

53. Where any right, duty or liability would arise under a contract of sale by implication of law it may be negatived or varied by express agreement or by the course of dealing between the parties or by usage if the usage is such as to bind both parties to the contract.

Exclusion of implied terms and conditions

54. Where by this Ordinance any reference is made to a reasonable time the question as to what is a reasonable time is a question of fact.

Reasonable time a question of fact

55. Where any right, duty or liability is declared by this Ordinance it may unless otherwise by this Ordinance provided be enforced by action.

Rights, etc., enforceable by action

56. (1) Where goods are put up for sale by auction in lots each lot is *prima facie* deemed to be the subject of a separate contract of sale.

Auction sale

(2) A sale by auction is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner; until such announcement is made any bidder may retract his bid.

(3) Where a sale by auction is not notified to be subject to a right to bid on behalf of the seller it is not lawful for the seller to bid himself or to employ any

person to bid at such sale or for the auctioneer knowingly to take any bid from the seller or any such person; any sale contravening this rule may be treated as fraudulent by the buyer.

- (4) A sale by auction may be notified to be subject to a reserve or upset price and the right to bid may also be reserved expressly by or on behalf of the seller; where a right to bid is expressly reserved, but not otherwise, the seller or any one person on his behalf may bid at the auction.

Payment into court when breach of warranty alleged

57. Where a buyer has elected to accept goods that he might have rejected and to treat a breach of contract as only giving rise to a claim for damages he may in an action by the seller for the price be required, in the discretion of the court before which the action depends, to consign or pay into court the price of the goods or part thereof or to give other reasonable security for the due payment thereof.

Existing laws preserved subject hereto

58. (1) The rules of the common law including the law merchant except in so far as they are inconsistent with the express provisions of this Ordinance and in particular the rules relating to the law of principal and agent and the effect of fraud, misrepresentation, duress, coercion, mistake or other invalidating cause shall continue to apply to contracts for the sale of goods.

(2) Nothing in this Ordinance affects the enactment relating to bills of sale or any enactment relating to the sale of goods that is not expressly repealed by this Ordinance.

(3) The provisions of this Ordinance relating to contracts of sale do not apply to any transaction in the form of a contract of sale that is intended to operate by way of mortgage, pledge, charge or other security.

REPEAL

Repeal

59. *The Sale of Goods Ordinance*, chapter 78 of the Consolidated Ordinances, 1914, is repealed.

CHAPTER 23

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING
THE PROTECTION AND CARE OF
ARCHAEOLOGICAL SITES

(Assented to November 20, 1954.)

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

SHORT TITLE

1. This Ordinance may be cited as the *Archaeological Sites Ordinance*. Short title

INTERPRETATION

2. In this Ordinance

Definitions

- (a) "archaeological site" means a site of work of archaeological, ethnological or historical importance, interest or significance and includes any site or work designated by the Commissioner as an archaeological site for the purposes of this Ordinance; "Archaeological site"
- (b) "archaeological specimen" means an object, thing, or specimen of archaeological, ethnological or historical importance, interest or significance and includes explorers' cairns and explorers' documents and any object, thing or specimen designated by the Commissioner as an archaeological specimen for the purposes of this Ordinance; and "Archaeological specimen"
- (c) "permits" means a valid and subsisting permit issued under this Ordinance. "Permit"

PROTECTION OF SITES

Only permit holders may excavate, etc.

3. No person shall excavate or investigate any archaeological site in the Territory or export from the Territory or collect any archaeological specimen unless he is the holder of a permit.

Restoration after excavation

4. A person who excavates an archaeological site in any place or area shall, so far as reasonably possible, after completion of the excavation, restore that place or area to its normal condition.

ISSUE OF PERMITS

Commissioner may issue

5. Where an application is made to him in writing, the Commissioner may issue a permit to any person for the examination of an archaeological site or for the collection of archaeological specimens.

Limitation as to area

6. No permit shall be issued under section 5 in respect of an area larger than the area that can be fully and systematically investigated within the time specified in the permit.

Preservation *in situ*

7. ~~6~~ No permit shall be issued under section 5 for the removal or excavation of any structure or thing that, in the opinion of the Commissioner, may be permanently preserved *in situ* as an object of scientific or historic interest.

DURATION OF PERMITS

Two year limit

8. (1) Subject to subsection (2), no permit is valid for more than two consecutive years from the date of issue.

Extension of time

(2) Where the holder of a permit applies to the Commissioner in writing for an extension thereof and in support of his application submits evidence to the satisfaction of the Commissioner that the work for which the permit has been issued has been diligently prosecuted and that further time is required to complete it, the Commissioner may grant an extension of the permit for such further period as he may specify.

Cancellation of permit

9. Notwithstanding section 8, the Commissioner may cancel a permit at any time.

10. A permit ceases to be valid where the holder fails to begin the work for which it was issued within six months from the date of issue or where the holder fails, in the opinion of the Commissioner, to prosecute the work diligently.

Effect of failure to do the work

11. The holder of a permit shall show the permit on demand to persons authorized by the Commissioner to demand the production of permits.

Production on demand

REPORTS

12. (1) At the close of each season's field work, every holder of a permit shall furnish, in duplicate, to the Commissioner a report on the work performed.

Report at close of season's work

(2) A report under subsection (1) shall contain

Contents

- (a) full details of the work performed including details of any stratification or other chronological evidence encountered;
- (b) a descriptive catalogue of all specimens collected;
- (c) copies of all photographs taken, land maps and plans made in connection with the work, together with explanatory notes; and
- (d) such other information as the Commissioner may prescribe.

SPECIMENS

13. Any archaeological specimen that is taken

Seizure of unauthorized specimens

- (a) by a person who is not the holder of a permit, or
- (b) by a person contrary to this Ordinance or the regulations or the terms of a permit,

may be seized by a person authorized by the Commissioner to seize such specimens and may be disposed of as the Commissioner thinks fit.

14. (1) All archaeological specimens collected by the holder of a permit shall be submitted by him to the Commissioner for examination by the archaeological officers of the Government of Canada.

Submission to Commissioner for examination

May be turned over to National Museum of Canada

(2) The Commissioner may direct that any specimen submitted under subsection (1) be turned over to the National Museum of Canada or Public Archives of Canada, and, upon such direction being made, the specimens so directed become the property of Her Majesty.

May be returned or otherwise disposed of

(3) Where specimens are not directed to be turned over to the National Museum of Canada or Public Archives of Canada, the Commissioner may return such specimens to the holder of the permit on condition that the holder undertakes to deposit them permanently in some public institution where they will be available for study or the Commissioner may otherwise dispose of them as he thinks fit.

May be retained for report

(4) The Commissioner may allow the holder of a permit to retain the specimens collected under a permit during such period as the Commissioner may approve for the purposes of preparing a scientific report before they are submitted for examination and disposal under this section.

REGULATIONS

Regulations

15. The Commissioner may from time to time make rules and regulations for carrying out the purposes and provisions of this Ordinance.

PENALTY

Offence and penalty

16. A person who violates the provisions of this Ordinance or the regulations is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

REPEAL

17. *The Archaeological Sites Ordinance*, chapter 2 of the Ordinances of 1945, is repealed.

CHAPTER 24

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING EXEMPTIONS

(Assented to November 20, 1954.)

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

SHORT TITLE

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

INTERPRETATION

2. In this Ordinance Definitions
- (a) "creditor" means a party or person who is entitled to receive payment or to enforce a judgment or order; "Creditor"
- (b) "debtor" means a party or person to make payment under any judgment or order or against whom the same may be enforced; "Debtor"
- (c) "writ of execution" includes a writ of *feri facias* and every subsequent writ for giving effect thereto issued according to the provisions of the "Judicature Ordinance". "Writ of Execution"

EXEMPTIONS

3. The following real and personal property is exempt from seizure under any writ of execution: Chattels exempt from seizure
- (a) the household furniture, utensils and equipment that are contained in and form part of the permanent home of a debtor, (but not including furniture, utensils or equipment purchased for defeating the claims of creditors), except that under a writ of execution issued upon a judgment given upon a claim for clothing, food, fuel or shelter supplied for the debtor or his

family the exemption under this paragraph is limited to household furniture, utensils and equipment not exceeding in value two hundred dollars;

- (b) the necessary and ordinary wearing apparel of the debtor and his family;
- (c) the food, fuel and other necessities of life required by the debtor and his family for the next ensuing twelve months;
- (d) live-stock, fowl, bees, books, tools and implements and other chattels necessary to and actually in use by the debtor in his business, profession or calling to the extent of six hundred dollars; and
- (e) the house and buildings occupied by the debtor and the lot on which they are situated to the extent of three thousand dollars.

Debtor's rights where implements sold

4. The debtor may, in lieu of the chattels referred to in paragraph (d) of section 3, elect to receive the proceeds of the sale thereof up to six hundred dollars, in which case the officer executing the writ of execution shall pay to the debtor the net proceeds of the sale if they do not exceed six hundred dollars, or if they do exceed six hundred dollars, shall pay six hundred dollars to the debtor in satisfaction of his right to exemption under the said paragraph (d).

Money derived from sale of exempted goods

5. The sum to which the debtor is entitled under paragraph (d) of section 3 or under section 4 is exempt from attachment or seizure at the instance of a creditor.

No exemption where debt is for chattel seized

6. Nothing in this Ordinance exempts any article (including fuel), except beds, bedding and bedsteads (including cradles) in ordinary use by the debtor and his family and except necessary and ordinary wearing apparel of the debtor and his family, from seizure to satisfy a debt contracted for such article.

Deceased debtor

7. Chattels of a debtor exempt from seizure are exempt from the claims of his creditors after his death, and his widow is entitled to retain them for the benefit of herself and his family, or, if there is no widow, the family of the debtor is entitled to them.

8. The debtor, his widow or family; or in the case of infants, their guardian, may select out of any larger number the chattels exempt from seizure. Right of selection

9. Section 3 does not apply

Application

(a) to cases where a debtor has absconded or is about to abscond from the Territory leaving no wife or family behind; or

(b) to writs of execution issued upon judgment or orders for the payment of alimony or judgments founded upon separation agreements.

REPEAL

10. "*The Exemptions Ordinance*", chapter 31 of the Consolidated Ordinances, 1914, is repealed. Repeal

CHAPTER 25

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING
FACTORS AND AGENTS

(*Assented to November 20, 1954.*)

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

SHORT TITLE

- Short title 1. This Ordinance may be cited as the *Factors Ordinance*.

INTERPRETATION

- Interpretation 2. (1) In this Ordinance
- “Document of Title” (a) “document of title” includes any bill of lading, dock warrant, warehousekeeper’s certificate or warrant or order for the delivery of goods and any other documents used in the ordinary course of business as proof of the possession or control of goods or authorizing or purporting to authorize either by endorsement or delivery the possessor of the document to transfer or receive goods thereby represented;
- “Goods” (b) “goods” includes ware and merchandise;
- “Mercantile agent” (c) “mercantile agent” means a mercantile agent having in the customary course of his business as such agent, authority either to sell goods or to consign goods for the purpose of sale or to buy goods or to raise money on the security of goods; and
- “Pledge” (d) “pledge” includes a contract pledging or giving a lien or security on goods whether in consideration of an original advance or of any further or continuing advance or of any pecuniary liability.

- (2) A person is deemed to be in possession of goods or of the documents of title to goods where the goods or documents are in his actual custody or are held by any other person subject to his control or for him or in his behalf.

DISPOSITION BY MERCANTILE AGENTS

3. (1) Where a mercantile agent is, with the consent of the owner, in possession of goods or of the documents of title to goods, any sale, pledge or other disposition of the goods made by him when acting in the ordinary course of business of a mercantile agent is, subject to this Ordinance, as valid as if he were expressly authorized by the owner of the goods to make the same, if the person taking under the disposition acts in good faith and has not at the time of the disposition notice that the person making the disposition has not authority to make the same. Powers of mercantile agents respecting disposition of goods
- (2) Where a mercantile agent has, with the consent of the owner, been in possession of goods or of the documents of title to goods, any sale, pledge or other disposition that would have been valid if the consent had continued, is valid notwithstanding the determination of the consent, if the person taking under the disposition has not at the time thereof notice that the consent has been determined.
- (3) Where a mercantile agent has obtained possession of any documents of title to goods by reason of his being or having been with the consent of the owner in possession of the goods represented thereby or by any other documents of title to the goods, his possession of the first-mentioned documents is for the purposes of this Ordinance deemed to be with the consent of the owner.
- (4) For the purposes of this Ordinance the consent of the owner shall be presumed in the absence of evidence to the contrary.
4. A pledge of the documents of title to goods is deemed to be a pledge of the goods. Effect of pledge of documents of title

Pledge for antecedent debt

5. Where a mercantile agent pledges goods as security for a debt or liability due from the pledger to the pledgee before the time of the pledge, the pledgee acquires no further right to the goods than could have been enforced by the pledger at the time of the pledge.

Rights acquired by exchange of goods or documents

6. The consideration necessary for the validity of a sale, pledge or other disposition of goods in pursuance of this Ordinance may be either a payment in cash or the delivery or transfer of other goods or of a document of title to goods or of a negotiable security or any other valuable consideration; but where goods are pledged by a mercantile agent in consideration of the delivery or transfer of other goods or of a document of title to goods or of a negotiable security the pledgee acquires no right or interest in the goods so pledged in excess of the value of the goods, documents or security when so delivered or transferred in exchange.

Agreements through clerks, etc.

7. For the purposes of this Ordinance an agreement made with a mercantile agent through a clerk or other person authorized in the ordinary course of business to make contracts of sale or pledge on his behalf is deemed to be an agreement with the agent.

Provisions as to consignors and consignees

8. (1) Where the owner of goods has given possession of the goods to another person for the purpose of consignment or sale or has shipped the goods in the name of another person and the consignee of the goods has not had notice that such person is not the owner of the goods, the consignee, in respect of advances made to or for the use of such person, has the same lien on the goods as if such persons were the owner of the goods and may transfer any such lien to another person.

(2) Nothing in this section limits or affects the validity of a sale, pledge or disposition by a mercantile agent.

DISPOSITIONS BY BUYERS AND SELLERS OF GOODS

Disposition by seller remaining in possession

9. Where a person having sold goods continues or is in possession of the goods or of the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge or other disposition thereof or

under any agreement for sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale has the same effect as if the person making the delivery or transfer were expressly authorized by the owner of the goods to make the same.

10. Where a person having bought or agreed to buy goods obtains with the consent of the seller possession of the goods or the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods has the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner.

Disposition by
buyer obtain-
ing possession

11. Where a document of title to goods has been lawfully transferred to a person as buyer or owner of the goods and that person transfers the document to a person who takes the document in good faith and for valuable consideration the last-mentioned transfer has the same effect for defeating any vendor's lien or right of stoppage *in transitu* as the transfer of a bill of lading has for defeating the right of stoppage *in transitu*.

Effect of
transfer of
documents on
vendor's lien
or right of
stoppage
in transitu

SUPPLEMENTAL

12. For the purposes of this Ordinance the transfer of a document may be by endorsement or where the document is by custom or by its express terms transferable by delivery or makes the goods deliverable to the bearer then by delivery.

Mode of
transferring
documents

13. (1) Nothing in this Ordinance authorizes an agent to exceed or depart from his authority as between himself and his principal or exempt him from any liability civil or criminal for so doing.

Liability of
agent

(2) Nothing in this Ordinance shall be construed to prevent the owner of goods from recovering the goods from an agent or assignee under an assignment for the benefit of creditors at any time before the sale or pledge thereof or to prevent the owner of goods pledged

Saving for
rights of
true owner

by an agent from having the right to redeem the goods at any time before the sale thereof on satisfying the claim for which the goods were pledged and paying to the agent, if by him required, any money in respect of which the agent would by law be entitled to retain the goods or the documents of title thereto or any of them by way of lien as against the owner or from recovering from any person with whom the goods have been pledged any balance of money remaining in his hands as the produce of the sale of the goods after deducting the amount of his lien.

- (3) Nothing in this Ordinance shall be construed to prevent the owner of goods sold by an agent from recovering from the buyer the price agreed to be paid for the same or any part of that price subject to any right of set-off on the part of the buyer against the agent.

Saving for
common law,
powers of
agent

14. The provisions of this Ordinance shall be construed in amplification and not in derogation of the powers exercisable by an agent independently of this Ordinance.

LIABILITY OF AGENT OF NON-RESIDENT PRINCIPAL

Person acting
as agent to be
liable unless
full name, etc.,
of principal
disclosed

15. (1) Any one acting as an agent, partner or in some other capacity in any trading, business or calling, in the Territory, for or on behalf of any person, partnership, association or company, not having his or its principal place of business in the Territory, or not having a regular place of business in the Territory, is personally liable upon any contract, transaction or obligation whatsoever which may be entered into, made, or incurred in the Territory for, or in the course of business, trade or calling of such person, partnership, association or company, unless he or it has previously disclosed the full name and residence of the partners composing the partnership, and if an association or a company, the principal place of business of that association or company, by a declaration registered at the office of the registration clerk of the registration district established under the Bills of Sale Ordinance where such contract, obligation or transaction was made or incurred, in addition to any law or Ordinance in force in the Territory concerning the registration of trading, partnership, association or company.

- (2) Where a judgment is obtained against a person who has acted as an agent, partner or in some other capacity for or in behalf of a person, partnership, association or company described in subsection (1) and the judgment is based upon a contract, transaction or obligation entered into, made or incurred for, or on behalf of the person, partnership, association or company, execution may be issued and satisfied out of the assets of the person, partnership, association or company as well as out of the assets of the person who has acted as agent, partner or other capacity.

Execution
may issue
against
principal as
well as agent

REPEAL

16. *The Factor's Ordinance*, Chapter 32 of the Consolidated Ordinances, 1914, is repealed.

Repeal

CHAPTER 26

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING PARTNERSHIPS

(Assented to November 20, 1954.)

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

SHORT TITLE

Short title 1. This Ordinance may be cited as the *Partnership Ordinance*.

INTERPRETATION

Interpretation 2. In this Ordinance

"Business" (a) "business" includes every trade, occupation or profession;

"Registration clerk" (b) "registration clerk" means a registration clerk under the *Bills of Sale Ordinance*; and

(c) "registration district" means a registration district under the *Bills of Sale Ordinance*.

PARTNERSHIPS GENERALLY

NATURE OF PARTNERSHIP

Partnership defined 3. (1) Partnership is the relation that subsists between persons carrying on a business in common with a view of profit.

(2) The relation between members of any company or association who constitute a body corporate under any law in force in the Territory is not a partnership within the meaning of this Ordinance.

Rules for determining existence of partnership 4. In determining whether a partnership does or does not exist, regard shall be had to the following rules:

1. Joint tenancy, tenancy in common, joint property, common property, or part ownership does not of itself create a partnership as to any thing so held or owned, whether the tenants or owners do or do not share any profits made by the use thereof.

2. The sharing of gross returns does not of itself create a partnership, whether the persons sharing such returns have or have not a joint or common right or interest in any property from which or from the use of which the returns are derived.

3. The receipt by a person of a share of the profits of a business is *prima facie* evidence that he is a partner in the business, but the receipt of such a share, or of a payment contingent on or varying with the profits of a business, does not of itself make him a partner in the business; and in particular—

- (a) the receipt by a person of a debt or other liquidated amount by instalments or otherwise out of the accruing profits of a business does not of itself make him a partner in the business or liable as such;
- (b) a contract for the remuneration of a servant or agent of a person engaged in a business by a share of the profits of the business does not of itself make the servant or agent a partner in the business or liable as such;
- (c) a person being the widow or child of a deceased partner, and receiving by way of annuity a portion of the profits made in the business in which the deceased person was a partner, is not by reason only of such receipt a partner in the business or liable as such;
- (d) the advance of money by way of loan to a person engaged or about to engage in any business on a contract with that person that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits arising from carrying on the business, does not of itself make the lender a partner with the person or persons carrying on the business or liable as such, if the contract is in writing, and signed by or on behalf of all the parties thereto;

- (e) a person receiving by way of annuity or otherwise a portion of the profits of a business in consideration of the sale by him of the goodwill of the business is not by reason only of such receipt a partner in the business or liable as such.

In case of assignment for benefit of creditors, etc., postponement of rights of person lending or selling in consideration of share of profits

5. Where a person to whom money has been advanced by way of loan upon a contract mentioned in section 4, or any buyer of a goodwill in consideration of a share of the profits of the business makes an assignment for the benefit of his creditors, enters into an arrangement to pay his creditors less than one hundred cents in the dollar, or dies in insolvent circumstances, the lender of the loan is not entitled to recover anything in respect of his loan, and the seller of the goodwill is not entitled to recover anything in respect of the share of profits contracted for, until the claims of the other creditors of the borrower or buyer for valuable consideration in money or money's worth have been satisfied.

Meaning of "firm" and "firm name"

6. Persons who have entered into partnership with one another are for the purposes of this Ordinance called collectively a firm, and the name under which their business is carried on is called the firm name.

RELATIONS OF PARTNERS TO PERSONS DEALING WITH THEM

Power of partner to bind the firm

7. Every partner is an agent of the firm and his other partners for the purpose of the business of the partnership; and the acts of every partner who does any act for carrying on in the usual way business of the kind carried on by the firm of which he is a member, bind the firm and his partners, unless the partner so acting has in fact no authority to act for the firm in the particular matter, and the person with whom he is dealing either knows that he has no authority, or does not know or believe him to be a partner.

Partners bound by act on behalf of firm

- 8. (1) An act or instrument relating to the business of the firm and done or executed in the firm name, or in any other manner showing an intention to bind the firm, by any person thereto authorized, whether a partner or not is binding on the firm and all the partners.
- (2) This section does not affect any general rule of law relating to the execution of deeds, instruments or documents affecting land or negotiable instruments.

9. Where one partner pledges the credit of the firm for a purpose apparently not connected with the firm's ordinary course of business, the firm is not bound, unless he is in fact specially authorized by the other partner or partners; but this section does not affect any personal liability incurred by an individual partner.

Partner using credit of firm for private purposes

10. Where it has been agreed between the partners that any restriction shall be placed on the power of any one or more of them to bind the firm, no act done in contravention of the agreement is binding on the firm with respect to persons having notice of the agreement.

Effect of notice that firm will not be bound by acts of partner

11. Every partner in a firm is liable jointly with the other partners, for all debts and obligations of the firm incurred while he is the partner; and after his death his estate is also severally liable, in the due course of administration, for such debts and obligations, so far as they remain unsatisfied but subject to the prior payment of his separate debts.

Liability of partner

12. Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the firm or with the authority of his co-partners, loss or injury is caused to any person not being a partner in the firm, or any penalty is incurred, the firm is liable therefor to the same extent as the partner so acting or omitting to act.

Liability of firm for wrongs

13. In the following cases, namely,

- (a) where one partner acting within the scope of his apparent authority received the money or property of a third person and misapplies it, and
- (b) where a firm in the course of its business receives money or property of a third person, and the money or property so received is misapplied by one or more of the partners while it is in the custody of the firm,

Misapplication of money or property received for or in custody of firm

the firm is liable to make good the loss.

14. Every partner is liable jointly with his co-partners and also severally for everything for which the firm while he is a partner therein becomes liable under either section 12 or 13.

Liability for wrongs, joint and several

Improper
employment of
trust property
for partnership
purposes

15. (1) Where a partner, being a trustee, improperly employs trust property in the business or on the account of the partnership, no other partner is liable for the trust property to the persons beneficially interested therein.
- (2) This section does not affect any liability incurred by any partner by reason of his having notice of a breach of trust.
- (3) Nothing in this section prevents trust money from being followed and recovered from the firm if still in its possession or under its control.

Persons liable
for "holding
out"

16. (1) Subject to subsection (2) every one who by words spoken or written or by conduct represents himself, or who knowingly suffers himself to be represented, as a partner in a particular firm, is liable as a partner to any one who has on the faith of any such representation given credit to the firm, whether the representation has or has not been made or communicated to the person so giving credit by or with the knowledge of the apparent partner making the representation or suffering it to be made.
- (2) Where after a partner's death the partnership business is continued in the old firm name, the continued use of that name or the deceased partner's name as part thereof does not itself make his executors or administrators, estate or effects liable for any partnership debts contracted after his death.

Admissions
and repre-
sentations of
partners

17. An admission or representation made by any partner concerning the partnership affairs, and in the ordinary course of its business, is evidence against the firm.

Notice to
acting partner
to be notice
to firm

18. Notice to any partner who habitually acts in the partnership business, of any matter relating to partnership affairs operates as notice to the firm, except in the case of a fraud on the firm committed by or with the consent of that partner.

Liability of
incoming and
outgoing
partners

19. (1) A person who is admitted as a partner into an existing firm does not thereby become liable to the

creditors of the firm for anything done before he became a partner.

- (2) A partner who retires from a firm does not thereby cease to be liable for partnership debts or obligations incurred before his retirement.
- (3) A retiring partner may be discharged from any existing liabilities, by an agreement to that effect between himself and the members of the firm as newly constituted and the creditors, and this agreement may be either expressed or inferred as a fact from the course of dealing between the creditors and the firm as newly constituted.

20. A continuing guaranty given either to a firm or to a third person in respect of the transactions of a firm is, in the absence of agreement to the contrary, revoked as to future transactions by any change in the constitution of the firm to which, or of the firm in respect of the transactions of which, the guaranty was given.

Revocation of continuing guaranty by change in firm

RELATIONS OF PARTNERS TO ONE ANOTHER

21. The mutual rights and duties of partners, whether ascertained by agreement or defined by this Ordinance, may be varied by the consent of all the partners, and such consent may be either express or inferred from a course of dealing.

Variation by consent of terms of partnership

22. (1) All property and rights and interests in property originally brought into the partnership stock or acquired, whether by purchase or otherwise, on account of the firm, or for the purposes and in the course of the partnership business are called in this Ordinance partnership property and must be held and applied by the partners exclusively for the purposes of the partnership and in accordance with the partnership agreement.

Partnership property

(2) The legal estate or interest in any land that belongs to the partnership shall devolve according to the nature and tenure thereof, and the general rules of law

thereto applicable, but in trust, so far as necessary, for the persons beneficially interested in the land under this section.

- (3) Where co-owners of an estate or interest in any land, not being itself partnership property, are partners as to profits made by the use of that land or estate, and purchase other land or estate out of the profits, to be used in like manner, the land or estate so purchased belongs to them in the absence of an agreement to the contrary, not as partners, but as co-owners, for the same respective estates and interests as are held by them in the land or estate first-mentioned at the date of the purchase.

Property bought with partnership money

23. Unless the contrary intention appears, property bought with money belonging to the firm is deemed to have been bought on account of the firm.

Land held as partnership property to be treated as personal estate

24. Where land or any interest therein has become partnership property, it shall, unless the contrary intention appears, be treated as between the partners, including the representatives of a deceased partner, as personal or moveable and not real estate.

Procedure against property for a partner's separate judgment debt

25. (1) A writ of execution shall not issue against any partnership property except on a judgment against the firm.

- (2) The Court may on application by summons by any judgment creditor of a partner, make an order charging that partner's interest in the partnership property and profits with payment of the amount of the judgment debt and interest thereon, and may by the same or a subsequent order appoint a receiver of that partner's share of profits, whether already declared or accruing, and of any other money that may be coming to him in respect of the partnership, and direct all accounts and inquiries, and give all other orders and directions that might have been directed or given if the charge had been made in favour of the judgment creditor by the partner, or that the circumstances of the case may require.

- (3) The other partner or partners are at liberty at any time to redeem the interest charged, or in case of a sale being directed, to purchase the same.

26. The interests of partners in the partnership property and their rights and duties in relation to the partnership shall be determined, subject to any agreement express or implied between the partners by the following rules:

Rules as to interests and duties of partners subject to special agreement

1. All the partners are entitled to share equally in the capital and profits of the business, and must contribute equally towards the losses, whether of capital or otherwise, sustained by the firm;

2. The firm is bound to indemnify every partner in respect of payments made and personal liabilities incurred by him

(a) in the ordinary and proper conduct of the business of the firm, or

(b) in or about anything necessarily done for the preservation of the business or property of the firm;

3. A partner making, for the purpose of the partnership, any actual payment or advance beyond the amount of capital that he has agreed to subscribe, is entitled to interest from the date of the payment or advance;

4. A partner is not entitled, before the ascertainment of profits, to interest on the capital subscribed by him;

5. Every partner may take part in the management of the partnership business.

6. No partner is entitled to remuneration for acting in the partnership business;

7. No person may be introduced as a partner without the consent of all existing partners;

8. Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners, but no change may be made in the nature of the partnership business without the consent of all existing partners;

9. The partnership books are to be kept at the place of business of the partnership, or the principal place, if there is more than one, and every partner may when he thinks fit, have access to and inspect and copy any of them.

Expulsion
of partner

27. No majority of the partners can expel any partner unless a power to do so has been conferred by express agreement between the partners.

Retirement
from partner-
ship at will

28. Where no fixed term has been agreed upon for the duration of the partnership or where a partnership is continued after a fixed term has expired, any partner may determine the partnership at any time on giving notice of his intention so to do to all the other partners, and where the partnership has originally been constituted by deed, a notice in writing, signed by the partner giving it, is sufficient for this purpose.

Where part-
nership for
term continued
over, continu-
ance on old
term presumed

29. (1) Where a partnership entered into for a fixed term is continued after the term has expired and without any express new agreement, the rights and duties of the partners remain the same as they were at the expiration of the term so far as is consistent with the incidents of a partnership at will.

(2) A continuance of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is presumed to be a continuance of the partnership.

Partners to
render
accounts, etc.

30. Partners are bound to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives.

Accountability
of partners
for private
profits

31. (1) Every partner is bound to account to the firm for any benefit derived by him without the consent of the other partners from any transaction concerning the partnership, or from any use by him of the partnership property, name of business connection.

(2) This section applies also to transactions undertaken after a partnership has been dissolved by the death of a partner, and before the affairs thereof have been completely wound up, either by any surviving partner or by the representatives of the deceased partner.

32. Where a partner, without the consent of the other partners, carries on any business of the same nature as and competing with that of the firm, he is bound to account for and pay over to the firm all profits made by him in that business.

Partner competing with firm to account, etc.

33. (1) An assignment by any partner of his share in the partnership, either absolute or by way of mortgage, encumbrance or redeemable charge, does not, as against the other partners, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to require any accounts of the partnership transactions, or to inspect the partnership books, but entitles the assignee only to receive the share of profits to which the assigning partner would otherwise be entitled, and the assignee is bound to accept the account of profits agreed to by the partners.

Rights of assignee of share in partnership

(2) Where a partnership is dissolved, whether as respects all the partners or as respects the assigning partner, the assignee is entitled to receive the share of the partnership assets to which the assigning partner is entitled as between himself and the other partners, and, for the purpose of ascertaining that share, to an account as from the date of the dissolution.

(3) In this section "assignee" includes "mortgagee" or "encumbrancee".

DISSOLUTION OF PARTNERSHIP, AND ITS CONSEQUENCES

34. Subject to any agreement the partners, a partnership is dissolved

Dissolution by expiration or notice

(a) where it was entered into for a fixed term, by the expiration of that term,

(b) where it was entered into for a single adventure or undertaking by the termination of that adventure or undertaking, and

(c) where it was entered into for an undefined time, by any partner giving notice to the other or others of his intention to dissolve the partnership; and in such

case the partnership is dissolved as from the date mentioned in the notice as the date of dissolution, or, if no date is so mentioned, as from the date of the communication of the notice.

Dissolution by death, assignment in trust or charge.

35. (1) Subject to any agreement between the partners, every partnership is dissolved as regards all the partners by the death of any partner, or by his assignment of his property in trust for the benefit of his creditors.

(2) A partnership may, at the option of the other partners, be dissolved when any partner suffers his share of the partnership property to be charged under this Ordinance for his separate debt.

Dissolution by illegality of partnership

36. A partnership is in every case dissolved by the happening of any event that makes it unlawful for the business of the firm to be carried on or for the members of the firm to carry it on in partnership.

Dissolution by the court

37. On application by a partner the Court may decree a dissolution of the partnership in any of the following cases :

(a) when a partner is shown to the satisfaction of the Court to be of permanently unsound mind, in which case the application may be made as well on behalf of that partner by his guardian or next friend or person having title to intervene as by any other partner ;

(b) when a partner, other than the partner suing, becomes in any other way permanently incapable of performing his part of the partnership contract ;

(c) when a partner, other than the partner suing, has been guilty of such conduct as, in the opinion of the Court, regard being had to the nature of the business, is calculated prejudicially to affect the carrying on of the business ;

(d) when a partner, other than the partner suing, wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters

relating to the partnership business that it is not reasonably practicable for the other partner or partners to carry on the business in partnership with him;

- (e) when the business of the partnership can only be carried on at a loss; and
- (f) whenever in any case circumstances have arisen that, in the opinion of the Court, render it just and equitable that the partnership be dissolved.

38. (1) Where a person deals with a firm after a change in its constitution he is entitled to treat all apparent members of the old firm as still being members of the firm until he has notice of the change.

Rights of persons dealing with firm against apparent members of firm

(2) The filing of a declaration under section 58 and the publication of the same once in each week for two consecutive weeks in the Yukon Gazette is notice of dissolution to persons who had not dealings with the firm before the date of filing such declaration and publication.

(3) The estate of a partner who dies or who assigns for the benefit of his creditors, or of a partner who, not having been known to the person dealing with the firm to be a partner, retires from the firm, is not liable for partnership debts contracted after the date of the death, assignment or retirement respectively.

39. On the dissolution of a partnership or retirement of a partner any partner may publicly give notice of the same, and may require the other partner or partners to concur for that purpose in all necessary or proper acts, if any, which cannot be done without his or their concurrence.

Rights of partner to give notice of dissolution

40. After the dissolution of a partnership the authority of each partner to bind the firm, and the other rights and obligations of the partners, continue notwithstanding the dissolution so far as may be necessary to wind up the affairs of the partnership, and to complete transactions begun but unfinished at the time of the dissolution, but not otherwise.

Continuing authority of partners for purposes of winding up

Rights of partners as to application of partnership property

41. On the dissolution of a partnership every partner is entitled, as against the other partners in the firm, and all persons claiming through them in respect of their interests as partners, to have the property of the partnership applied in payment of the debts and liabilities of the firm, and to have the surplus assets after such payment applied in payment of what may be due to the partners respectively after deducting what may be due from them as partners to the firm; and for that purpose any partner or his representatives may on the termination of the partnership apply to the Court to wind up the business and affairs of the firm.

Appointment of premium when partnership prematurely dissolved

42. Where one partner has paid a premium to another on entering into a partnership for a fixed term, and the partnership is dissolved before the expiration of that term otherwise than by the death of a partner, the Court may order the repayment of the premium, or of such part thereof as it thinks just, having regard to the terms of the partnership contract and to the length of time during which the partnership has continued, unless

- (a) the dissolution is, in the judgment of the Court, wholly or chiefly due to the misconduct of the partner who paid the premium; or
- (b) the partnership has been dissolved by an agreement containing no provision for a return of any part of the premium.

Rights when partnership dissolved for fraud or misrepresentation

43. Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right entitled

- (a) to a lien on, or right of retention of, the surplus of the partnership assets, after satisfying the partnership liabilities, for any sum of money paid by him for the purchase of a share in the partnership and for any capital contributed by him;
- (b) to stand in the place of the creditors of the firm for any payments made by him in respect of the partnership liabilities; and

- (c) to be indemnified by the person guilty of the fraud or making the representation, against all the debts and liabilities of the firm.

44. (1) Subject to subsection (2) where any member of a firm has died or otherwise ceased to be a partner, and the surviving or continuing partners carry on the business of the firm with its capital or assets without any final settlement of accounts as between the firm and the outgoing partner or his estate, then, in the absence of any agreement to the contrary, the outgoing partner or his estate is entitled at the option of himself or his representatives to such share of the profits made since the dissolution as the Court may find to be attributable to the use of his share of the partnership assets, or to interest on the amount of his share of the partnership assets.

Rights of outgoing partner in certain cases to share profits made after dissolution

- (2) Where by the partnership contract an option is given to surviving or continuing partners to purchase the interest of a deceased or outgoing partner, and that option is duly exercised, the estate of the deceased partner, or the outgoing partner or his estate as the case may be, is not entitled to any further or other share or profits; but where any partner assuming to act in exercise of the option does not in all material respects comply with the terms thereof, he is liable to account under this section.

45. Subject to any agreement between the partners, the amount due from surviving or continuing partners to an outgoing partner or the representatives of a deceased partner in respect of the outgoing or deceased partner's share is a debt accruing at the date of the dissolution or death.

Retiring or deceased partner's share to be a debt

46. In settling accounts between the partners after a dissolution of partnership, the following rules shall, subject to any agreement, be observed:

Rules for distribution of assets on final settlement of accounts

Rule 1. Losses, including losses and deficiencies of capital, shall be paid first out of profits, next out of capital, and lastly, if necessary, by the partners individually in the proportion in which they were entitled to share profits;

Rule 2. The assets of the firm including the sums, if any, contributed by the partners to make up losses or deficiencies of capital, shall be applied in the following manner and order:

- (a) in paying the debts and liabilities of the firm to persons who are not partners therein;
- (b) in paying to each partner rateably what is due from the firm to him for advances as distinguished from capital;
- (c) in paying to each partner rateably what is due from the firm to him in respect of capital;
- (d) the ultimate residue, if any, shall be divided among the partners in the proportion in which profits are divisible.

REGISTRATION

Declaration of partnership to be filed in certain cases

47. (1) All persons associated in partnership for trading, manufacturing or mining purposes in the Territory shall cause to be filed in the office of the registration clerk of the registration district in which they carry on or intend to carry on business a declaration in writing signed by the several members of such partnership.
- (2) When any of the members are absent from the place where they carry on or intend to carry on business at the time of making such declaration then such declaration shall be signed by the members present, in their own names and also for their absent co-members under their special authority to that effect; such special authority to be at the same time filed with the said registration clerk and annexed to such declaration.

Contents of declaration

48. The declaration required to be filed under section 47 shall be in Form A and shall contain the names, surnames, additions and residence of each and every partner or associate and the name, style or firm under which they carry on or intend to carry on such business and stating also the time during which the partnership has existed and is to exist also declaring that the persons therein named are the only members of such co-partnership or association.

49. The declaration required to be filed under section 47 shall be filed within two months next after the formation of any partnership and a similar declaration shall in like manner be filed when and so often as any change or alteration of partnership takes place in the membership of such partnership or in the name, style or firm under which they intend to carry on business or in the place of residence of each member of said firm and every new declaration shall state the alteration in the partnership.

Time for
filing
declaration

50. Every person engaged in business for trading, manufacturing or mining purposes and who is not associated in partnership with any other person or persons but who uses as his business style some name or designation other than his own name or who in such business uses his own name with the addition of "and company" or some other word or phrase indicating a plurality of members in the firm shall cause to be filed as provided in section 47 a declaration of the fact in writing signed by such person.

Individual
using trade
name

51. The declaration referred to in section 50 shall contain the name, surname, addition and residence of the person making the same and the name, style or firm under which he carries on or intends to carry on business and shall also state that no other person is associated with him in partnership and the same shall be filed within six months of the time when such style is first used.

Contents of
individual
declaration

REGISTRATION BOOKS

52. The registration clerk shall keep two alphabetical index books of all declarations of co-partnership filed in his office in pursuance of this Ordinance.

Registration
books

53. In one of such books, hereinafter called the "firm index book", the registration clerk shall enter in alphabetical order the style of the respective firms in respect of which declarations have been filed in his office, and shall place opposite each entry the names of the persons composing such firm, and the date of the receipt by him of the declaration in the manner shown in Form B.

"Firm index
book"

54. In the second of such books, hereinafter called the "individual index book", the registration clerk shall enter in alphabetical order the names of the respective members of

"Individual
index book"

each of such firms and shall place opposite such entry the style of the firm of which such person is a member and the date of the receipt of the declaration in the manner shown in Form C.

PENALTY FOR NON-REGISTRATION

Failure to comply with Ordinance

55. Every member of any partnership or other persons required to register a declaration under the provisions of this Ordinance who fails to do so is guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars.

EFFECT OF DECLARATION

Binding effect of declaration

56. The allegations made in a declaration required under this Ordinance cannot be controverted by any person who has signed the same nor can they be controverted as against any party not being a partner by a person who has not signed the same but who was really a member of the partnership therein mentioned at the time such declaration was made.

Liability of person signing declaration, failure to declare does not exempt from liability

57. Until a new declaration is made and filed by him or by his co-partners or any of them a person who has signed a declaration shall be deemed not to have ceased to be a partner; but nothing in this section exempts from liability any person who being a partner fails to declare the same and such person may, notwithstanding such omission, be sued jointly with the partners mentioned in the declaration or they may be sued alone and if judgment is recovered against them any other partner may be sued jointly or severally in an action on the original cause of action upon which such judgment was rendered; and nothing in this Ordinance shall be construed to affect the rights of any partners with regard to each other except that no declaration shall be controverted by any person who signed it.

DECLARATION OF DISSOLUTION

Declaration of dissolution

58. Upon the dissolution of any partnership any or all of the persons who compose such partnership may sign and file a declaration certifying the dissolution of the partnership in Form D.

LIMITED PARTNERSHIPS

59. Limited partnerships for the transaction of any mercantile, mechanical, manufacturing or other business within the Territory may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities hereinafter mentioned.

Limited partnerships may be formed

60. Limited partnerships may consist of one or more persons, who shall be called general partners, and of one or more persons who contribute in actual cash payments a specific sum as capital to the common stock, who shall be called special partners.

Of whom to consist

61. General partners are jointly and severally responsible as general partners are by law, but a special partner is not liable for the debts of the partnership except in respect of the amounts by him contributed to the capital.

Liability of general and special partners

62. The general partners only may transact business and sign for the partnership and bind the same.

General partners only to transact business, etc.

63. The persons desirous of forming a limited partnership shall make and severally sign a certificate, which shall contain:

Certificate to be signed

- (a) the name or firm under which the partnership is to be conducted;
- (b) the general nature of the business intended to be transacted;
- (c) the names of all the general and special partners interested therein, distinguishing which are general and which are special partners, and their usual place of residence;
- (d) the amount of capital that each special partner has contributed; and
- (e) the period at which the partnership is to commence and the period at which it is to terminate.

Contents of

64. The certificate shall be in Form E and shall be signed by the several persons forming the partnership before a notary public, who shall duly certify the same.

Form of

Where to be filed

65. The certificate so signed and certified shall be filed in the office of the registration clerk of the registration district in which the principal place of business is or is to be situate, and the certificate shall be recorded by such clerk at full length in a book to be kept for that purpose and open to public inspection.

Partnerships not formed until certificate filed

66. A limited partnership is deemed not to have been formed until a certificate has been made, certified, filed and recorded as provided in this Ordinance; and where any false statement is made in such certificate, all the persons interested in the partnership are liable for all the engagements thereof as general partners.

Certificates of continuance

67. Every renewal or continuance of a limited partnership beyond the time originally fixed for its duration, shall be certified, filed and recorded in the manner required by this Ordinance for its original formation; and every such partnership otherwise renewed or continued is deemed a general partnership.

Certificates of continuance

68. Every alteration made in the names of the partners, in the nature of the business, or in the capital or shares thereof, or in any other matter specified in the original certificate, shall be deemed a dissolution of the partnership, and every such partnership in any manner carried on after such alteration has been made, shall be deemed a general partnership, unless renewed as a special partnership.

Firm name

69. The business of a limited partnership shall be conducted under a firm name in which the names of the general partners or some one of them only shall be used; and where the name of a special partner is used in such firm name with his privity he is deemed a general partner.

Liability of general partners to actions

70. Actions in relation to the business of a limited partnership may be brought and conducted by and against the general partners in the same manner as if there were no special partner.

Restrictions upon stock of special partners

71. No part of the sum that a special partner has contributed to the capital shall be withdrawn by him or paid or transferred to him in the shape of dividends, profits or otherwise;

at any time during the continuance of the partnership; but any partner may annually receive lawful interest on the sum so contributed by him, if the payment of such interest does not reduce the original amount of the capital; and if after the payment of such interest any profits remain to be divided, he may also receive his portion of such profits.

72. Where it appears that by the payment of interest or profits to a special partner the original capital has been reduced, the partner receiving the same is bound to restore the amount necessary to make good his share of the deficient capital, with interest.

When special partner liable to refund

73. A special partner may from time to time examine into the state and progress of the partnership concerns, and may advise as to their management; but he shall not transact any business on account of the partnership, nor be employed for that purpose as agent, attorney or otherwise; and if he interferes contrary to these provisions, he is deemed a general partner.

Privileges of special partners

74. The general partners are liable to account to each other and to the special partners for their management of the concern in like manner as other partners.

General partners liable to account

75. In case of the insolvency of a limited partnership, no special partner shall under any circumstances be allowed to claim as creditor until the claims of all the other creditors of the partnership have been satisfied.

Creditors preferred to special-partners

76. No dissolution of a limited partnership by the acts of the parties shall take place previous to the time specified in the certificate of its formation or the certificate of its renewal until a notice of such dissolution has been filed in the office in which the original certificate was recorded and has been published once in each week for two consecutive weeks in the Yukon Gazette.

No premature dissolution without notice, etc.

77. Sections 2 to 46 are subject to the special provisions of this Ordinance regarding limited partnerships.

Limited partnerships, ss. 2-46 subject to special provisions

SUPPLEMENTAL

78. The rules of equity and of common law applicable to partnership continue in force except so far as they are inconsistent with the express provisions of this Ordinance.

Saving for rules of equity and common law

REGISTRATION FEES

Fees

79. (1) For services under this Ordinance each registration clerk is entitled to the following fees:

1. For filing each declaration including stamping duplicate original, two dollars;
 2. For searching in the firm index book, each firm, fifty cents;
 3. For searching each name in the individual index book, fifty cents;
 4. For each certificate, twenty-five cents;
 5. For copies of documents with certificate thereof, for every hundred words, twenty cents.
- (2) The fees received under subsection (1) constitute territorial revenue and shall be paid into and form part of the Yukon Consolidated Revenue Fund.

REPEAL

Repeat

80. The following Ordinances are repealed:

- (i) *An Ordinance respecting Partnerships*, chapter 69 of the Consolidated Ordinances, 1914; and
 - (ii) *An Ordinance to amend An Ordinance respecting Partnerships*, chapter 22 of the Ordinances of 1948.
-

SCHEDULE

FORM A

DECLARATION OF CO-PARTNERSHIP

YUKON TERRITORY }
 } We,

of in (occupation) and
 of (occupation) hereby certify:

1. That we have carried on and intend to carry on trade
 and business as at
 in partnership under the name and firm of
 (Or I or we) the undersigned of in
 hereby certify that I (or we) have at in part-
 nership with of and
 of (as the case may be).

2. That the said partnership has subsisted since the
 day of one thousand

3. And that we (or I or we) and the said
 and are and have been since the said day
 the only members of the said partnership.

Witness our hands at this
 day of one thousand

FORM B
FIRM INDEX BOOK

Style of firm	Names of persons composing the firm and their residences	Date of filing declaration
John Smith & Co.	John Smith, Dawson Edward Ives, Dawson	15 Sept., 1947
James Abbott & Son	James Abbott, Whitehorse George Abbott, Whitehorse	10 Sept., 1947
Bernard & Johnson	Arthur Bernard, Dawson Alexander Johnson, Whitehorse	1 March, 1947

FORM C
INDIVIDUAL INDEX BOOK

Name of individual and residence	Style of firm of which a member	Date of filing declaration
Abbott, James, Whitehorse	James Abbott & Son	10 Sept., 1947
Abbott, George, Whitehorse	James Abbott & Son	10 Sept., 1947
Bernard, Arthur, Dawson	Bernard & Johnson	1 March, 1947
Johnson, Alex., Whitehorse	Bernard & Johnson	1 March, 1947

FORM D

DECLARATION OF DISSOLUTION OF PARTNERSHIP

YUKON TERRITORY)
) I,

formerly a member of the firm of
 carrying on business as _____ at
 in the _____ of _____
 under the style of _____ do hereby certify that
 the said partnership was on the _____ day of _____
 dissolved.

Witness my hand at _____ the _____ day of _____
 one thousand _____
 A.B.

FORM E

CERTIFICATE OF LIMITED PARTNERSHIP

We, the undersigned, do hereby certify that we have entered
 into co-partnership under the style or firm of (B.D., & Co.) as
 (Grocers and Commission Merchants), which firm consists
 of (A.B.) residing usually at _____, and (C.D.) re-
 siding usually at _____, as general partners; and
 (E.F.) residing usually at _____, and (G.H.) residing
 usually at _____, as special partners, the said (E.F.)
 having contributed \$ _____, and the said (G.H.) \$ _____,
 to the capital.

The said partnership commenced on the _____ day of _____
 19 _____, and terminates on the _____ day
 of _____ 19 _____.
 Dated this _____ day of _____ A.D. 19 _____.

(Signed) A.B.
 C.D.
 E.F.
 G.H.

Signed in the presence of me,
 L.M.
 Notary Public.

CHAPTER 27

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE TO PROHIBIT CHILDREN BEING
ON STREETS AFTER NIGHTFALL

(Assented to November 20, 1954.)

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

SHORT TITLE

- | | |
|---|---|
| Short title | 1. This Ordinance may be cited as the <i>Curfew Ordinance</i> . |
| Definitions | 2. In this Ordinance |
| "Community" | (a) "community" means a community of not less than one hundred inhabitants residing in close proximity to each other; and |
| "Curfew district" | (b) "curfew district" means a curfew district established pursuant to section 3. |
| Establishment of curfew districts | 3. Upon receiving a petition signed by at least four-fifths of the parents in a community other than a municipality, the Commissioner may establish the community as a curfew district, defining the limits thereof and assigning a name thereto. |
| Child in curfew district not to be on street during night-time unless accompanied | 4. No child shall, without reasonable excuse, be on any street or road or in a public place within a curfew district during night-time unless accompanied by a parent or guardian. |

REGULATIONS

- | | |
|-------------|--|
| Regulations | 5. The Commissioner may make regulations |
| | (a) prescribing the age at which a boy or girl shall be deemed to be a child for the purposes of this Ordinance; |

- (b) prescribing the hours that shall be deemed to be night-time for the purposes of this Ordinance;
- (c) prescribing that a bell, whistle or siren shall be rung or sounded as a warning at or near the time appointed for the commencement of night-time; and
- (d) prescribing such other matters as may be deemed advisable to carry out the purposes of this Ordinance.

6. A constable or peace officer who finds a child violating this Ordinance may warn him to go home; and if after the warning the child continues to violate this Ordinance any constable or peace officer may take the child to its home. Children on street in contravention

7. A parent or guardian who permits his child habitually to violate this Ordinance is guilty of an offence and is liable upon summary conviction for a first offence, to a fine not exceeding five dollars, and for each subsequent offence to a fine not exceeding ten dollars. Penalty may be imposed on parent

8. The *Curfew Ordinance*, chapter 7 of the Ordinances of 1915, is repealed. Repeal

CHAPTER 28

ORDINANCES OF YUKON TERRITORY

1954 (Third Session)

AN ORDINANCE RESPECTING MOTION PICTURES

(Assented to November 22, 1954.)

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

SHORT TITLE

- Short title 1. This Ordinance may be cited as the *Motion Pictures Ordinance*.

INTERPRETATION

- Definitions 2. In this Ordinance,
- "Exhibitor's licence" (a) "exhibitor's licence" means a valid licence issued under this Ordinance to exhibit films or slides in a theatre;
- (b) "films" means a motion picture or cinematographic film or similar device used in connection with a motion picture machine;
- "Motion picture machine" (c) "motion picture machine" includes a cinematograph or other similar apparatus used for the showing of films or slides;
- "Officer" (d) "officer" means a person appointed by the Commissioner under section 9;
- "Operator" (e) "operator" means a person who operates or manipulates a motion picture machine in a theatre;
- "Operator's licence" (f) "operator's licence" means a valid licence issued under this Ordinance to a person to operate or manipulate a motion picture machine in a theatre;

- (g) "performance" means an exhibition, show or other form of entertainment that includes the exhibition of motion pictures or slides and that is held in a theatre; "Performance"
- (h) "safety film" means film that does not contain more than thirty-six one-hundredths of one per cent of nitrogen and that, when tested in accordance with the definitions and analytical procedures prescribed by the Canadian Standards Association in its Standard for Safety Film, is shown to be both difficult to ignite and slow burning; "Safety film"
- (i) "slide" means a stationary picture slide or similar device used in conjunction with a motion picture machine; and "Slide"
- (j) "theatre" means any building, hall, place of amusement or other premises that is erected or used for a place of public resort, gathering, entertainment or amusement in or upon which a motion picture machine is operated whether or not the motion picture machine is regularly or occasionally operated and whether or not it forms part of the equipment of the building, hall, place of amusement or other premises. "Theatre"

APPLICATION

- 3. Except as provided in section 19, this Ordinance applies only to commercial theatres. Application only

LICENCES AND PERMITS

- 4. No person shall exhibit films or slides in a theatre unless he is the holder of an exhibitor's licence. Exhibitor's licence required
- 5. No person shall operate or manipulate a motion picture machine in a theatre unless Operator's licence required
 - (a) he is the holder of an operator's licence issued under this Ordinance,
 - (b) he is the holder of a valid licence, equivalent to an operator's licence, issued by the government of a province of Canada, or

(c) he is acting pursuant to a permit issued under section 9.

Issue 6. (1) The Commissioner or an officer may issue exhibitors' licences and operators' licences.

Revocation (2) The Commissioner may, for any reasonable cause, revoke a licence issued under this Ordinance.

Duration 7. Exhibitors' licences and operators' licences expire on the 31st day of March next after the day on which they come into force.

Annual fee for exhibitor's licence 8. (1) The annual fee for an exhibitor's licence is
(a) thirty-five dollars where the population of the area within a three-mile radius of the place where the motion picture is being shown does not exceed two hundred persons; and
(b) seventy-five dollars in all other cases.

Annual fee for operator's licence (2) The annual fee for an operator's licence is one dollar.

Exemptions by Commissioner 9. The Commissioner may, in his discretion, issue temporary permits to operators not fully qualified where it appears expedient to do so.

OFFICERS

Appointment 10. (1) The Commissioner may appoint persons to act as officers for the purposes of this Ordinance.

Duties and powers (2) An officer has the following duties and powers:
(a) to issue licences required by this Ordinance;
(b) to investigate, approve, reject or report on motion picture machines and equipment;
(c) to investigate the qualifications and activities of operators including the right to demand the production of operators' licences; and

- (d) to investigate, approve, reject or report on the fire prevention or other equipment or facilities of theatres.

MOTION PICTURE MACHINES AND CABINETS

- 11. (1) A motion picture machine shall be located in a cabinet or enclosure of a style and size approved by the Commissioner or an officer. Cabinet
- (2) The cabinet or enclosure shall be lined with two ply pure asbestos paper or equivalent fire-protective lining and covered with protective covering. Lining
- (3) The cabinet or enclosure shall be equipped with a metal door that opens outward and that is kept unlocked. Door
- (4) Wires conveying electricity to the cabinet or enclosure shall be covered by porcelain tubes or equivalent insulating material and electric switches shall be enclosed in a fire-proof box. Wires and switches
- (5) The cabinet or enclosure shall be equipped with an automatic cut-off switch. Automatic cut-off
- (6) This section does not apply to a motion picture machine using safety film. Application
- 12. (1) A motion picture machine cabinet or enclosure shall be kept clean and shall not contain any articles that are not required for the operation or maintenance of the machine. Cabinets to be kept clean
- (2) A fire extinguisher, in good working order, of a type approved by the Commissioner or an officer shall be kept within each cabinet or enclosure. Fire extinguisher
- 13. (1) A motion picture machine shall be equipped with Motion picture machine
 - (a) a fire-proof magazine,
 - (b) an automatic fire shutter, and

(c) properly insulated wire connections throughout, of a type and size approved by the Commissioner or an officer.

Rheostat (2) Where a rheostat is used it shall be set on a marble, slate or other insulated base of a thickness of at least one inch inside a fire-proof box.

Use of non-electric lamps (3) Non-electric lamps shall not be used in a motion picture machine unless they have been first approved by the Commissioner or an officer.

THEATRES

Exits 14. (1) A theatre shall have proper exits of a number, type and size approved by the Commissioner or an officer.

Signs (2) Each exit shall be marked with a sign containing the single word "exit" in letters that are at least six inches long.

Red lights (3) A red light shall be placed near each exit sign and red lights shall not be used elsewhere in the theatre.

Doors (4) Exit doors shall open outwards and shall remain unlocked during a performance.

Opening of exit doors (5) All exit doors shall be opened at the conclusion of a performance or where, during a performance, it is necessary for reasons of safety for the persons attending the performance to leave the theatre.

Location of cabinets 15. The cabinet or enclosure in which the motion picture machine is located in a theatre shall occupy a position that does not interfere with an aisle, passageway, stairway or exit.

Fire equipment 16. In every theatre, two fire extinguishers in good working order of a type approved by the Commissioner or an officer, and sand pails and shovels shall be kept near the motion picture machine cabinet or enclosure together with such other fire-prevention or fire-fighting equipment at appropriate places throughout the theatre as the Commissioner or an officer may require.

17. (1) The aisles, passageways, stairways and exits of a theatre shall be kept free from seats, chairs or other obstructions. Aisles to be free of obstructions
- (2) No person shall be allowed to stand in an aisle, passageway, stairway or exit during a performance. No standing in aisles, etc.

OPERATORS

18. No person shall operate a motion picture machine unless he has reached the age of eighteen years. Age
19. No person shall operate a motion picture machine anywhere, whether in a commercial theatre or not, when he is under the influence of liquor. Liquor
20. An operator shall Duties
- (a) thoroughly examine the motion picture machine and all wire connections to and in the machine before each performance in which the machine is to be operated by him;
- (b) devote his full attention to the motion picture machine during its operation; Attention
- (c) prevent the entry of any person, other than an officer, into the motion picture cabinet or enclosure during its operation; and No entry to cabinet
- (d) refrain from smoking or lighting matches during the operation of the motion picture machine. No smoking

SUNDAY PERFORMANCES

21. A motion picture machine shall not be operated in a theatre on a Sunday except at the times and under the conditions that may be prescribed by the Commissioner.

REGULATIONS

22. The Commissioner may make regulations
- (a) prescribing the application for and the issue and form of exhibitors' and operators' licences;

- (b) governing the use and operation of motion picture machines and theatres;
- (c) providing for the examination and regulation of operators; and
- (d) governing the duties and employment of officers.

PENALTY

Offence and
Penalty

23. A person who violates any of the provisions of this Ordinance or the regulations is guilty of an offence and is liable on summary conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment.

REPEAL

Repeal

24. The following Ordinances are repealed:

- (i) *The Motion Picture Ordinance*, chapter 2 of the Ordinances of 1944;
- (ii) *An Ordinance to amend The Motion Picture Ordinance*; chapter 14 of the Ordinances of 1947;
- (iii) *An ordinance to amend The Motion Picture Ordinance*, chapter 7 of the Ordinances of 1951 (2nd session).

CHAPTER 29

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

THE CREDITORS' RELIEF ORDINANCE

(Assented to November 20, 1954.)

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

SHORT TITLE

1. This Ordinance may be cited as the *Creditors' Relief Ordinance*. Short title

INTERPRETATION

2. In this Ordinance, "sheriff" includes duly appointed bailiffs, coroners and any person discharging the duties of sheriff in the particular case for the time being. Definition of "sheriff"

PRIORITIES ABOLISHED

3. Subject to the provisions of this Ordinance there is no priority among execution creditors. No priorities

DISTRIBUTION OF MONEYS LEVIED

4. When a sheriff levies money upon an execution against the property of a debtor, he shall forthwith enter in a book to be kept in his office, a note or memorandum in a form approved by the Commissioner, the date and the amount of each levy and the date upon which the entry was made; such book shall be open to public inspection, without charge, during office hours. Sheriff's record of levy

5. Moneys realized by the sheriff as the result of attachment of personal property shall be distributed under the provisions of this Ordinance, and shall be deemed to be moneys levied under execution. Attachment proceeds distributable

Distribution

6. Subject to section 9, the money levied by a sheriff upon execution against the property of a debtor shall at the expiration of two months from the levy, unless otherwise ordered by a Judge, be distributed rateably among all execution creditors and other creditors whose executions or certificates given under this Ordinance were in the sheriff's hands at the time of the levy, or who have delivered executions or certificates to the sheriff within the said two months or within such further time as may be ordered by a Judge; but where money is realized by sale of land for which a certificate of title has been granted under the *Land Titles Act*, the period of two months shall be computed from the date of confirmation of the sheriff's sale under the said Act.

Distribution of subsequent levies

7. (1) Where the sheriff, subsequently to the entry of the note or memorandum but within two months thereof, levies a further amount upon the property of the debtor, the same shall be dealt with as if such amount had been levied prior to the entry of such note or memorandum, pursuant to section 4.

(2) Where, after the two months, a further amount is levied a new note or memorandum shall be entered and the distribution to be made of the amount so levied, and of any further amount levied within two months of such last mentioned entry, shall be governed by the entry thereof in accordance with the provisions of section 6 and subsection (1) of this section, and so on from time to time but a Judge may, on application to be made *ex parte* or upon notice, as the Judge may determine, delay any of such distributions or any part thereof to give reasonable time for obtaining judgment or a certificate in form A, and may fix a date for such distribution.

Equality of all executions

8. In the distribution of moneys under this Ordinance creditors who have executions against goods and lands, or against goods only or lands only, shall be entitled to share rateably with all others any moneys realized under execution either against goods or lands or against both.

Costs made preference

9. When the amount levied by the sheriff is not sufficient to pay the executions and certificates with costs in full, the moneys shall be applied to the payment rateably of the debts

and costs after retaining the sheriff's fees and after payment in full of the taxed costs of execution, or of obtaining and delivering a certificate and extra costs of seizure and sale incurred by the creditor whose writ of execution or certificate was placed in the sheriff's hands first among those under whose execution or certificates the levy was made.

10. No creditor is entitled to share in the distribution of money levied from the property of a debtor unless by the delivery of a writ of execution, or otherwise under this Ordinance, he has established a claim against the debtor either alone or jointly with some other creditor.

What creditors share in distribution

INTERPLEADER PROCEEDINGS

11. Where proceedings are taken by the sheriff for relief under any provisions relating to interpleader, those creditors only who are parties thereto and who agree to contribute pro rata, in proportion to the amount of their executions or certificates, to the expense of contesting any adverse claim, are entitled to share in any benefit that may be derived from the contestation of such claim so far as may be necessary to satisfy their executions or certificates.

Certain creditors only entitled to share

12. A Judge may direct that one creditor shall bear the carriage of the interpleader proceedings on behalf of all creditors interested.

Carriage of proceedings

13. The costs of interpleader proceedings shall, as between solicitor and client, be a first charge upon the moneys or goods that may be found by the proceedings to be applicable upon the executions or certificates.

Costs

CLAIMS FOR WAGES

14. (1) All persons employed by an execution debtor at the time of the seizure under which money has been levied upon any execution and of which a note of the levy has been made as prescribed in section 4, or within one month before such seizure, who, prior to the expiration of the time fixed for the distribution of their claims for wages or salary with the particulars thereof proved by affidavit in Form B, are, subject to this Ordinance, entitled to be paid out of the money

Employees have priority

so levied the amount of wages or salary due to them respectively by the execution debtor, not exceeding wages or salary for three months, in priority to the claims of the other creditors of the execution debtor, and are entitled to share pro rata with such other creditors as to the residue, if any, of their claims; such wages or salary shall be for arrears only then owing or accrued, and not for any unearned portion.

- (2) On receipt of any claim mentioned in subsection (1) the sheriff shall forthwith give notice thereof in writing, with particulars, to the execution debtor, either personally or by registered mail, and the sheriff has the same right to interplead in respect thereof as he would have in case of any adverse claim to moneys levied by him under execution.
- (3) This section applies to wages or salary, whether the employment in respect of which the same may be payable is by the hour, day, week, month or year.

EXEMPTIONS

Seizure and
sale

- 15. (1) Where money levied is the proceeds of the sale of an article under execution upon a judgment rendered in an action for the price of the article, and such article would otherwise be exempt from seizure under the *Exemptions Ordinance*, such money shall not be subject to distribution under the terms of section 6 or 7, but shall be applied upon the execution under which it was levied.
- (2) In case the amount levied as mentioned in subsection (1) is more than sufficient to pay the execution debt with costs in full, the balance in the sheriff's hands shall be paid over to the execution debtor.
- (3) In case such amount is insufficient to pay the execution debt with costs in full, the execution creditor shall be entitled to share in any money of the execution debtor which may be in the sheriff's hands for distribution under the terms of section 6 or 7 to the extent of the unpaid balance.

CERTIFICATE OF PROOF OF CLAIM PROCEDURE

16. When the sheriff has seized goods and chattels under a writ of execution, or a debtor allows an execution against his lands to remain unsatisfied for nine months after it has been placed in the sheriff's hands, the creditors or claimants in respect of such overdue debts may take the following proceedings:

Proceedings
by other
creditors
where
execution
unsatisfied

- (a) an affidavit in Form C of the debt and the particulars thereof may be made in duplicate by the creditor, or by one of the creditors in case of a joint debt, or by a person cognizant of the facts;
- (b) the claimant shall serve on the debtor one of the duplicates and a notice in form D;
- (c) where the affidavit and notice are to be served out of the Territory, a Judge shall, by order, fix the time after which the next step may be taken by the claimant as hereinafter provided;
- (d) where no notice is given under paragraph (g), the affidavit and notice may be personally served upon him, if in the Territory, by forwarding to him by registered mail a duplicate original of the affidavit and a true copy of the notice, and such service shall be deemed sufficient if a receipt from the postmaster for the letter containing such original copy, and a post office receipt for such letter, purporting to be signed by the debtor, are produced as exhibits to the affidavit of service and the affidavit and notice shall be deemed to be served on the day of the date of the receipt which purports to be signed by the debtor, but notwithstanding anything herein contained, a Judge may order substitutional or other service, or may direct some act to be done which shall be deemed sufficient service;
- (e) the claimant shall file with the Clerk of the Court one of the duplicate affidavits of claim and a copy of the notice with an affidavit of service thereof in Form E;

- (f) prior to or simultaneously with the filing with the Clerk of the Court of the affidavit there shall be filed with him a certificate of the sheriff or an affidavit showing that such proceedings have been had against the debtor as entitle the creditor to proceed under this Ordinance ;
- (g) an execution debtor may give notice in writing to the sheriff that any claims may be served upon a solicitor in the Territory whose name and address shall be given, or by mailing the same to an address stated in the notice ;
- (h) the sheriff shall thereupon enter the notice in a book to be kept by him for the purpose, and, so long as any execution that was in the sheriff's hands at the time the notice was given remains in his hands, shall repeat such entry immediately below any entry made in respect of the execution, unless the notice is revoked in writing, in which case the entry thereof shall be marked "revoked" ;
- (i) so long as the notice is not revoked the affidavit of claim and notice may, where a solicitor is named, be served upon an execution debtor by serving the same upon the solicitor, or if mailing is required then by mailing the same by registered post to the address in the notice given by the execution debtor ;
- (j) where the notice served on a debtor does not state some place within three miles of the office of the Clerk of the Court at which service may be made upon the claimant, or does not give the name and address of some solicitor in the Territory who may be served on the claimant's behalf, service of any notice, paper or document may be made upon the claimant by filing the same in the office of the Clerk of the Court and in such case shall be deemed good service.

ISSUE, EFFECT AND DURATION OF CERTIFICATE

17. When the claim is not contested as provided in this Ordinance, the Clerk of the Court, after ten days from the day of service, or after the time mentioned in the order provided for by paragraph (c) of section 16, on the application of

Certificate
granted where
claim
undisputed

the claimant and his filing proof of due service of the affidavit and notice, or where the claim is contested, upon the determination of the dispute in favour of the claimant either in whole or in part, shall deliver to the creditor a certificate in Form A; and, where the claim is disputed as to a part only, the claimant may elect by a writing filed with the Clerk to abandon such part and shall be entitled to a certificate as to the residue.

18. (1) Upon delivery of the certificate to the sheriff, the claimant shall be deemed to be an execution creditor within the meaning of this Ordinance and is entitled to share in any distribution as if he had delivered an execution to the sheriff, and the certificate binds the lands and goods of the debtor in the same manner and to the same extent as an execution, subject to the debt being afterwards disputed by a creditor as hereinafter provided.

Effect of
certificate

(2) For the purpose of interpleader proceedings the certificate shall be deemed to be an execution.

(3) Where the certificate is obtained by a solicitor his name and address shall be indorsed thereon; and, if obtained by the claimant in person, there shall be indorsed thereon a statement of some place within three miles of the office of the Clerk of the Court, at which service may be made upon him, and in default thereof service of any notice, paper or document may be made upon the claimant by filing the same in the office of the Clerk of the Court and in such case shall be deemed good service.

(4) On receiving the certificate the sheriff shall make a further seizure of the property of the debtor to the amount of the debt so claimed, and the sheriff's fees; and so from time to time in case further certificates are received.

19. (1) A certificate shall remain in force for six years from the date thereof but may from time to time be renewed in the same manner as an execution.

Duration of
certificate

- (2) Notwithstanding the expiry of an execution or certificate before the termination of two months from the date of entry of a note or memorandum under section 4, the execution or certificate, as to any money levied during such two months, shall be deemed to be in full force and effect.
- (3) Notwithstanding the expiry of a certificate, it may be renewed in the same manner as if it had not expired, and when renewed it shall, subject to the rights of third parties accrued since the date of expiry, be of the same force and effect as if it had been renewed prior to that date.

CONTESTATION OF CLAIM

Procedure

20. (1) The claim may be contested by the debtor or by any creditor of the debtor.
- (2) Where the debtor contests the claim he shall file with the Clerk of the Court an affidavit stating that he has a good defence to the claim or to a specified part of it on the merits, but a Judge may dispense with the affidavit on terms or otherwise.
- (3) The debtor shall file his affidavit within ten days after service upon him of the affidavit of claim and the notice, or within the time mentioned in the order provided for by paragraph (c) of section 16, as the case may be, or within such further time as a Judge may allow.
- (4) Where the contestation is by a creditor he shall file with the Clerk of the Court an affidavit to the effect that he has reason to believe that the debt claimed is not actually and in good faith due from the debtor to the claimant: but a Judge may dispense with the affidavit on terms or otherwise.
- (5) Notice of contestation, whether by the debtor or by a creditor, together with a copy of the affidavit, if any, shall be served upon the claimant within five days after filing the affidavit, or after the order of the Judge if the affidavit is dispensed with.

- (6) The affidavit by a creditor may be filed and a certified copy thereof delivered to the sheriff at any time before distribution is made, and the sheriff shall forthwith give notice of the receipt of such certified copy to the claimant.
- (7) The affidavit of the debtor or other contestant shall have indorsed thereon a statement of some place within three miles of the office of the Clerk of the Court at which service may be made upon him, or the address of a solicitor in the Territory who may be served on his behalf, and in default thereof service of any notice, paper or document may be made upon the debtor or contestant by filing the same in the office of the Clerk of the Court.
- (8) Where the address of a solicitor given for service is not within three miles of the Clerk's office, service may be made upon him by mailing papers by registered post to him at the address so given.
- (9) The claimant whose claim is contested may apply to a Judge for an order allowing his claim and determining the amount; and if he does not make such application within eight days after receiving notice of the contestation or within such further time as the Judge may allow, which extension may be granted either before or after the expiration of the time limited, he shall be taken to have abandoned his claim.
- (10) Where the contestant is a creditor and there is reason to believe that the contestation is not being carried on in good faith any other creditor may apply for an order permitting him to intervene in the contestation.

21. Where a claim is contested by a creditor after a certificate has been placed in the sheriff's hands the sheriff, unless a Judge otherwise orders, shall levy as if such contestation had not been made, and shall until the determination of the contestation retain in a bank the amount that would be apportionable to the claim if valid, and shall as soon after the expiry of the two months as is practicable distribute the residue of the money made amongst those entitled.

Distribution
in case of
contestation

TRIAL OF CONTESTED CLAIMS

Procedure

22. A Judge may determine any question in dispute in a summary manner, or may direct an action to be brought or an issue to be tried for the determination thereof and may make such order as to the costs of the proceedings as he deems just.

Production and examination

23. The same proceedings may be had for the production of documents and for the examination of parties or others, either before or at the trial, as may be taken in an ordinary action, and such proceedings may also be taken before the application to a Judge and as a foundation therefor.

CLERK TO KEEP RECORDS

Particulars to be recorded

24. (1) The Clerk of the Court shall keep a book in which, before giving a certificate or issuing an execution for a claim, he shall, with reference to every claim in respect of which he gives a certificate or issues an execution, enter the following particulars:
- (a) the name and address of the claimant, and of the debtor;
 - (b) the date of the entry;
 - (c) the amount of the debt, exclusive of costs;
 - (d) the amount of costs; and
 - (e) where the proceedings have been set aside, that fact, and shortly the reason therefor.
- (2) The entry shall, subject to this Ordinance, have the effect of and be a final judgment of the Court for the debt and costs.
- (3) The Clerk shall index the entries in a book alphabetically under the names of the debtors.
- (4) Where the original papers are lost or destroyed, a copy of the entry shall be evidence of the matters therein set forth.

PAYMENTS WITHOUT SEIZURE AND FUNDS IN COURT

25. (1) Where the debtor, without any seizure by the sheriff, pays the full amount owing in respect of the executions and claims in the sheriff's hands at the time of such payment, no note or memorandum shall be entered as required by section 4 and no further proceedings shall be taken under this Ordinance against the debtor by virtue of the executions having been in the sheriff's hands. Application of payments by debtor
- (2) Except as provided in subsection (1), after an execution has been filed with the sheriff or a certificate has been delivered to him, the withdrawal or expiry of the execution upon which the proceedings are founded or any stay upon the writ or the satisfaction of the plaintiff's claim thereon, or the setting aside or return of the writ, shall not affect the proceedings to be taken under this Ordinance, and, except so far as the action taken in regard to the writ may affect the amount to be levied, the sheriff shall proceed and levy upon the goods or lands of the debtor or both as he would have proceeded had the writ remained in his hands in full force to be executed, and may also take the like proceedings as he would have been entitled to take had the writ been a writ of *venditioni exponas*.
- (3) Where a debtor, without any seizure by the sheriff, pays to the sheriff part of the amount owing in respect of an execution or certificate in the sheriff's hands and there is at the time no other execution or certificate in the sheriff's hands the sheriff shall apply the same on the execution or certificate so in his hands and sections 4 and 6 shall not apply to the money so received by the sheriff.
26. Where there is in any court a fund belonging to an execution debtor or to which he is entitled, the same or a sufficient part thereof to pay the executions and certificates in the sheriff's hands may, on application of the sheriff or any party interested, be paid over to the sheriff and the same shall be deemed to be money levied under execution within the meaning of this Ordinance. Funds in court belonging to execution debtor

SCHEME OF DISTRIBUTION AND CONTEST

Distribution where amount levied insufficient to meet all claims

27. (1) Where, at the time for distribution, the money is insufficient to pay all claims in full, the sheriff shall first prepare for examination by the debtor and his creditors a list of the creditors entitled to share in the distribution, with the amount due to each for principal, interest and costs.
- (2) The list shall be so arranged as to show the amount payable to each creditor and the total amount to be distributed; and the sheriff shall deliver, or send by registered post to the debtor and to each creditor or his solicitor, a copy of the list.
- (3) Where within ten days after all the copies have been delivered or posted, or within such further time as a Judge may allow, no objection is made as provided by this Ordinance, the sheriff shall make distribution forthwith pursuant to such list.
- (4) Where objection is made the sheriff shall forthwith distribute rateably so much of the money, and among such persons, as will not interfere with the effect of the objection in case the same should be allowed.
- (5) Any person affected by the proposed scheme of distribution may contest the same by giving, within the time mentioned in subsection (3), a notice in writing to the sheriff, stating his objection to the scheme and the grounds thereof.
- (6) The contestant shall, within ten days thereafter, apply to a Judge for an order adjudicating upon the matter in dispute, otherwise the contestation shall be taken to be abandoned.
- (7) The contestant shall, within the time mentioned in subsection (6), obtain from a Judge an appointment for hearing and determining the matter in dispute.
- (8) A copy of the appointment and a notice in writing in Form F of the objections, stating the grounds thereof, shall be served by the contestant upon the

debtor unless he is the contestant, and upon the creditors or such of them as a Judge may direct.

- (9) A Judge may determine any question in dispute in a summary manner, or may direct an action to be brought or an issue to be tried with or without a jury for the determination thereof, and may make such order as to the costs of the proceedings as he deems just.
- (10) Where a claimant is held to be not entitled, or to be entitled to part only of his claim, the money retained pending the contestation, or the portion as to which the claimant failed, shall be distributed among the creditors who would have been entitled thereto, as the same would have been distributed had the claim in respect thereof not been made.

28. Where several creditors are interested in a contestation, either for or against the same, a Judge shall give such directions for saving the expense of an unnecessary number of parties and trials, and of unnecessary proceedings, as he deems just, and shall direct by whom and in what proportions any costs incurred in the contestation or in any proceedings thereunder shall be paid, and whether any and what costs shall be paid out of the money levied.

Direction by Judge to avoid unnecessary parties and trials

PROVISIONS AFFECTING SHERIFF

29. Where money is to be distributed under this Ordinance the sheriff is not entitled to poundage as upon separate executions or certificates but only upon the net proceeds distributed by him and at the same rate as if the whole amount had been payable under one writ.

Sheriff entitled to single poundage only

30. When money is made under an execution, the same shall be taken for the purposes of the sheriff's return and otherwise to be made upon all the executions and certificates entitled to the benefits thereof, and the sheriff shall, upon payment being made to the person entitled upon such execution or certificate, indorse thereon a memorandum of the amount so paid, but he shall not, except on the request of the party who issued the writ or by direction of a Judge, return the writ until the same has been fully satisfied, or unless the same has expired by effluxion of time in which case the sheriff shall make a formal return of the amount paid thereon.

Sheriff's return after levy

Direction to sheriff to return writ

Compelling
payment by
sheriff

31. The like proceedings may be taken to compel payment by the sheriff of money payable in respect to an execution or other claim as can be taken to compel the return by the sheriff of a writ of execution.

Sheriff's
record

32. The sheriff shall, pending the distribution of the moneys levied, keep in the book mentioned in section 4 a statement showing in respect of any debtor on whose property money has been levied the following particulars:

- (a) the amount levied or received and the dates of levy or receipt; and
- (b) each execution or certificate in his hands and the amount thereof;

and such statement shall be amended from time to time as additional amounts are levied or received or further executions or certificates are received.

Sheriff to
give informa-
tion

33. The sheriff shall at all times, without fee, answer any reasonable question that he may be asked orally with respect to the estate of the debtor by a creditor or any one acting on behalf of a creditor, and shall aid him in obtaining full information as to the value of the estate and the probable dividend to be realized therefrom in his district, or any other information in connection with the estate that the creditor may reasonably desire to obtain.

Undispos-
able
money to be
placed in
bank

34. Where a sheriff has money in his hands that by reason of this Ordinance or otherwise he cannot immediately pay over, he shall deposit the money in a bank to be designated by the Commissioner and the deposit shall be made in the name of the sheriff in trust.

GENERAL PROVISIONS

One seizure
sufficient

35. One seizure by the sheriff of the goods and lands of the debtor shall be deemed sufficient and shall be deemed a seizure on behalf of all creditors sharing under such seizure as provided in this Ordinance.

Direction by
Judge to
sheriff
where claim
is disputed

36. (1) A Judge may direct the sheriff to levy for an amount sufficient to cover a claim that is in dispute or part thereof, or, if it appears to him that it is improbable that the debtor has other sufficient property,

he may direct the sheriff to retain in his hands during the contestation the share that, if the claim is sustained, will be apportionable to it, or a part thereof.

- (2) An order to levy under this section confers on the sheriff the same authority as he would have under an execution.

37. The decision of a Judge binds the debtor and all his creditors, unless it appears that the decision was obtained by fraud or collusion. Decisions binding on all creditors

38. Upon any proceedings before a Judge the evidence may be taken orally or by affidavit as the Judge may direct. Evidence on proceeding before Judge

39. No proceedings under this Ordinance shall be void for any defect of form, and the Rules of Court for amending or otherwise curing irregularities or defects that may from time to time be in force apply to this Ordinance, and any proceedings wrongfully taken under this Ordinance may be set aside by a Judge with or without costs as he may think fit. Irregularities not to void proceedings

40. The Commissioner may prescribe the fees and costs to be payable for all services under this Ordinance. Fees and costs

REPEAL

41. *The Creditors' Relief Ordinance*, chapter 24 of the Consolidated Ordinances, 1914, is repealed. Repeal.

SCHEDULE

FORM A

CERTIFICATE OF PROOF OF CLAIM

A.B. of _____ in the Yukon Territory, claimant,
 and C.D. of _____ in the Yukon Territory,
 debtor.

I, G.H., Clerk of the Court for the Yukon Territory, do hereby certify:

1. That the above named claimant did on the
 day of _____, 19____, file with me a claim against
 the above named debtor, for the sum of \$ _____ together
 with an affidavit of personal service thereof (or as the case
 may require) and of the notice required by the Creditors'
 Relief Ordinance, upon the said debtor, and that it hereby
 appears that such service was made on the _____ day
 of _____, 19____.

2. And I further certify that the debtor has not contested
 the said claim and that claimant is entitled to the amount
 thereof and to the further sum of \$ _____ for costs.

OR

2. And I further certify that the debtor has only contested
 the sum of \$ _____ part of the said claim (as the case
 may be), and that the claimant having abandoned such part
 is entitled to the residue of his claim being the sum of
 \$ _____, and the further sum of \$ _____ for costs.

(Or, when the claim is contested in whole or in part):

2. That the claim has been allowed by the court at the
 sum of \$ _____ with \$ _____ for costs.

G.H.,
 Clerk

FORM B

AFFIDAVIT OF CLAIM FOR WAGES

Between A.B. of _____ in the Yukon Territory,
claimant for wages and C.D. of _____ in the
Yukon Territory, execution debtor.

I, A.B. of _____ in the Yukon Territory
(occupation) make oath and say:

1. That I am the above named claimant and was in the
employment of the above named execution debtor at the time
of the Sheriff's seizure herein (or was in the employ of the
said execution debtor up to the day of
_____, 19 ____).

2. I claim priority over the execution creditors to the
extent of \$ _____ being the amount of the said execution
debtor is justly and truly indebted to me for wages (or salary)
earned by me between the _____ day of _____
and the _____ day of _____ my said employment being at
the rate of \$ _____ per day (week or month).

3. In addition to the claim set out in paragraph 2 hereof,
I claim to share pro rata with the execution creditors for
the sum of \$ _____ being the amount the above named
execution debtor is justly and truly indebted to me for wages
(or salary) earned between the _____ day of _____
during such period being at the rate of \$ _____ per day
(week or month).

Sworn before me at _____
in the Yukon Territory this _____ day of _____ 19 ____ } A.B.

.....
A Commissioner, etc.

FORM C

A.B. of _____ in the Yukon Territory,
claimant, and C.D. of _____ in the Yukon
Territory, debtor.

I, A.B., of _____ in the Yukon Territory,
(occupation), make oath and say:

1. I am the above named claimant (or the duly authorized
agent of the claimant in this behalf) and have a personal
knowledge of the matter hereinafter deposed to.

2. The above named debtor is justly and truly indebted to
me (or to the above named claimant) in the sum of \$
for (here state shortly the nature and particulars of the
claim).

Sworn before me at _____ }
in the Yukon Territory this _____ day of _____ 19 . } A.B.

.....
A Commissioner, etc. (or as the
case may be)

FORM D

NOTICE TO BE SERVED WITH CLAIM

A.B. of _____ in the Yukon Territory,
claimant, and C.D. of _____ in the Yukon
Territory, debtor.

To the above (or within) named debtor.

Take notice that the claimant intends to file with the Clerk
of the Court of the Yukon Territory, the original affidavit of
claim of which a duplicate is served herewith, and that this
proceeding is taken by reason of there being in the hands
of the sheriff of the said district an execution against your

property, and that the claimant intends to call on the sheriff to levy the amount of the said debt from your property under the authority of the Creditors' Relief Ordinance.

And further take notice that if you desire to contest the said claim, or any part thereof, you must, within ten days (1) after the service of the notice upon you, file with the said Clerk of the Court an affidavit stating that you have a good defence to the said claim on the merits, or that you have such defence to a specified part of the claim. If no such affidavit is filed the claim will be treated as admitted by you. If the affidavit is filed contesting the claim as to part only such claim may be so treated as to the part not contested.

You are further hereby notified that unless you indorse upon such affidavit filed by you a statement of some place within three miles of the said Clerk's office at which service may be made upon you, or the address of some solicitor in the Territory who may be served on your behalf, service may be made upon you of any notice, paper, or document, by filing the same in the office of the Clerk of the Court and in such case shall be deemed good service.

Dated the day of , 19

.....
Claimant.

Note:—(1) If further time is given by the Court the notice should be varied accordingly.

FORM E

AFFIDAVIT OF SERVICE OF CLAIM

A.B., claimant, and C.D., debtor.
I, G.H., of in the Yukon Territory,
(occupation), make oath and say:

That I did on the day of 19 ,
personally service C.D., the above named debtor with an
original affidavit identical with the annexed affidavit marked
exhibit A by delivering on the day last aforesaid at

; (or as the case may be) and that there was at the time of such service attached to (or indorse upon) the said affidavit so served a true copy of the notice addressed to the debtor, now attached to (or indorsed upon) the said annexed affidavit and marked exhibit B.

Or

1. That I did on the _____ day of _____ 19____, serve the above named debtor with an original affidavit identical with the affidavit hereunto annexed and marked exhibit A having enclosed such original in an envelope addressed to the debtor at _____ and posted the same by registered mail in the post office at _____

2. Hereunto annexed and marked exhibit A is the receipt from the postmaster at _____ for such registered letter; and hereunto annexed and marked exhibit C is the receipt of the debtor for such registered letter.

FORM F
 NOTICE OF CONTESTATION OF SCHEME
 OF DISTRIBUTION

A.B., claimant, and C.D., debtor.
 To C.D., debtor, and F.G. and M.N., claimants.

Take notice that I contest the scheme of distribution prepared by the sheriff of the Yukon Territory in respect of the claims of you the said F.G. and M.N., on the following ground (state distinctly the ground), and a copy of the Judge's appointment to adjudicate upon the matter is served herewith.

Dated the _____ day of _____, 19____

X.Y.
 Contestant.

CHAPTER 30

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING CORONERS

(Assented to November 22, 1954.)

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

SHORT TITLE

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

APPOINTMENT AND REMOVAL

2. The Commissioner may appoint one or more coroners for the Territory and may at any time remove, supersede or dispense with any or all of them and appoint others in their stead. Appointment and removal

3. (1) A coroner shall, before entering upon the duties of his office, take and subscribe to, before a Judge of the Court, police magistrate, justice of the peace or a person authorized by the Commissioner to administer oaths, an oath of allegiance and an oath of office. Oaths to be taken

(2) The oath of allegiance to be taken by a coroner is as follows: Oath of allegiance

“I,, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors according to law. So help me God.”

(3) The oath of office to be taken by the coroner is as follows: Oath of office

“I,, do solemnly and sincerely promise and swear that I will faithfully and honestly fulfill the duties that devolve upon me by reason of my

appointment as a coroner and that I will not, without due authority on that behalf, disclose or make known any matter that comes to my knowledge by reason of my duties or office. So help me God.”

JURISDICTION

Nearest coroner usually has jurisdiction

- 4. (1) The coroner residing nearest the place where the death occurred or the place at which the body is found or nearest the route of travel by which such place can be most readily reached has jurisdiction to act as coroner respecting a deceased person.

Any coroner may be directed to hold inquest, etc.

- (2) Notwithstanding subsection (1), a coroner has jurisdiction throughout the Territory and the Commissioner or a Judge may at any time direct a coroner to make an investigation or hold an inquest at any place in the Territory, in which case the jurisdiction of other coroners, whether they are within subsection (1) or not, is suspended respecting such investigation or inquest.

DISQUALIFICATION

Where disqualified

- 5. (1) A coroner shall not conduct an inquest or make an investigation into the circumstances connected with the death of a person
 - (a) on whom he has attended in his professional capacity as a medical practitioner at any time during the period of thirty days immediately prior to the day of that person’s death;
 - (b) on whose body he has, otherwise than in the course of an inquest or investigation in his capacity as coroner, performed an autopsy or post mortem examination; or
 - (c) whose death has been caused at, on or in or in connection with a railway, mine or other work in respect of which the coroner is the owner, part owner, director, etc., or employed as a medical attendant or in some other capacity by the owner

or manager or under any agreement or understanding, direct or indirect, with the employees at, on or in such work.

- (2) Where a coroner who would normally exercise jurisdiction under section 4 or is directed pursuant to that section to exercise jurisdiction is disqualified from so doing under subsection (1) of this section, he shall immediately notify the Commissioner and the nearest available coroner of his disqualification.

To notify commissioner of disqualification

NOTICE TO CORONER

6. A medical practitioner, undertaker, embalmer, peace officer, or any person residing in the house in which the deceased resided immediately prior to his death or any other person who has reason to believe that a deceased person died as a result of violence, misadventure or unfair means, from any cause other than disease or sickness, as a result of negligence, misconduct or malpractice on the part of others or under such other circumstances as require investigation shall immediately notify the coroner, who ordinarily has jurisdiction in the locality in which the body of the deceased person is found, of the circumstances relating to the death.

Duty to notify coroner

WARRANTS AND INVESTIGATIONS

7. (1) Subject to subsection (3), where a coroner is notified that there is, within his jurisdiction, the body of a deceased person respecting whom there is reason to believe that death resulted from violence, misadventure or unfair means from a cause other than disease or sickness, as a result of negligence, misconduct or malpractice on the part of others or under such other circumstances as require investigation, he shall, unless disqualified from acting under this Ordinance issue his warrant, in Form A in the Schedule, to take possession of the body and shall view the body and make such further inquiry as may be required to satisfy himself whether or not an inquest is necessary.
- (2) Unless otherwise directed by the Commissioner or a Judge, where a coroner has issued a warrant under

Duty of coroner to issue warrant, view body, etc.

Other coroners not to interfere

this section, no other coroner shall issue a warrant or interfere in the case.

Where unnecessary to issue warrant

- (3) Where a coroner is notified of a death occurring without the attendance of a duly qualified medical practitioner, he is not required to issue his warrant to take possession of the body or view the body, if, after inquiry into all the circumstances connected with the death, he is satisfied that it is unnecessary to hold an inquest.

Assistance of peace officers

- (4) For the purposes of making inquiries under this section, a coroner may request the assistance of one or more constables or other peace officers who shall, upon such request, make immediate inquiries into the circumstances of the death and submit a detailed report of the results of such inquiries to the coroner.

Employment of experts

- (5) A coroner may, with the approval of the Commissioner, employ experts to assist him in an inquiry.

Burial warrant, etc., when no inquest

8. (1) Where the coroner, after investigation, is satisfied that an inquest is unnecessary, he shall
- (a) issue his warrant to bury the body, in Form B in the Schedule;
 - (b) forthwith transmit to the Commissioner an affidavit, in Form C in the Schedule, setting forth briefly the result of the inquiry and the grounds on which he issued the burial warrant; and
 - (c) forthwith transmit to the funeral director or undertaker, or other person, having charge of the body the information and particulars required under the *Vital Statistics Ordinance*.

Commissioner may direct inquest

- (2) Notwithstanding the decision of a coroner and transmission of an affidavit under subsection (1), the Commissioner may direct the coroner or some other coroner to hold an inquest on the body and the coroner so directed shall forthwith hold an inquest.

INQUESTS GENERALLY

9. (1) Where a coroner, after investigation, has good reason to believe that a deceased person came to his death as a result of violence, misadventure or unfair means or as a result of negligence, misconduct or malpractice on the part of others or under such other circumstances as require an inquest, he shall hold an inquest. **Duty to hold inquest**
- (2) Before holding an inquest, the coroner shall make an affidavit in Form D which shall be returned and filed by the coroner with the inquisition. **Affidavit**
- (3) Subsection (2) does not apply to an inquest held at the direction of the Commissioner or a Judge or an inquest held on the body of a prisoner who died in or about any prison, gaol or lockup or in the custody of a peace officer. **Exceptions**
10. Where the Commissioner or a Judge has reason to believe that a deceased person came to his death under circumstances which, in his opinion, make the holding of an inquest advisable, he may direct any coroner to conduct an inquest into the death of such person and the coroner so directed shall conduct an inquest in accordance with this Ordinance, whether or not he or any other coroner has viewed the body, made an inquiry or investigation, held an inquest into or done any other act in connection with the death. **Direction of Commissioner or Judge to hold inquest**
11. Where a prisoner in a prison, gaol or lockup or in the custody of the Royal Canadian Mounted Police or a peace officer dies and notice of his death is given to a coroner by the warden or other official or person in charge or in whose custody the prisoner was, the coroner shall issue his warrant in Form A and hold an inquest on the body. **Where death of prisoner**
12. (1) Where the body of a person respecting whom it is necessary to hold an inquest has been buried and the coroner is of opinion that no good purpose would be affected by disinterring the body for the purposes of the inquest, the Commissioner or a Judge may, either upon application to him or otherwise, issue written permission to the coroner concerned to proceed therewith without disinterring the body. **Inquest without exhumation**

- (2) Where the body of a person respecting whom it is necessary to hold an inquest has been transported out of the Territory to be interred, the Commissioner or a Judge may, either upon application to him or otherwise, issue written permission to the coroner concerned to proceed therewith without having the body brought back to the Territory.

Inquest without viewing body

13. Where a coroner is satisfied that a death, respecting which it is necessary to hold an inquest, has occurred within his jurisdiction, but, either due to the cause of death or for any other reason, the body or any part thereof cannot be found or recovered the coroner may, after first obtaining the written consent of the Commissioner or a Judge, proceed to hold, without any view of the body, an inquiry as to the cause of death and it shall be conducted in all other respects in the same manner as other inquests held under this Ordinance.

May preserve scene of death, etc.

14. Where an inquest is to be held upon the body of a person who met death by violence in the wreck of a building, bridge, structure, embankment, aeroplane, motor vehicle, boat, machine or apparatus, the coroner may take charge of all wreckage and place constables or other peace officers in charge thereof in order to prevent any disturbance of the wreckage until such examinations as are deemed necessary by the coroner have been completed.

Post-mortem examination

- 15. (1) Subject to subsections (2) and (3), a coroner may, where he considers it advisable,
 - (a) for the purposes of an investigation; or
 - (b) prior to the termination of an inquest, conduct a post-mortem examination or direct that a post-mortem examination be conducted by a medical practitioner.

Permission where no inquest ordered

- (2) Where a coroner proposes to conduct a post-mortem examination or to direct a medical practitioner to do so for the purposes of an investigation and an inquest has not been ordered, the examination shall not be made without the permission of a Judge, the Commissioner or a person authorized by the Commissioner.

- (3) Where the coroner has reason to believe that the death was directly or indirectly caused by the improper or negligent action of a medical practitioner or other person, that medical practitioner or other person shall not be allowed to perform or assist at the post-mortem examination. **Interested medical practitioners excluded**
- (4) Where a coroner is of opinion that the body of a deceased person that has been buried should be disinterred for the purposes of an examination or where he is so directed by the Commissioner or a Judge, the coroner shall issue a warrant in Form J. **Disinterment**
- (5) A copy of a coroner's warrant for disinterment shall be sent to the Registrar General of Vital Statistics and a re-burial certificate secured. **To notify Registrar General of Vital Statistics**
- (6) The coroner shall send to the Commissioner the accounts in respect of a post-mortem examination. **Accounts**
16. (1) Where an inquest is held concerning a death caused by an accident at, or in connection with a mine, the coroner shall send reasonable notice of its time and place to a person who is an inspector under the *Mining Safety Ordinance* or a person authorized to act for him and such inspector or other person is entitled to be present and to cross-examine any witness at the inquest. **Inquests involving mining accidents**
- (2) Where the inspector or other person who receives notice of an inquest fails to appear at the appointed time or place or requests a postponement or adjournment of the inquest, the coroner may postpone or adjourn the inquest if he deems it advisable in the public interest to do so, but no such postponement or adjournment shall exceed twenty-four hours. **Postponement**
- (3) In the case of an inquest under this section, the jury, if any, shall wherever practicable contain at least three employees of the mine, of whom at least one is familiar with the work in respect of which the accident arose. **Jury to contain mine employees**

CORONER'S JURIES

Coroner to sit with jury where practicable but may otherwise dispense therewith

17. (1) At an inquest held pursuant to this or any other Ordinance, a coroner shall, where he is of opinion that it is practicable to secure a jury, sit with a jury but may, where he is of opinion that it is not practicable to secure a jury, proceed without a jury, and, in the latter case, has full authority to find such verdict as a jury might have found.

Composition and qualifications

(2) Subject to this Ordinance or any other Ordinance, a coroner's jury shall consist of six male persons who are qualified to serve and liable to serve as jurors under the *Jury Ordinance*.

Warrant to summon jury

(3) Where in his opinion it is practicable to secure a coroner's jury, the coroner shall, as soon as possible, issue his warrant in Form E to a sheriff, constable or other peace officer to summon six male persons to form the coroner's jury.

(4) The summons to a person to serve on a coroner's jury shall be in Form F and shall specify the time, place and purpose of the inquest and the name and address of the person upon whom it is to be served.

Special dis-qualification

(5) Subject to section 16, no person who, whether or not liable or qualified to serve as a juror under the *Jury Ordinance*, is

(a) an officer, employee or inmate of a hospital, asylum, charitable institution, gaol, prison or lockup in which the death of a deceased person occurred; or

(b) the owner or an employee of the owner of any building or premises used for any trade or business and in which the death of a deceased person occurred,

shall serve on the coroner's jury at an inquest respecting the death of such deceased person.

18. (1) The sheriff, constable or other peace officer to whom the coroner's warrant is issued under subsection (3) of section 17 shall attend at the time and place appointed for the inquest and make his return as to the summoning of the jurors. Report on Jury summons
- (2) Where six jurors are present the coroner shall proceed with the inquest. Attendance of full jury
- (3) Where less than six jurors are present upon the return of the summons, the coroner shall order the sheriff, constable or other peace officer to summon, by word of mouth if necessary, a sufficient number of male persons, whether qualified jurors or not, to complete the jury and where a full jury cannot be obtained within one hour from the time fixed for the commencement of the inquest, the coroner may proceed with a jury of not less than three jurors or dispense with a jury. Where less than full jury
- (4) Where a coroner's jury consists of six persons, five of them may return a verdict but, where the jury consists of less than six persons, the verdict must be unanimous. Verdict
19. Where an inquest is held without a coroner's jury or with a coroner's jury consisting of less than six persons, the inquisition shall state that the inquest has been so held and give the reasons therefor. Report where no jury, etc.
20. (1) Where a person duly summoned to serve on a coroner's jury does not, after being openly called three times, appear in answer to the summons, the coroner may, after proof upon oath that the summons has been served upon such person, issue a warrant to a constable or other peace officer commanding him to arrest such person and bring him before the coroner at the time and place specified in the warrant. Arrest of juror for failure to appear.
- (2) Where a person who is referred to in subsection (1) is brought before the coroner and fails to show cause why he did not obey the summons or refuses without reasonable excuse to serve, the coroner may impose upon him a fine not exceeding fifty dollars plus costs Punishment

or may, in default of payment of such fine, commit him, by warrant in Form G, to prison for a term not exceeding thirty days.

WITNESSES

Summons

21. (1) A coroner may issue a summons respecting any person who, in his opinion may be able to give material evidence at an inquest requiring him to appear at the time and place mentioned therein, to testify to all matters within his knowledge relative to the subject matter of the inquest and to bring with him and produce any document, book, paper, article or thing that he has in his possession or under his control relative to the subject matter of the inquest.

Service

(2) The original summons may contain the names of any number of witnesses and the copy served on each witness may do likewise or may contain only the name of the witness upon whom it is served and shall be served in the same manner as under the *Jury Ordinance*.

Arrest of witness for failure to appear, etc.

(3) Where a person duly summoned to give evidence at an inquest fails to appear or refuses to be sworn or to give evidence at such inquest, the coroner may, after proof upon oath, that the summons has been served upon such person, issue a warrant to a constable or other peace officer commanding him to arrest such person and bring him before the coroner at the time and place specified in the warrant.

Punishment

(4) Where a person who is referred to in subsection (3) is brought before the coroner and fails to show cause why he did not obey the summons or has refused without reasonable excuse to be sworn or to give evidence, the coroner may impose upon him a fine not exceeding fifty dollars plus costs or may, in default of payment of such fine, commit him, by warrant in Form G, to prison for a term not exceeding thirty days.

PROCEDURE AT INQUESTS

Swearing of jurors

22. (1) Where a coroner's jury is to sit at an inquest, the coroner shall, before commencing any other proceedings at the inquest, swear the jurors or cause them to

be sworn before him to inquire diligently touching the death in respect of which the inquest is to be held and to render a true verdict according to the evidence.

- (2) The coroner and the jury, if any, shall, at the first sitting of the inquest, view the body, unless a view has been dispensed with under this Ordinance, and the coroner shall examine, upon oath or affirmation, all persons he thinks expedient to examine as witnesses. View of body and examination of witnesses
- (3) A person who has been charged or is likely to be charged with an offence relating to the death concerning which the inquest is held is not compellable to give evidence at the inquest and the coroner shall so advise such person before he gives evidence. Persons charged or to be charged do not have to give evidence
- (4) Counsel representing Her Majesty may attend at an inquest and may examine or cross-examine the witnesses called and the coroner shall summon any witness required on behalf of Her Majesty. Rights of Crown counsel
- (5) A coroner may employ the services of an interpreter at an inquest. Interpreter
23. (1) Subject to subsection (2), the coroner shall put into writing the evidence of each witness, or so much thereof as he deems material and each deposition shall be signed by the witness concerned and by the coroner. Evidence in writing
- (2) With the consent of the Commissioner, a Judge or counsel representing Her Majesty, the evidence or any part thereof may be taken in shorthand by a stenographer appointed for that purpose by the coroner and duly sworn to truly and faithfully report the evidence, and, where so taken, the signatures of the witnesses are unnecessary but the transcript shall be signed by the coroner and certified by the stenographer that it is a true report of the evidence. Shorthand evidence
- (3) Shorthand evidence need not be transcribed into English unless the Commissioner, a Judge or counsel representing Her Majesty so directs or any person requests a transcript and pays the stenographer therefor. Where transcript prepared

- Verdict and inquisition** 24. (1) After viewing the body, unless a view is dispensed with under this Ordinance, and after hearing the evidence and the summing up by the coroner, the coroner's jury shall render their verdict, or the coroner shall in the absence of a jury pronounce his verdict, and the verdict shall be certified by an inquisition in writing, in Form H, setting forth, so far as the evidence indicates, the identity of the deceased and how, when and where he came to his death.
- Signing** (2) An inquisition shall be signed by the jurors who concur in the verdict and by the coroner.
- Where jury disagree** 25. (1) Where in a coroner's jury of six members five of them cannot agree on a verdict or where in a coroner's jury of less than six members there is not unanimous agreement, the coroner may discharge the jury after having first taken the findings that have been agreed upon.
- Report** (2) The coroner shall then submit the evidence, the findings agreed upon, if any, and a report of the inquest to the Commissioner or a Judge, either of whom may order the coroner to summon another jury and hold a second inquest or take such other action as the Commissioner or Judge deems proper.
- May adjourn** 26. (1) A coroner may, in order to obtain further evidence, adjourn an inquest from time to time and for such period as he thinks necessary and may, upon an adjournment take the recognizances of jurors and witnesses for their appearance at the adjourned sittings.
- May resume with one juror absent** (2) Where an inquest is adjourned and a juror who had attended is unable to attend, by reason of death, illness or other good cause, at the resumed sittings, the coroner may proceed with the inquest if at least three jurors are present or proceed without a jury.

PROCEDURE AFTER INQUEST

- Reports** 27. As soon as possible after the conclusion of an inquest held by him, a coroner shall

- (a) forward to the Commissioner or a Judge, as the case may be, the following, namely,
- (i) the inquisition in Form H,
 - (ii) the affidavit, if any, in Form D,
 - (iii) any depositions of witnesses taken pursuant to subsection (1) of section 23,
 - (iv) a transcript of the evidence taken pursuant to subsection (2) of section 23 where the Commissioner, a Judge or counsel representing Her Majesty has ordered it to be transcribed and, where no such order has been given, the stenographer's notes of the evidence, and,
 - (v) such exhibits as may be forwarded or, where they are too bulky or cannot otherwise be moved, a description thereof; and
- (b) forward to the undertaker or other person having charge of the body or to the district registrar of the registration district in which the death occurred, as the case may require, such information as is required to be furnished under the *Vital Statistics Ordinance*.

To undertaker,
etc.

OFFENCES AND PENALTIES

28. Every person who, under section 6, is required to notify a coroner of the death of a person and, unless some other person referred to in that section has already given the necessary notice fails to do so is guilty of an offence and is liable upon summary conviction to a fine not exceeding one hundred dollars.

Failure to
notify
coroner

29. A coroner who makes an investigation or conducts an inquest when he is, pursuant to section 5, disqualified from so doing is guilty of an offence and is liable upon summary conviction to a fine not exceeding two hundred dollars.

Where
coroner acts
when
disqualified

30. Where, except for the purpose of saving life or relieving suffering, a person, without authority from the coroner, interferes with, destroys, carries away or alters the position of wreckage or anything connected therewith resulting

Disturbing
scene of
death.

from the wreck of a building, bridge, structure, embankment, aeroplane, motor vehicle, boat, machine or apparatus that has caused death by violence, such person is guilty of an offence and is liable on summary conviction to a fine not exceeding one hundred dollars and where it is shown that the offence was wilfully committed for the purpose of making away with or destroying evidence, the person guilty thereof is liable on summary conviction to imprisonment for a term not exceeding six months.

General offence and penalty

31. Every person who violates a provision of this Ordinance for which no punishment is elsewhere provided in this Ordinance is guilty of an offence and is liable upon summary conviction to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding thirty days or to both fine and imprisonment.

GENERAL

Annual report

32. Every coroner shall at the end of each year transmit to the Commissioner a statement, in Form I or in like form, setting forth the investigations, inquests and their particulars made and conducted by him during such year.

Where murder

33. Where a death occurs as a result of which a person is charged with murder or manslaughter, the Commissioner or a Judge may but need not direct that no inquest shall be held or continued concerning that death.

May appoint special coroner to take over

34. The Commissioner may appoint a special coroner for any inquiry or inquest with power to take over from any other coroner such inquiry or inquest at any stage thereof and the special coroner has, upon so taking over, exclusive jurisdiction in the matter of the inquiry or inquest and may, in his discretion or as directed by the Commissioner, either continue the proceedings at the stage at which they were when he assumed jurisdiction or may commence the proceedings *de novo*, and, in the latter case, everything theretofore done shall have no effect.

Fees, etc.

35. Unless otherwise prescribed in an Ordinance made in that behalf, the fees and allowances payable to coroners, witnesses, jurors, stenographers, interpreters or medical

practitioners in connection with their duties or service under this Ordinance are those, from time to time, prescribed by the Commissioner.

COMMENCEMENT

36. This Ordinance shall come into force on the day on which the *Yukon Act*, Chapter 53 of the Statutes of Canada, 1952-53, comes into force. Effective date

SCHEDULE

FORM A

WARRANT TO TAKE POSSESSION OF BODY

Canada
Yukon Territory
To Wit: }
}

Toand to all constables, sheriffs or other peace officers whom it may concern:

Whereas it has been made to appear to me that.....
.....has died
.....
.....

(Note: here insert either:

- (a) as a result of violence; or
- (b) by misadventure or by unfair means or from a cause other than sickness or disease; or
- (c) as a result of negligence or misconduct or malpractice on the part of others; or
- (d) under such circumstances as require an investigation) and that such body is now lying at
a place in which I have jurisdiction as coroner.

Therefore, by virtue of my office, I command you, in the name of Her Majesty, to take possession of the body of the deceased and to safely keep the same and to deal with the same as may be directed by me until a further order is made by me concerning the same.

And for so doing, this shall be your full and sufficient warrant and authority.

Given under my hand atin the Yukon Territory, this.....day of.....19.....

.....
A Coroner for the Yukon Territory

FORM B
WARRANT FOR BURIAL

Canada }
Yukon Territory }
To Wit:

Toand to all others whom it may concern:

Whereas I have viewed the body of..... now lying dead at and have inquired into the circumstances of the death;

And whereas I (am satisfied that an inquest is unnecessary OR hereby certify that the body has been view at an inquest) (Strike out portion that is not applicable).

These presents are, therefore, to certify that you may lawfully permit the body of the said..... to be buried; and for so doing this shall be your full and sufficient warrant and authority.

Given under my hand at.....in the Yukon Territory, this.....day of.....19.....

.....
A Coroner for the Yukon Territory

FORM C

AFFIDAVIT WHERE INQUEST UNNECESSARY

Canada
 Yukon Territory
 To Wit: } I, of the
 } in the
 } Yukon Territory, a coroner for the said
 } Territory, make oath and say:

I. That from information received by me, I was of opinion that there was reason for believing that..... deceased, died

(Note: here insert either:

(a) as a result of violence; or

(b) by misadventure or by unfair means or from a cause other than sickness or disease; or

(c) as a result of negligence or misconduct or malpractice on the part of others; or

(d) under such circumstances as require an investigation).

2. That I have since caused the circumstances of the death of the said to be inquired into, and by reason of such inquiries, I am satisfied that the death was not the result of any wrongful act or omission on the part of any person and that an inquest is unnecessary and that the said deceased came to his (her) death on the.....day of.....19....., at in the said Territory, from.....
 (insert cause of death)

3. I have, in consequence, issued my warrant to bury the body of the said

SWORN before me at
 in the }
 Yukon Territory, this }
 day of.....19..... } Coroner

A.....

FORM D

AFFIDAVIT BEFORE HOLDING INQUEST

Canada
 Yukon Territory
 To Wit: } I, of the
 }in the Yukon Territory,
 } a coroner for the said Territory make
 } oath and say:

That from information received by me, I am of opinion that there is reason for believing that now lying dead atdid not come to his death from natural causes or from mere accident or mischance, but that he came to his death from violence or unfair means of culpable or negligent conduct of others or under circumstances requiring investigation by a coroner's inquest.

SWORN before me at
 in the
 Yukon Territory, this
 day of19.....)
) _____
) Coroner

A.....

FORM E

WARRANT TO SUMMON JURY

Canada }
Yukon Territory }
To Wit:

TO: Name.....
Address.....

By virtue of my office, I hereby direct you, in the name of Her Majesty the Queen, to summon and warn personally six persons, liable for jury duty in accordance with the Jury Ordinance and the Coroners Ordinance, to appear before me on the date and at the time and place indicated hereunder to undertake the duties of jurymen on a coroner's jury to do and execute such things as shall be then given them.

You are further directed to appear at the time and place given hereunder to make a return of those you shall summon.

Purpose of Inquest
To enquire into
the death of.....
.....

Particulars of Inquest
Date:
Time:
Place:

.....
A Coroner for the Yukon Territory

FORM F

SUMMONS

Canada }
Yukon Territory }
To Wit:

By virtue of a warrant under the hand of the presiding coroner, you are hereby summoned personally to be and appear before him as a juryman on the day, hour and place indicated hereunder and then and there to enquire on Her Majesty's behalf touching the death of..... and further to do and execute such other matters and things as may be given to you and not to depart without leave.

Failure to appear will render you liable to a fine or, in default of payment, to imprisonment.

TO: Name
Address:
Occupation:

Purpose of Inquest
.....

Particulars of Inquest
Place:
Date:
Time:

.....
A constable, sheriff, or
.....

.....

FORM G

WARRANT OF COMMITMENT

Canada }
Yukon Territory }
To Wit:

To the Warden of..... at
in the

Whereas.....was duly summoned
to appear before me on the day of.....
19....., to serve as a juror (or to be a witness) at an inquest
to be held touching the death of

And whercas the said, after
being openly called upon has failed to show cause why he did
not appear as summoned (or, having appeared, refused with-
out reasonable excuse to serve as a juryman or to be sworn
or to give evidence) (Strike out portion that is not applicable).

And whereas I did adjudge the said.....
for his default to pay a fine of.....dollars
and the costs of his apprehension and in default of immediate
payment that the said.....be imprisoned for
.....days unless the said several sums be sooner paid.

And whereas the said.....made default
of payment of the said several sums.

These are therefore to command you to take the said
.....and safely convey him to
.....gaol and there deliver him to the warden
or other person in charge thereof, together with these pres-
ents.

And I do hereby command you, the warden of the said gaol
to receive the said.....into your custody and
imprison him for the term of.....days, unless the
said several sums are sooner paid to you; and this shall be
your sufficient warrant and authority for so doing.

Given under my hand this.....day of.....
19.....

.....
A Coroner for the Yukon Territory

FORM H
INQUISITION

Canada
Yukon Territory }
To Wit:

An inquisition taken for Her Majesty the Queen at the house of in the day of on the day of 19....., (and by adjournment on the day of 19.....) before one of Her Majesty's coroners for the Yukon Territory, on view of the body of then and there lying dead, the undersigned and

(Names of jurymen, if applicable)
being duly sworn and charged to inquire for Her Majesty when, where, how and by what means the said came to his (her) death, do upon their oath say:

In witness whereof, the coroner has hereunto set his hand (and, the jurymen have hereunto set their hands) this day of 19.....

.....
.....
.....
.....

FORM I

CORONER'S RETURN

(Note: This return is required by section 32 of the Coroners Ordinance, to be filed and forwarded to the Commissioner at the end of every year. If no inquests or investigations were held by him, the form should be marked "nil" and returned to the Commissioner.

In all cases in which the coroner, after investigation, finds an inquest unnecessary, the word "Inquest deemed unnecessary" will be inserted after the place of death.)

<u>Name of Deceased</u>	<u>Place of Residence</u>	<u>Occupation</u>	<u>Place of Death</u>	<u>Place of Inquest</u>	<u>Date of Inquest</u>	<u>Finding</u>
-----	-----	-----	-----	-----	-----	-----
-----	-----	-----	-----	-----	-----	-----

I, the undersigned, one of Her Majesty's coroners in and for the Yukon Territory, do certify the above to be a correct return of all investigations and inquests held by me for the

year.....

Dated.....19.....

.....
Coroner

FORM J

WARRANT TO TAKE UP A BODY INTERRED

Canada Yukon Territory	}	To (person in charge of cemetery)
---------------------------	---	--

WHEREAS the body of one
 was buried on or about the day of
 19 , in the cemetery at which cemetery
 is under your direction: and

WHEREAS there exists some doubt as to the cause of
 death of the said

Now therefore this warrant given under my hand as one
 of Her Majesty's Coroners for the Yukon Territory is to
 charge and command you to cause the body of the said
 to be disinterred and
 removed from the said cemetery to for
 the purpose of an inquest to determine the cause of death.
 Herein fail not, as you will answer the contrary at your peril.
 Given under my hand this day of
 19 .

.....
 Coroner

CHAPTER 31

ORDINANCES OF YUKON TERRITORY

1954 (Third Session)

AN ORDINANCE RESPECTING MARRIAGES

(Assented to November 20, 1954.)

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

SHORT TITLE

1. This Ordinance may be cited as the *Marriage Ordinance*. Short title...

INTERPRETATION

2. In this Ordinance Definitions
- (a) "clergyman" means a person duly ordained or appointed by his religious body and authorized by this Ordinance to solemnize marriage; "Clergyman"
- (b) "issuer" means a person appointed under this Ordinance to issue licences; "Issuer"
- (c) "licence" means a marriage licence issued under this Ordinance; "Licence"
- (d) "marriage commissioner" means a person who is not a clergyman who is appointed or authorized under this Ordinance to solemnize marriage; "Marriage Commissioner"
- (e) "religious body" includes a church, religious denomination, sect, congregation or society. "Religious body"

REGISTRATION OF CLERGYMEN

3. (1) Subject to subsection (2), the Commissioner shall keep a register of the names of clergymen who permanently reside in the Territory and whose names Register

have been submitted to him by the ecclesiastical authorities of the religious bodies in which they are ordained or by which they are appointed.

Commissioner to decide what clergymen may be registered

(2) The Commissioner shall decide whether a religious body from which he receives a certified list of the names of its clergymen resident in the Territory is established, both as to continuity of existence and as to recognized rites and usages respecting the solemnization of marriage, as to warrant the registration of its clergymen under this Ordinance and may refuse to register the names of clergymen submitted by a religious body generally or the names of any particular clergymen.

Issue of certificates

(3) The Commissioner shall issue a certificate of registration to each clergyman registered under subsection (1).

Clergymen temporarily resident

(4) Subject to subsection (2), the Commissioner may register clergymen who are temporarily resident in the Territory and whose names have been submitted by their religious body and may issue certificates of registration to such clergymen to be valid for the period fixed by the Commissioner and named in the certificate.

Duty of religious bodies

4. The proper ecclesiastical authorities of each religious body whose clergymen are authorized to solemnize marriage shall annually, or oftener if required by the Commissioner, supply the Commissioner with a certified list in Form A of clergymen to be registered and shall notify the Commissioner of every clergyman who has died or who has ceased to reside in the Territory or who has in any other way ceased to possess the qualifications qualifying him to be registered.

Cancellation of registration

5. The Commissioner may at any time, as the result of information received by him under section 4, strike the name of a clergyman off the register and cancel his certificate of registration.

MARRIAGE COMMISSIONERS

- 6. (1) The Commissioner may appoint persons as marriage commissioners with authority to solemnize civil marriages under this Ordinance. Appointment
- (2) Every justice of the peace who has the powers of two justices of the peace is *ex officio* a marriage commissioner. Justices of the peace
- 7. A marriage commissioner is entitled to a fee of five dollars for each marriage solemnized by him under this Ordinance. Fee

SOLEMNIZATION OF MARRIAGE

- 8. (1) Every clergyman who holds a valid certificate of registration under this Ordinance and every marriage commissioner may solemnize marriage in the Territory between persons not under a legal disqualification to contract marriage. Persons qualified to solemnize marriage
- (2) No person other than a clergyman or marriage commissioner shall solemnize a marriage in the Territory.
- 9. (1) No clergyman shall solemnize marriage unless the parties to the intended marriage produce to him the licence required by this Ordinance or, where banns are published in lieu of a licence, unless the provisions of this Ordinance relating to the publication of banns have been complied with. Preliminaries required
- (2) No marriage commissioner shall solemnize marriage unless the parties to the intended marriage produce to him the licence required by this Ordinance.
- 10. No marriage shall be solemnized unless it takes place within three months after the second publication of the banns or within three months after the issue of a licence, as the case may be. Within three months after banns or licence
- 11. No marriage shall be solemnized unless at least two adult credible witnesses are present at the ceremony in addition to the contracting parties and the person performing the ceremony. Presence of witnesses

Hours for solemnization

12. No marriage shall be solemnized between the hours of ten o'clock in the afternoon and six o'clock in the forenoon unless the officiating clergyman or marriage commissioner is satisfied from evidence adduced to him that the proposed marriage is lawful and that exceptional circumstances exist that render its solemnization between those hours advisable.

Where party does not understand language used

13. No clergyman or marriage commissioner shall solemnize a marriage where either of the contracting parties does not speak or understand the language in which the ceremony is to be performed unless an independent interpreter is present to interpret and convey clearly to that party the meaning of the ceremony.

Civil Marriage

14. Where a marriage ceremony is performed by a marriage commissioner

(a) each of the parties to the marriage shall, in the presence of the marriage commissioner and the witnesses, make the following declaration:

"I do solemnly declare that I do not know of any lawful impediment why I, _____, may not be joined in matrimony to _____"; and

(b) each of the parties shall, in the presence of the marriage commissioner and the witnesses, say to the other party: "I call upon these persons here present to witness that I, _____, do take thee, _____, to be my lawful wedded wife (or husband)."

Second ceremony

15. (1) Persons who, having been married in accordance with the provisions of this Ordinance relating to civil marriage, desire a second ceremony for religious purposes may have that ceremony performed.

Supplemental to prior marriage

(2) The second ceremony referred to in subsection (1) is supplemental to and does not supersede the prior civil marriage and shall not be registered as a marriage.

Prior licence sufficient

(3) The licence obtained for the prior civil marriage is sufficient for the purposes of the second ceremony and

the second ceremony need not be performed within three months from the issue of the licence.

16. (1) Subject to subsection (2) of section 15, every person who is authorized to solemnize marriage under this Ordinance shall register every marriage solemnized by him in accordance with the provisions of the *Vital Statistics Ordinance*. Registration of marriage

(2) Upon completion of the marriage ceremony, the officiating clergyman or marriage commissioner shall furnish the contracting parties with a certificate of marriage. Certificate of Marriage

17. No clergyman or marriage commissioner is subject to an action or is liable for damage by reason of the existence of a legal impediment to the marriage, unless, at the time he performed the ceremony, he was aware of the impediment. Protection of clergymen, etc.

18. No marriage is invalid by reason only that the person performing the ceremony was not then registered under this Ordinance. Effect of lack of authority

PROHIBITION TO MARRIAGE

19. (1) No person shall perform a marriage ceremony where he knows that either of the contracting parties is a lunatic so formally declared under any law or Ordinance in force in the Territory. Lunacy

(2) No person shall go through a form of marriage with any person in the Territory where he knows that such person is a lunatic so formally declared under any law or Ordinance in force in the Territory.

20. No person shall marry in the Territory where he knows that he is suffering from a communicable disease in a communicable state or where he knows that the other contracting party is suffering from a communicable disease in a communicable state. Communicable disease

21. (1) No person shall perform a marriage ceremony where he knows or has reason to believe that either of the contracting parties is under the influence of liquor at the time of the ceremony. Under influence of liquor

(2) No person shall go through a form of marriage with any person in the Territory if he knows or has reason to believe that such person is under the influence of liquor at the time of the ceremony.

Party under fifteen years of age

22. (1) No issuer shall issue a marriage licence and no clergyman shall perform a marriage ceremony where either of the contracting parties is under the age of fifteen years unless there is furnished to the issuer or clergyman

(a) a certificate of a duly qualified medical practitioner that the female contracting party is pregnant;

(b) where no qualified medical practitioner is available, other evidence satisfactory to the issuer or clergyman that the female contracting party is pregnant; or

(c) the written permission of the Commissioner to the issue of the marriage licence or to the performance of the marriage ceremony, as the case may be.

Minors still require consent

(2) A certificate, other evidence or written permission of the Commissioner given under subsection (1) does not relieve any person from the requirements of this Ordinance respecting consents to the marriage of minors.

PUBLICATION OF BANNS

Licence not required where banns published

23. (1) Persons intending to marry do not require a licence where banns are published in accordance with this section.

Proclamation of intended marriage

(2) Intention to marry shall be proclaimed openly and in an audible voice during divine service at least once on two successive Sundays in the place of public worship in which both of the persons intending to marry have been attending worship or in some place of public worship of the religious body with which the clergyman who is to perform the marriage ceremony is connected in the local municipality, parish, circuit or pastoral charge where both of the persons intending to marry have, for the space of fifteen days immediately preceding had their usual place of abode.

- (3) Where the practice of faith of a religious body substitutes Saturday or some other day as the usual and principal day of the week for the celebration of divine service, proclamation of banns may be made on two consecutive Saturdays or such other days. Where Saturday, etc. usual day of worship
- (4) Where both of the persons intending to marry do not reside in the same local municipality, parish, circuit or pastoral charge, a similar proclamation shall be made in the local municipality, parish, circuit or pastoral charge, if within Canada, where the other of the contracting persons has, for the space of fifteen days immediately preceding, had his or her usual place of abode and the marriage shall not be solemnized until there is delivered to the officiating clergyman a certificate in Form B showing that the proclamation has been made. Where both parties not reside in same place
- (5) Notwithstanding anything in this section, where, by reason of remoteness or otherwise, divine service, by the clergyman who is to perform the marriage ceremony, is not regularly held on successive Sundays, Saturdays or other days at a place in the Territory, intention to marry shall, at that place, be proclaimed at not less than two successive divine services other than in the same day, openly and in an audible voice by the said clergyman. Where divine service not regularly held
- 24. (1) Before publication of banns each of the persons intending to marry shall personally and separately make a statutory declaration in Form C before the clergyman who is to proclaim the banns. Statutory declaration
- (2) The degrees of affinity and consanguinity set out in Form D shall be printed on the reverse side of the declaration. Degrees of affinity
- (3) A clergyman who is to proclaim banns may take declarations and administer oaths for the purposes of this section. Clergyman may take declarations
- (4) Before publication of banns, where either of the persons intending to marry has been previously married or is a minor, the declarations, proofs, consents or Other documents

other documents respecting previously married persons or minors required by this Ordinance shall be furnished by that person to the clergyman who is to proclaim the banns.

Transfer

(5) A clergyman who proclaims banns shall, where he is not also the clergyman who is to solemnize the marriage, transfer all documents received by him pursuant to this section to the clergyman who is to solemnize the marriage within forty-eight hours after the second publication of banns has been made.

Certificate of publication

25. Where either party to the intended marriage desires a certificate of publication of banns the clergyman who proclaims the banns, upon payment to him of a fee of fifty cents, shall furnish a certificate in Form B.

Clergyman to forward documents to Commissioner

26. Within forty-eight hours after the solemnization of a marriage subsequent to the publication of banns the officiating clergyman shall forward to the Commissioner a certificate of the publication of banns in Form B, the statutory declarations in Form C required under section 24 and, in respect of persons previously married or minors, the declarations, proofs, consents, or other documents required by this Ordinance to be furnished to him by the contracting parties or transferred to him by the clergyman who proclaimed the banns.

Effect of irregularities

27. No irregularity or insufficiency in the proclamation of the intention to marry where banns are published or in the certificate of publication shall invalidate a marriage.

MARRIAGE LICENCES

Appointment

28. The Commissioner may appoint persons to issue marriage licences under this Ordinance.

Monthly returns

29. (1) Every issuer shall on the first day of every month make a return to the Commissioner of all licences issued by him during the preceding month with the names of the persons to whom the licences were issued and shall forward to the Commissioner the statutory declaration in Form C taken in each instance together

with documents required to be deposited with him respecting previously married persons or minors or any other documents required to be deposited with him under this Ordinance.

(2) The Commissioner may in his discretion alter the periods in which returns shall be made by an issuer or may order special returns to be made. Commissioner may alter periods, etc.

30. (1) Upon application for a licence, the applicant shall pay a fee of three dollars to the issuer. Fees

(2) Each fee received by an issuer under subsection (1) shall be distributed as follows:

(a) the issuer shall retain one dollar; and

(b) the issuer shall send two dollars to the Commissioner.

31. (1) An issuer who is prevented from acting by sickness may, with the approval of the Commissioner, appoint in writing for a period not exceeding three months, a deputy issuer to act for him in his absence. Appointment of deputy issuers

(2) Every deputy issuer shall sign each licence issued by him in the following manner:
 “ _____, Issuer of Marriage Licences,
 per _____, Deputy Issuer.” Signature by deputy issuer

(3) A deputy issuer has the same powers and duties as an issuer. Powers and duties

32. An issuer may take declarations and administer oaths for the purposes of this Ordinance. Issuer may take declarations

33. No issuer or deputy issuer shall issue a licence for his own marriage. Prohibition

34. (1) Licences shall be in Form E. Form of Licences

(2) Every issuer shall fill up the blanks and sign each licence at the time of issue. Form to be completed by issuer

Issuer to read licence to parties

35. (1) The issuer shall satisfy himself that both parties to the intended marriage fully understand the contents of a licence and shall read over the form of licence to each of the parties separately.

Interpreter where party does not understand English

(2) Where either of the parties to the intended marriage does not understand the English language an independent interpreter shall be employed to explain the contents of the licence to that party.

Statutory declaration

36. (1) Before a licence is issued each of the persons for whose marriage it is to be issued shall personally and separately make a statutory declaration in Form C before the issuer.

Degrees of affinity

(2) The degrees of affinity and consanguinity set out in Form D shall be printed on the reverse side of the declaration.

Where resident party unable to attend

37. (1) Where either of the contracting parties is resident in the Territory but is unable to make the declaration required in section 36 personally before the issuer, the issuer may permit that party to make a declaration in Form F before a justice of the peace or a commissioner for oaths or a notary public.

Contents and delivery of declaration

(2) The declaration permitted under subsection (1) shall contain the reason relied upon to excuse personal attendance before the issuer and shall be delivered to the issuer at least seven days before the issue of the licence.

Where party is not a resident

38. (1) Where one of the contracting parties resides outside the Territory and is unable personally to appear before the issuer, the issuer may, in his discretion, issue a licence upon the declaration in Form G to be taken before the issuer by the other contracting party.

Time of declaration

(2) The declaration under subsection (1) shall be made at least seven days before the issue of the licence.

Time for issue of licence

39. No licence shall be issued between the hours of ten o'clock in the afternoon and six o'clock in the forenoon unless the issuer is satisfied from evidence adduced to him that

the proposed marriage is lawful and that exceptional circumstances exist that render the issue of a licence between those hours advisable.

40. No irregularity in the issue of a licence where it has been obtained or acted on in good faith shall invalidate a marriage solemnized in pursuance thereof. Effect of irregularity

PERSONS PREVIOUSLY MARRIED

41. (1) Subject to subsection (2), where either of the parties intending to be married is a widow or widower, she or he shall furnish to the clergyman proclaiming the banns or an issuer of marriage licences, as the case may be, a certificate of the death of the former husband or wife issued under the *Vital Statistics Ordinance*, or the law respecting vital statistics of the place where the death is registered. Certificate of death of deceased spouse
- (2) Where a clergyman or issuer is satisfied that a widow or widower cannot obtain a certificate of death of the deceased spouse, he may accept as proof of death an affidavit made by a credible adult person who has knowledge of the death. Affidavit in lieu of certificate
- (3) An affidavit under subsection (2) must be made by a credible adult person other than either of the persons intending to marry and shall be sworn before a justice of the peace, commissioner for oaths or notary public. Nature of affidavit
42. (1) Where a previously married person cannot produce proof of death of his or her previous spouse and alleges that reasonable grounds exist for supposing that the other party to the previous marriage is dead, that person may present a petition to a Judge for a declaration of presumption of death and the Judge, if satisfied that such reasonable grounds exist, may make a declaration of presumption of death. Application for presumption of death
- (2) In an application under subsection (1) evidence, satisfactory to the Judge, that for a period of seven years or upwards the other party to the previous marriage has been continually absent from the petitioner and that the petitioner has made reasonable inquiries and Evidence on petition

has no reason to believe that the other party has been living within that period is sufficient evidence in support of the petition.

Documents to be produced on re-marriage

- (3) A previously married person who has obtained a declaration of presumption of death under this section and who wishes to marry again shall present a certified copy of the declaration to the clergyman proclaiming the banns or to an issuer of marriage licences, as the case may be, together with a statutory declaration made by that person in Form H and a statutory declaration in Form I made by the other contracting party of the intended marriage.

Where previous marriage dissolved or annulled in Territory

43. (1) Where either party intending to be married has been previously married but the previous marriage has been dissolved or annulled in the Territory, that party shall furnish to the clergyman proclaiming the banns or to an issuer of marriage licences, as the case may be,
- (a) a certificate of the dissolution or annulment obtained from an appropriate official under the *Vital Statistics Ordinance*; or
 - (b) a certified copy of the decree absolute or decree of annulment obtained from the clerk of the appropriate court and, where an appeal from such decree is permitted, a certificate from the clerk of the Court showing that no appeal has been brought within the time limited for appeal and that that time has expired or that, if brought, the appeal has been dismissed.

Where previous marriage dissolved or annulled outside the Territory

- (2) Where either party intending to be married has been previously married but the previous marriage has been dissolved or annulled elsewhere than in the Territory that party shall furnish to the clergyman proclaiming the banns or to an issuer of marriage licences, as the case may be, a certificate of the dissolution or annulment, or the decree absolute or decree of annulment or a certified or notarial copy thereof, obtained from a public or court official of the province, state or country in which the marriage was dissolved or annulled.

MINORS

44. (1) A party to an intended marriage who is under the age of twenty-one years is a minor within the meaning of this Ordinance. Minor
- (2) Before the publication of banns or the issue of a licence, a minor shall deposit with the clergyman who is to proclaim the banns or with the issuer a consent to the marriage in Form J. Consent
- (3) A consent required under subsection (2) shall be executed Who may execute consent
- (a) by both parents of the minor where both his parents are living and are not legally separated;
- (b) by the surviving or other parent of the minor where one of his parents is dead or is a patient in a mental institution;
- (c) by the parent or other person who has legal custody of the minor where his parents are legally separated; or
- (d) by a lawfully appointed guardian of the minor or by an acknowledged guardian who has brought up the minor or has supported him for at least three years preceding the intended marriage where both his parents are dead or where both parents are patients in a mental institution or the surviving parent is a patient in a mental institution.
- (4) The consent required by this section is a condition precedent to a valid marriage, unless the marriage has been consummated or the contracting parties have, after the ceremony, cohabited and lived together as man and wife. Consent is a condition precedent
45. (1) The consent mentioned in section 44 shall not be required when a minor is at least eighteen years of age and deposits with the clergyman who is to proclaim the banns or with the issuer a statutory declaration in Form K made by the minor and sworn before a justice of the peace, commissioner for oaths or a notary public. Statutory declaration in lieu of consent

Contents

- (2) The statutory declaration referred to in subsection (1) shall show
 - (a) that the father and mother of the minor are dead and that there is no guardian of the minor,
 - (b) that a parent whose consent is required is not a resident of the Territory and that the minor has been a resident of the Territory for twelve months preceding the date of the declaration,
 - (c) that the father and mother of the minor are patients in a mental institution or that the surviving parent is a patient in a mental institution and that there is no guardian of the minor, or
 - (d) that the minor has, for not less than six months immediately preceding the date of the statutory declaration, been living apart from his parents or guardian and has not received financial aid or support from his parents or guardian within that period.

Order Dispensing with consent

- 46. (1) Where the parents or guardian of a minor refuse or neglect to execute the consent required under section 44, the minor may apply to a Judge and the Judge may, in his discretion, grant an order dispensing with such consent.

Order to be deposited with clergyman, etc.

- (2) Where an order has been granted under subsection (1) the minor shall deposit the order or a certified copy thereof with the clergyman who is to proclaim the banns or with the issuer before banns are published or a licence is issued, as the case may be.

Clergyman, etc., may ask for birth certificate

- 47. Where the clergyman who is to proclaim the banns or the issuer, as the case may be, is not satisfied that a minor is over the age of fifteen years he may require the minor to furnish a birth certificate or, in lieu thereof, an affidavit showing the age of the minor and made by a credible adult who has knowledge of the date of the birth of the minor.

VALIDITY OF CERTAIN MARRIAGES

48. Where it is made to appear by statutory declaration to the satisfaction of the Commissioner that a marriage has been solemnized in the Territory in good faith and in intended compliance with this Ordinance by a clergyman or marriage commissioner and that, in ignorance of the requirements of this Ordinance, the marriage was not registered and where

Registration dispensed with under certain conditions

- (a) neither of the parties to the marriage was at that time under any legal disqualification to contract the marriage;
- (b) after the marriage the parties lived together and cohabited as husband and wife; and
- (c) the validity of the marriage has not been questioned by action in any court;

the Commissioner may in writing declare that the requirements of this Ordinance as to registration are waived in respect of that marriage and that the marriage has been lawful and valid from the date of solemnization.

49. (1) Where a form of marriage is gone through between persons either of whom is a minor, without the consent required by this Ordinance, and the marriage has not been consummated and the parties thereto have not, after the ceremony, cohabited and lived together as husband and wife, a Judge has jurisdiction to entertain an action by the contracting party who was at the time of the ceremony a minor and to declare and adjudicate that a valid marriage was not effected or entered into.

Nullity of marriage

(2) A Judge shall not declare a marriage void under subsection (1) where he is satisfied from evidence adduced to him that carnal intercourse has taken place between the parties before their marriage was solemnized.

Where carnal intercourse before marriage

(3) A Judge shall not declare a marriage void upon consent of the parties or in default of appearance or of pleading or otherwise than after a trial.

No judgment by consent or in default

Evidence

(4) At every trial under subsection (1) the evidence shall be taken *viva voce* but the Judge may permit the use of depositions of witnesses residing out of the Territory or of witnesses examined *de bene esse*.

Examination of parties

(5) The Judge may order the examination of both or of either of the parties before him touching the matters in question in the action and may order either party to submit to a physical examination by a duly qualified medical practitioner appointed for the purpose by the Judge.

OFFENCES AND PENALTIES

Issuers

50. Every issuer who

- (a) issues a licence without first having obtained all the documents required by this Ordinance,
- (b) issues a licence where either contracting party is prohibited from marrying under this Ordinance,
- (c) fails to make any return or payment required by this Ordinance, or
- (d) neglects or refuses to perform any duty that he is required by this Ordinance to perform

is guilty of an offence and is liable on summary conviction to a fine not exceeding one hundred dollars.

Issue of licences by unauthorized persons

51. Every person who issues or purports to issue licences or issues any documents purporting to be a marriage licence and who is not a duly appointed issuer under this Ordinance is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars.

Solemnizing marriage contrary to Ordinance

52. Every person who solemnizes a marriage contrary to the provisions of this Ordinance is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars.

53. Every person who, having been a clergyman or marriage commissioner with authority to solemnize marriage, has been deposed or removed from his ministry or office and who solemnizes or undertakes to solemnize a marriage after he has been deposed or removed is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or to a term of imprisonment not exceeding twelve months.

Performing ceremony after removal from office

54. Every person who wilfully makes or causes to be made a false statement of particulars required to be recorded or reported under this Ordinance is guilty of an offence and is liable on summary conviction to a fine not exceeding fifty dollars.

False statements

55. Every person who violates a provision of this Ordinance for which no other penalty is provided is guilty of an offence and is liable on summary conviction to a fine not exceeding twenty dollars.

General penalty

56. Every prosecution for an offence under this Ordinance shall be commenced within two years from the date of the offence.

Time limit for prosecution

57. No prosecution for an offence under this Ordinance shall be commenced until the permission of the Commissioner has been obtained.

Consent to prosecution

REPEAL

58. The following Ordinances are repealed:

- (i) *The Marriage Ordinance*, chapter 60 of the Consolidated Ordinances, 1914;
- (ii) *An Ordinance to amend the Marriage Ordinance*, chapter 1 of the Ordinances of 1931; and
- (iii) *An Ordinance to amend the Marriage Ordinance*, chapter 5 of the Ordinances of 1938.

MARRIAGE

SCHEDULE

FORM A

LIST OF CLERGYMEN AUTHORIZED TO SOLEMNIZE MARRIAGE

The , being a religious body within the meaning of the Marriage Ordinance and having well recognized rites and ceremonies respecting the solemnization of marriage, hereby makes application by its governing authority for the registration of the persons whose names are hereinafter set forth. Each of the said persons is duly ordained or appointed according to our rites and ceremonies and we respectfully submit are clergymen within the definition of section 2 of the Marriage Ordinance.

The undersigned, being the governing authority duly authorized to act in the premises on behalf of the said religious body, hereby certify to the statements hereinafter set forth.

Dated at , this day of , 19

Signature

Address

Name Address Pastoral Charge

FORM B

CERTIFICATE OF PUBLICATION OF BANNS

I, _____, of _____,
 in the Yukon Territory, do hereby certify that on _____
 _____, the _____ day of _____ 19____
 and on _____, the _____ day of _____ 19____,
 the intention of _____ and of _____
 _____ of _____ to
 intermarry was duly proclaimed by me in accordance with
 the Marriage Ordinance.

I further certify that I verily believe that the said
 _____ and _____
 had their usual place of abode at _____
 for the space of fifteen days immediately preceding the said
 _____ day of _____ 19____, being
 the first day on which the proclamation of banns was made.

Dated at _____ this _____ day of _____ 19____.

.....
 Clergyman proclaiming banns

.....
 Address

.....
 Religious Body

I hereby certify that the above named contracting parties
 were married by me at _____ in the
 Yukon Territory on _____ the _____ day of
 19____.

.....
 Officiating Clergyman

.....
 Address

.....
 Religious Body

FORM C

STATUTORY DECLARATION OF PARTIES TO MARRY

Whereas we, and , are desirous of entering into the contract of marriage, we do severally solemnly declare as follows:

According to the best of my knowledge and belief there is no affinity, consanguinity or other lawful cause or impediment to bar or hinder the solemnization of the said marriage.

According to the best of my knowledge and belief there is no affinity, consanguinity or other lawful cause or impediment to bar or hinder the solemnization of the said marriage.

I am of the age of years.

I am of the age of years.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

(signature of Bridegroom)

(signature of Bride)

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

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

(Clergyman or Issuer of Marriage Licences)

(Clergyman or Issuer of Marriage Licences)

FORM D

DEGREE OF AFFINITY AND CONSANGUINITY
BETWEEN THE PARTIES WHICH BAR OR HINDER
THE LAWFUL SOLEMNIZATION OF MARRIAGE
BETWEEN THEM

A man may not marry his:	A woman may not marry her:
Grandmother	Grandfather
Grandfather's wife	Grandmother's husband
Wife's grandmother	Husband's grandfather
Father's sister	Father's brother
Mother's sister	Mother's brother
Mother	Father
Daughter	Son
Wife's daughter	Husband's son
Son's wife	Daughter's husband
Sister	Brother
Son's daughter	Son's son
Daughter's daughter	Daughter's son
Son's son's wife	Son's daughter's husband
Daughter's son's wife	Daughter's daughter's husband
Wife's son's daughter	Husband's son's son
Wife's daughter's daughter	Husband's daughter's son
Brother's daughter	Brother's son
Sister's daughter	Sister's son

The relationship set forth in this table include all such relationships, whether by the whole or half blood, and whether legitimate or illegitimate.

Sections 2 and 3 of the *Marriage and Divorce Act*, being chapter 176 of the Revised Statutes of Canada, 1952, provide as follows:

"2. A marriage is not invalid merely because the woman is a sister of a deceased wife of the man, or a daughter of a sister or brother of a deceased wife of the man.

"3. A marriage is not invalid merely because the man is a brother of a deceased husband of the woman or a son of a brother or sister of a deceased husband of the woman".

MARRIAGE

FORM E

MARRIAGE LICENCE

Whereas _____ of _____
 and _____ of _____ have
 determined to enter into the holy state of matrimony and
 are desirous of having this marriage solemnized in the man-
 ner prescribed by the *Marriage Ordinance*, I do hereby for
 good causes give and grant this licence, as well to them, the
 said parties, contracting, as to all or any clergymen or
 marriage commissioners, duly authorized under the said
 Marriage Ordinance, to solemnize or perform the same.

This licence is subject to the conditions that there are no
 impediments by reason of any affinity or consanguinity prior
 to marriage or by reason of any other lawful cause and,
 if any fraud shall appear to have been committed at the time
 of granting this licence either by false suggestions or con-
 cealment of the truth, this licence shall be null and void to
 all intents and purposes whatsoever.

Issued at _____ Commissioner of the Yukon Territory.
 _____, in the Yukon Territory this
 _____ day of _____, 19 ____ .

 Issuer

I hereby certify that the above named parties were married
 by me at _____ in the Yukon Territory
 on the _____ day of _____, 19 ____ .

 Officiating Clergyman or Marriage
 Commissioner

 Address

 Religious Body of Clergyman

FORM F

STATUTORY DECLARATION RESPECTING
NON-ATTENDANCE OF PARTY RESIDENT
IN THE YUKON TERRITORY

Whereas _____ and _____
are desirous of entering into the contract of marriage and
of having the marriage duly solemnized;

I, _____, of _____,
one of the contracting parties, do solemnly declare:

1. That I reside at _____ in the Yukon Ter-
ritory and that I am unable to appear before the issuer of
Marriage Licences because _____

.....

.....

2. That I am of the age of _____ years.

3. That to the best of my knowledge and belief there is
no affinity, consanguinity, or any other lawful cause or im-
pediment to bar or hinder the solemnization of the said
marriage.

And I make this solemn declaration conscientiously be-
lieving it to be true and knowing that it is of the same
force and effect as if made under oath and by virtue of the
Canada Evidence Act.

Bridegroom or Bride

Declared before me at _____ in the Yukon
Territory this _____ day of _____, 19 _____.

Justice of the Peace, Commissioner
for Oaths or Notary Public

FORM G

STATUTORY DECLARATION RESPECTING
NON-ATTENDANCE OF PARTY RESIDENT
OUTSIDE THE YUKON TERRITORY

Whereas _____ and _____
are desirous of entering into the contract of marriage and
of having the marriage duly solemnized;

I, _____, of _____,
one of the contracting parties, do solemnly declare:

1. That _____, the other contracting party,
being a resident of _____
in the province of _____, is therefore unable
to personally appear before the issuer of Marriage Licences.

2. That _____, the other contracting party,
is to the best of my knowledge and belief of the age of _____
years.

And I make this solemn declaration conscientiously be-
lieving it to be true and knowing that it is of the same force
and effect as if made under oath and by virtue of the *Canada
Evidence Act*.

.....
Bridegroom or Bride

Declared before me at _____ in the Yukon
Territory this _____ day of _____, 19 ____.

.....
Issuer of Marriage Licences

FORM H

STATUTORY DECLARATION TO BE MADE BY
PREVIOUSLY MARRIED PERSON WHOSE FORMER
SPOUSE IS PRESUMED TO BE DEAD

Whereas _____ and _____
are desirous of entering into the contract of marriage and
of having the marriage duly solemnized;

I, _____, of _____,
one of the contracting parties, do solemnly declare:

1. That I was married to _____ at _____
_____ , on the _____ day of _____,
19 _____,

2. That I have perused the document now shown to me
and marked Exhibit "A" to this my declaration which pur-
ports to be a certified copy of the Order or Declaration of
Presumption of Death of the said _____ given by
_____, Judge, of _____ on
the _____ day of _____, 19 _____

3. That I still have no reason to believe that the said
_____ is living.

4. That I have given careful consideration to the question
of the validity of the proposed marriage between
_____ and myself if
is not in fact dead at the time of the solemnization of the
proposed marriage and to the situation that will exist if
the proposed marriage takes place and the marriage proves
to be invalid by reason of it being found that the said
_____ was not in fact dead when the mar-
riage was solemnized.

5. That, nevertheless, it is my desire to enter into a con-
tract of marriage with the said _____

6. That I have acquainted _____, the
other contracting party, with the true particulars with respect
to the said Order or Declaration of Presumption of Death of _____

7. That this solemn declaration is made by me
 separate and apart from _____, the other party
 to the proposed marriage.

And I make this solemn declaration conscientiously be-
 lieving it to be true and knowing that it is of the same force
 and effect as if made under oath and by virtue of the *Canada
 Evidence Act*.

Declared before me at _____ in the Yukon Ter-
 ritory this _____ day of _____, 19 _____

Justice of the Peace, Commissioner
 for Oaths, or Notary Public.

FORM I
 STATUTORY DECLARATION TO BE MADE BY PERSON
 MARRYING A PREVIOUSLY MARRIED PERSON
 WHOSE FORMER SPOUSE IS PRESUMED
 TO BE DEAD

Whereas _____ and _____
 are desirous of entering into the contract of marriage and
 of having the marriage duly solemnized;

I, _____ of _____,
 one of the contracting parties, do solemnly declare:

1. That I have been advised and verily believe that
 _____, the other contracting party, was
 married to _____ at _____
 on the _____ day of _____, 19 _____

2. That I have been informed by
 the other contracting party, of the presumption of death of
 the said _____ and the circumstances
 thereof.

3. That I have no reason to believe that the said
is still living.

4. That I have given careful consideration to the question
of the validity of the proposed marriage between
and myself if
was not in fact dead at the time of the solemnization of the
proposed marriage and to the situation that will exist if the
proposed marriage takes place and the marriage proves to
be invalid by reason of it being found that the said
was not in fact dead when the
marriage was solemnized.

5. That, nevertheless, it is my desire to enter into a con-
tract of marriage with the said

6. That this solemn declaration is made by me separate and
apart from , the other party to the pro-
posed marriage.

And I make this solemn declaration conscientiously be-
lieving it to be true and knowing that it is of the same force
and effect as if made under oath and by virtue of the *Canada
Evidence Act*.

.....
Declared before me at , in the Yukon Ter-
ritory this day of , 19 .

.....
Justice of the Peace, Commissioner
for Oaths or Notary Public.

FORM J

CONSENT TO MARRIAGE OF MINOR

I/we _____, hereby consent to the marriage of
my/our (son, daughter or ward) whose name is

with _____ and

I/we certify that my/our said (son, daughter or ward) is of
the age of _____ years.

Dated at _____ this _____ day of

, 19 ____ .

.....
Witness

.....
Witness

.....
Signature and address of Parents
(or Parent) or Guardian

NOTE:—This form must be signed:

(a) by both parents of the minor where both his parents
are living and are not legally separated;

or

(b) by the surviving or other parent of the minor where
one of his parents is dead or is a patient in a mental
institution;

or

(c) by the parent or other person who has legal custody
of the minor where his parents are legally separated;

or

(d) by a lawfully appointed guardian of the minor or by
an acknowledged guardian who has brought up the
minor or who has supported him for at least three
years preceding the intended marriage where both his
parents are dead or where both parents are patients
in a mental institution or where the surviving parent
is a patient in a mental institution.

FORM K

STATUTORY DECLARATION BY MINOR

Whereas _____, of _____,
and _____, of _____,
have agreed to enter into the state of matrimony and whereas _____
is at least eighteen
years of age but is under twenty-one years of age;

I, _____, of _____,
the contracting party under twenty-one years of age do
solemnly declare;

1. That my father and mother are dead and that I have
no guardian.

or

2. That my parent whose consent is required is not a resi-
dent of the Yukon Territory and that I have been a resident
of the said Territory for twelve months preceding the date
of this declaration.

or

3. That my parents (or my surviving parent) are (is) a
patient (s) in a mental institution and that I have no guardian.

or

4. That, for not less than six months preceding the date
of this declaration, I have been living apart from my parents
(or guardian) and that I have not received financial aid or
support from my parents (or guardian) within that period.

And I make this solemn declaration conscientiously be-
lieving it to be true and knowing that it is of the same
force and effect as if made under oath and by virtue of the
Canada Evidence Act.

Minor

Declared before me at _____ in the Yukon Ter-
ritory this _____ day of _____, 19 ____ .

Justice of the Peace, Commissioner
for Oaths or Notary Public.

NOTE:—The Justice of the Peace, Commissioner for Oaths
or Notary Public will delete the paragraphs numbered 1, 2,
3 and 4 which do not apply, and will initial each deletion in
the left margin.

CHAPTER 32

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)AN ORDINANCE RESPECTING ACTIONS
FOR LIBEL OR SLANDER*(Assented to November 20, 1954.)*

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

SHORT TITLE

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

INTERPRETATION

2. In this Ordinance Definitions
- (a) "broadcasting" means the dissemination of any form of radioelectric communication, including radiotelegraph, radiotelephone and the wireless transmission of writing, signs, signals, pictures and sounds of all kinds by means of Hertzian waves; "Broadcasting"
- (b) "defamation" means libel or slander; "Defamation"
- (c) "newspaper" means a paper containing news, intelligence, occurrences, pictures or illustrations, or remarks or observations thereon, printed for sale and published periodically, or in parts or numbers, at intervals not exceeding thirty-six days between the publication of any two of such papers, parts or numbers; and "Newspaper"
- (d) "Public meeting" means a meeting *bona fide* and lawfully held for a lawful purpose and for the furtherance or discussion of any matter of public concern, whether admission thereto is general or restricted. "Public meeting"

ACTIONS FOR DEFAMATION

Defamation is
actionable
per se

3. An action lies for defamation and may be brought without alleging or proving special damage.

Allegations
of plaintiff

4. In an action for defamation the plaintiff may allege that the matter complained of was used in a defamatory sense, specifying the defamatory sense without alleging how the matter was used in that sense, and the pleading shall be put in issue by the denial of the alleged defamation; and, where the matters set forth, with or without the alleged meaning, show a cause of action, the pleading is sufficient.

Apology in
mitigation
of damages

5. In an action for defamation in which the defendant has pleaded only a denial of the alleged defamation or has suffered judgment by default or judgment has been given against him on motion for judgment on the pleadings, he may give evidence, in mitigation of damage, that he made or offered a written or printed apology to the plaintiff for the defamation before the commencement of the action, or, if the action was commenced before there was an opportunity of making or offering the apology, that he did so as soon afterwards as he had an opportunity.

Payment into
court by way
of amends

6. The defendant may pay into court, with his defence, a sum of money by way of amends for the injury sustained by the publication of the defamatory matter, with or without a denial of liability, and the payment has the same effect as payment into court in other cases.

General or
special
verdict at
jury trial

7. (1) Where an action for defamation is tried with a jury, the jury may give a general verdict upon the whole matter in issue in the action, and shall not be required or directed to find for the plaintiff merely on proof of publication by the defendant of the alleged defamation and of the sense ascribed to it in the action; but the presiding Judge shall, according to his discretion, give his opinion and directions to the jury on the matter in issue as in other cases; and the jury may on such issue find a special verdict, if they think fit so to do, and the proceedings after verdict, whether general or special, shall be the same as in other cases.

- (2) Where an action for defamation is tried by a Judge without jury, the Judge may make such finding of a general or special nature as he sees fit. Trial by stipendiary magistrate
8. (1) Upon an application by two or more defendants in two or more actions brought by the same person for the same or substantially the same defamation, a Judge may make an order for the consolidation of the actions so that they shall be tried together. Consolidation of actions for same defamation
- (2) Where an order has been made under subsection (1), and before the trial of the actions, the defendants in any new actions instituted in respect of any such defamation are also entitled to be joined in a common action upon a joint application by the new defendants and the defendants in the actions already consolidated Joining new defendants
9. (1) In a consolidated action under section 8, the jury or a Judge, as the case may be, shall assess the whole amount of the damages, if any, in one sum, but a separate verdict or finding shall be taken for or against each defendant in the same way as if the actions consolidated had been tried separately. Assessment of damages and apportionment of damages and costs in consolidated action
- (2) Where the jury or a Judge, as the case may be, makes a verdict or finding against the defendants in more than one of the actions so consolidated, the amount of the damages shall be apportioned between and against the defendants; and, where the plaintiff is awarded the costs of the action, the Judge shall make such order as he deems just for the apportionment of the costs between and against the defendants.

PRIVILEGED PUBLICATIONS

10. (1) A fair and accurate report, published in a newspaper or by broadcasting, of Certain reports and other publications privileged
- (a) a public meeting,
- (b) proceedings in the Senate or House of Commons of Canada or the legislating body of a province of Canada or a committee of any such body, except where neither members of the public nor reporters are admitted,

- (c) a meeting of commissioners authorized to act by or pursuant to a statute or other lawful warrant or authority of the Government of Canada or of any province of Canada; or
- (d) a meeting of any board or local authority formed or constituted under any Act of the Parliament of Canada or under any Ordinance or under any Act of a province of Canada, or of a committee appointed by any such board or local authority

is privileged, unless it is proved that the publication was made maliciously.

Publication at request of public officers, etc.

- (2) The publication in a newspaper or by broadcasting at the request of any department, bureau or office or public officer of the Yukon Administration, Council of a municipality, Government of Canada or Government of a province of Canada, of a report, bulletin notice or other document issued for the information of the public is privileged, unless it is proved that the publication was made maliciously.

Seditious, etc., matter

- (3) Nothing in this section applies to the publication of seditious, blasphemous or indecent matter.

Where defendant fails to publish explanation

- (4) Subsection (1) and (2) do not apply where
 - (a) in the case of publication in a newspaper, the plaintiff shows that the defendant was requested to insert in the newspaper a reasonable letter or statement of explanation or contradiction by or on behalf of the plaintiff and the defendant fails to show that he has done so, or
 - (b) in the case of publication by broadcasting, the plaintiff shows that the defendant has been requested to broadcast a reasonable statement of explanation or contradiction by or on behalf of the plaintiff and the defendant fails to show that he has done so, from the broadcasting stations from which the alleged defamatory matter was

broadcast, on at least two occasions on different days and at the same time of day as the alleged defamatory matter was broadcast or as near as possible to that time.

- (5) Any privilege existing by law in the Territory at the time of the commencement of this Ordinance shall continue to apply and is not limited or abridged by this section. Continuation of existing privileges
- (6) This section does not apply to the publication of any matter not of public concern or the publication of which is not for the public benefit. Matters not of public concern or benefit
11. (1) A fair and accurate report, published in a newspaper or by broadcasting, of proceedings publicly heard before any court is absolutely privileged, if Reports of court proceedings privileged
- (a) the report contains no comment.
- (b) the report is published contemporaneously with the proceedings that are the subject matter of the report, or within thirty days thereafter, and
- (c) the report contains nothing of a seditious, blasphemous or indecent nature.
- (2) Subsection (1) does not apply where Where defendant fails to publish explanation
- (a) in the case of publication in a newspaper, the plaintiff shows that the defendant was requested to insert in the newspaper a reasonable letter or statement of explanation or contradiction by or on behalf of the plaintiff and the defendant fails to show that he has done so, or
- (b) in the case of publication by broadcasting the plaintiff shows that the defendant has been requested to broadcast a reasonable statement of explanation or contradiction by or on behalf of the plaintiff and the defendant fails to show that he has done so, from the broadcasting stations from which the alleged defamatory matter was

broadcast, on at least two occasions on different days and at the same time of day as the alleged defamatory matter was broadcast or as near as possible to that time.

Headlines and captions

12. For the purpose of sections 10 and 11, every headline or caption in a newspaper that relates to any report therein shall be deemed to be a report.

NEWSPAPERS AND BROADCASTING

Application of sections 14 to 19

13. Sections 14 to 19 apply to actions for defamation against the proprietor or publisher of a newspaper or the owner or operator of a broadcasting station or an officer, servant or employee of the newspaper or broadcasting station in respect of defamatory matter published in the newspaper or broadcast from the station.

Notice of action

14. (1) No action lies unless the plaintiff has, within three months after the publication of the defamatory matter has come to his notice or knowledge, given to the defendant fourteen days' notice in writing of his intention to bring an action.

Contents and service of notice

(2) A notice under subsection (1) shall specify the language complained of and shall be served on the defendant in the same manner as a statement of claim.

Limitations of actions

15. (1) An action against the proprietor or publisher of a newspaper, or the owner or operator of a broadcasting station, or an officer, servant or employee of the newspaper or broadcasting station for defamation contained in the newspaper or broadcast from the station shall be commenced within six months after the publication of the defamatory matter has come to the notice or knowledge of the person defamed.

Action may include certain other defamations

(2) An action commenced within the period prescribed in subsection (1) may include a claim for any other defamation published against the plaintiff by the defendant in the same newspaper or from the same broadcasting station within a period of one year before the commencement of the action.

16. An action shall be tried in the district where the chief office of the newspaper or of the owner or operator of the broadcasting station is situated or wherein the plaintiff resides at the time the action is brought; but, upon the application of either party, a Judge may direct the action to be tried, or the damages to be assessed, in any other district if it appears to be in the interests of justice, and may impose such terms as to payment of witness fees and otherwise as he deems proper.

Place of trial

17. (1) The defendant may prove in mitigation of damages that the defamatory matter was inserted in the newspaper or was broadcast without actual malice and without gross negligence, and that, before the commencement of the action, or at the earliest opportunity afterwards, the defendant

Mitigation of damages where apology and retraction published

(a) inserted in the newspaper in which the defamatory matter was published a full and fair retraction thereof and a full apology for the defamation, or, where the newspaper is one ordinarily published at intervals exceeding one week, that he offered to publish such retraction and apology in any newspaper to be selected by the plaintiff, or

(b) broadcast such retraction and apology, from the broadcasting stations from which the defamatory matter was broadcast, on at least two occasions on different days and at the same time of day as the defamatory matter was broadcast or as near as possible to that time.

(2) The defendant may prove in mitigation of damages that the plaintiff has already brought action for, or has recovered damages, or has received or agreed to receive compensation in respect of defamation to the same purport or effect as that for which action is brought.

Mitigation of damages where plaintiff has received damages

18. (1) The plaintiff shall recover only special damages where it appears at the trial that

Where recovery of special damages only

(a) the alleged defamatory matter was published in good faith;

- (b) there was reasonable ground to believe that its publication was for the public benefit;
- (c) it did not impute to the plaintiff the commission of a criminal offence;
- (d) the publication took place in mistake or misapprehension of the facts; and
- (e) a full and fair retraction of and a full apology for any statement therein alleged to be erroneous were published before the commencement of the action
 - (i) where the alleged defamatory matter was published in a newspaper, in the same newspaper in as conspicuous a place and type as was the alleged defamatory matter, or
 - (ii) where the alleged defamatory matter was broadcast from the same broadcasting stations on at least two occasions on different days and at the same time of day as the alleged defamatory matter was broadcast or as near as possible to that time.

Exception in case of candidate for public office

- (2) Subsection (1) does not apply to the case of defamation against any candidate for public office unless the retraction and apology were made editorially in the newspaper in a conspicuous manner or broadcast, as the case may require, at least five days before the day of election for such office.

Name of proprietor, etc., to be published

- 19. (1) No defendant in an action for defamation published in a newspaper is entitled to the benefit of section 14, 15 or 18 unless the name of the proprietor and publisher and address of publication are stated in a conspicuous place in the newspaper.

Prima facie evidence

- (2) The production of a printed copy of a newspaper is *prima facie* evidence of the publication of the printed copy and of the truth of the statements mentioned in subsection (1).

- (3) No owner, operator, officer, servant or employee of a broadcasting station who is a defendant in an action for defamation published by broadcasting is entitled to the benefit of section 14, 15 or 18 unless the broadcasting station has, within ten days after receiving a written request from the person bringing such action, supplied that person with the names and addresses of the owner or operator of the station and of the officers, servants and employees of the station who were involved in the broadcast in respect of which the action is brought.

Name of
owner, etc., of
broadcast-
ing station to
be supplied

REPEAL

20. *An Ordinance to amend the Law relating to Slander*, chapter 82 of the Consolidated Ordinances, 1914, is repealed. Repeal

CHAPTER 33

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE TO PREVENT
UNNECESSARY NOISE

(Assented to November 20, 1954.)

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

SHORT TITLE

Short Title

1. This Ordinance may be cited as the *Noise Prevention Ordinance*.

No person to create unnecessary noise at night with loudspeaker

2. No person shall, between the hours of eleven o'clock in the afternoon and seven o'clock in the forenoon, use or operate any loudspeaker, public address system or amplifier in such a manner that sound therefrom can be heard outside the premises or vehicle in or on which it is situate or affixed.

No owner of premises to allow noise at night with loudspeaker, etc.

3. No owner or occupier of premises or a vehicle where any loudspeaker, public address system or amplifier is situated or affixed shall permit any person to use or operate such loudspeaker, public address system or amplifier between the hours of eleven o'clock in the afternoon and seven o'clock in the forenoon in such a manner that sound therefrom can be heard outside such premises or vehicle.

Offence and penalty

4. Every person who contravenes any provision of this Ordinance is guilty of an offence and liable on summary conviction to a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

Not to bar civil action

5. Nothing in this Ordinance limits or interferes with the right of any person to bring and maintain a civil action for damage occasioned by any noise or sound from a public

address system, loud-speaker or amplifier or by any nuisance arising from such noise or sound.

6. *The Noise Ordinance*, chapter 19 of the Ordinances of 1949 (2nd session), is repealed. ^{Repeal}

CHAPTER 34

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE TO REPEAL CERTAIN ORDINANCES

(Assented to November 22, 1954.)

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

1. The following Ordinances are repealed:
 - (a) *An Ordinance Relating to the Decision of Constitutional and other Questions*, chapter 21 of the Consolidated Ordinances, 1914;
 - (b) *An Ordinance respecting Commissioners to make Inquiries concerning Public Matters*, chapter 45 of the Consolidated Ordinances, 1914;
 - (c) *The Yukon Slaughter House Ordinance*, chapter 83 of the Consolidated Ordinances, 1914;
 - (d) *The Income Tax Ordinance*, 1940, chapter 7 of the Ordinances of 1940;
 - (e) *An Ordinance to amend "The Income Tax Ordinance, 1940"*, chapter 4 of the Ordinances of 1942;
 - (f) *An Ordinance to amend "The Income Tax Ordinance, 1940"*, chapter 12 of the Ordinances of 1943;
 - (g) *An Ordinance to amend "The Income Tax Ordinance, 1940"*, chapter 11 of the Ordinances of 1944;
 - (h) *An Ordinance to amend "The Income Tax Ordinance"*, chapter 13 of the Ordinances of 1947;
 - (i) *The War Relief Ordinance*, Chapter 6 of the Ordinances of 1918;

- (j) *The Bachelors Tax Ordinance*, 1921, chapter 1 of the Ordinances of 1921 (1st session);
- (k) *The Whitehorse City Charter*, chapter 7 of the Ordinances of 1949 (2nd session);
- (l) *The Whitehorse Plebescite Ordinance*, chapter 12 of the Ordinances of 1949 (2nd session);
- (m) *An Ordinance authorizing the Consolidation and Revision of the Ordinances of the Yukon Territory*, chapter 19 of the Ordinances of 1952 (1st session);
- (n) *An Ordinance to Provide for the Weight and Sale of Bread*, chapter 10 of the Consolidated Ordinances, 1914;
- (o) *An Ordinance to prohibit the operation of Fee-Charging Employment Agencies in the Yukon Territory*, chapter 6 of the Ordinances of 1943;
- (p) *The Restaurant Closing Ordinance*, chapter 19 of the Ordinances of 1947;
- (q) *An Ordinance to exempt J. H. Mervyn from Payment of Licence Fee on Electric Light Plant in Mayo Area for Certain Periods*, chapter 5 of the Ordinances of 1945;
- (r) *An Ordinance to Exempt J. B. Kunze and E. Kunze from Payment of Licence Fee on Electric Light Plant in Mayo Area for Stated Period*; chapter 8 of the Ordinances of 1946;
- (s) *An Ordinance to Exempt J. B. Kunze and E. Kunze from Payment of Licence Fee on Electric Light Plant in Mayo Area for Stated Period*, chapter 17 of the Ordinances of 1947;
- (t) *An Ordinance to Exempt J. B. Kunze and E. Kunze from Payment of Licence Fee on Electric Light Plant in Mayo Area for Stated Period*, chapter 13 of the Ordinances of 1948; and
- (u) *An Ordinance to Exempt J. B. Kunze and E. Kunze from Payment of Licence Fee on Electric Light Plant in Mayo Area for Stated Period*, chapter 23 of the Ordinances of 1949 (2nd session.)

CHAPTER 35

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING WILLS

(Assented to November 20, 1954.)

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

SHORT TITLE

- Short title 1. This Ordinance may be cited as the *Wills Ordinance*.

INTERPRETATION

- Definitions 2. In this Ordinance,
- "Will" (a) "will" includes a testament, a codicil, an appointment by will or by writing in the nature of a will in exercise of a power and any other testamentary disposition;
- "Immovable property" (b) "immovable property" includes real property and any leasehold or other interest in land;
- "Movable property" (c) "movable property" includes personal property other than a leasehold or other interest in land; and
- "Writing" (d) "writing" includes words printed, engraved, lithographed, typewritten or represented or reproduced by any mode of representing or reproducing words in a visible form.

APPLICATION

- Wills made after coming into force of Ordinance 3. (1) This Ordinance applies only to wills made after it comes into force and, for the purposes of this subsection, a will that is re-executed or revived by a codicil shall be deemed to be made at the time at which it is so re-executed or revived.

- (2) The laws respecting wills and devolution by will in force in the Territory prior to the coming into force of this Ordinance shall continue in force as if unaffected by this Ordinance with respect to wills made before it comes into force.

Wills made before coming into force of Ordinance.

4. Any person may devise, bequeath or dispose of by will all real and personal property, whether acquired before or after the making of his will, to which at the time of his death he is entitled either at law or in equity for an interest not ceasing at his death, including, without restricting the generality of the foregoing:

Property disposable by will.

- (a) estates *pur autre vie*, whether or not there is any special occupant thereof and whether they are corporeal or incorporeal hereditaments;
- (b) contingent, executory or other future interests in any real or personal property, whether or not the testator is ascertained as the person or one of the persons in whom they may respectively become vested and whether he is entitled thereto under the instrument creating them or under disposition by deed or will; and
- (c) rights of entry whether for breach of conditions or otherwise.

Estates *pur autre vie*

Contingent interests

Rights of entry

CAPACITY AND EXECUTION

5. (1) Subject to subsection (2), a will made by a person who is under twenty-one years of age at the time it is made is not valid.
- (2) A valid will may be made by a person who is under twenty-one years of age at the time it is made, if he is, at that time,
- (a) in the Territory in connection with his duties as a member of any of the components of the Canadian Forces or of the Royal Canadian Mounted Police; or
- (b) a mariner or seaman at sea or in the course of a voyage.

Infants cannot make wills

Exceptions

Formalities
of execution

6. (1) Unless otherwise provided in this Ordinance, a will is not valid unless
 - (a) it is in writing;
 - (b) it is signed at the end or foot thereof by the testator or on his behalf by some other person in his presence and by his direction;
 - (c) the signature described in paragraph (b) is made or acknowledged by the testator in the presence of two or more witnesses present at the same time; and
 - (d) at least two of the witnesses attest and subscribe the will in the presence of the testator, with or without a form of attestation.

Holograph
wills

- (2) A holograph will, wholly in the handwriting of the testator and signed by him, may be validly made, without any requirements as to the presence of or attestation by any witness.

Wills of
soldiers,
sailors, etc.

- (3) A will in writing and signed by the testator or on his behalf by some other person in his presence or by his direction may be validly made by or on behalf of a testator who is a person described in subsection (2) of section 5, without any requirements as to the presence of or attestation by any witness.

Place of
signature

7. (1) In so far as the position of the signature of the testator or the person signing for him is concerned, a will is valid if that signature is so placed at, after, following, under, beside or opposite to the end of the will that it is apparent on the face of the will that the testator intended to give effect, by the signature, to the writing signed as his will.

Blank spaces,
etc.

- (2) Without restricting the generality of subsection (1), a will is not affected by reason of the fact that:
 - (a) the signature is not immediately after the foot or end of the will or a blank space intervenes between the concluding words of the will and the signature;

- (b) the signature is placed among the words of a testimonium or attestation clause or follows or is after or under a clause of attestation, either with or without a blank space intervening, or follows, is after, under or opposite the name of a subscribing witness; or
- (c) the signature is on a side, page or other portion of the papers containing the will on which no disposing part of the will is written above the signature, whether or not there appears to be sufficient space on or at the bottom of the preceding side, page or other portion of the same papers to contain the signature.

- (3) No signature under this Ordinance is operative to give effect to any disposition or direction that is underneath it or that follows it or that has been inserted after the signature was made.

Signature does not make effective subsequent dispositions

8. Every will made in accordance with this Ordinance is, in so far as the execution and attestation thereof are concerned, a valid execution of a power of appointment by will, notwithstanding that it has been expressly required that a will in exercise of the power shall be executed with some additional or other form of execution or solemnity.

Power of appointment

9. A will made in accordance with this Ordinance is not invalid by reason only of the fact that there is no further publication thereof.

No publication required

10. (1) A will is not invalid by reason only of the fact that a person who attests the execution of the will is at that time or becomes at any time afterwards incompetent as a witness to prove the execution of the will.

Incompetency of witness

(2) Where a person attests the execution of a will and such person or his or her then wife or husband is by that will given any beneficial devise, legacy, estate, interest, gift or appointment, other than charges or directions for the payment of debts, such person is competent as a witness to prove the execution of the

Where gift to attesting witness

will or the validity or invalidity thereof, but, unless it is a will that is sufficiently attested without the attestation of such person or is one in which no attestation is necessary, the devise, legacy, estate, interest, gift or appointment is, so far only as concerns such person or the wife or husband of such person or persons claiming under either of them, null and void.

Creditor
as witness

- (3) Where by a will any real or personal property is charged with a debt or debts and a creditor or wife or husband of such creditor, whose debt is so charged attests the execution of the will, the charging provision is not by reason only of such attestation invalid and the person so attesting is, notwithstanding such charge, competent as a witness to prove the execution of the will or the validity or invalidity thereof.

Executor as
a witness

- (4) No person is, by reason only of his being an executor of a will, incompetent as a witness to prove the execution of the will or the validity or invalidity thereof.

REVOCATION

Change of
circumstances
does not
raise
presumption

- 11. (1) Alteration in circumstances since the making of a will does not in itself raise any presumption of an intention to revoke the will.

Revocation
in general

- (2) No will or any part thereof is revoked otherwise than by,
 - (a) marriage as provided in subsection (3);
 - (b) another will executed in accordance with this Ordinance;
 - (c) some writing declaring an intention to revoke the will or a part thereof and executed in accordance with the provisions of this Ordinance respecting the execution of a will; or
 - (d) burning, tearing or otherwise destroying the will by the testator or by some person in his presence and by his direction with the intention of revoking it.

- (3) A will is revoked by marriage of the testator after it is made, except where Revocation
by marriage.
- (a) It is declared in the will that it is made in contemplation of such marriage; or
 - (b) the will is made in exercise of a power of appointment and the real or personal property thereby appointed would not, in default of such appointment, pass to the heir, executor or administrator of the testator or to the persons entitled to his estate if he died intestate.

ALTERATIONS

12. (1) No obliteration, interlineation, cancellation by drawing lines across a will or any part thereof or other alteration made in a will after its execution is valid or has any effect, except in so far as the words or effect of the will before such alteration are not apparent or cannot be ascertained, unless such alteration is executed in accordance with the provisions of this Ordinance respecting the execution of a will. Alterations
- (2) For the purposes of subsection (1), the will with such alteration as part thereof shall be held to be duly executed if the signatures or written initials of the testator and of the witnesses subscribing to the alteration are made in the margin or in some part of the will opposite or near to the alteration or at the foot, end of or opposite to a memorandum referring to such alteration and writing in some other part of the will or in a codicil thereto. Execution of
alterations

REVIVAL

13. (1) A will or any part thereof that has been in any manner revoked shall not be revived otherwise than by its re-execution or by a codicil showing an intention to revive it and executed in accordance with the provisions of this Ordinance respecting the execution of a will. Revival

Effect where will first partly and then wholly revoked

- (2) Unless an intention to the contrary is shown, where a will that has been first partly revoked and then afterwards wholly revoked is subsequently revived, the revival does not extend to that part that was revoked prior to the will being wholly revoked.

DEVICES AND BEQUESTS

Effect of subsequent conveyance, etc.

14. Where, after the execution of a will, there is a conveyance of or other alienation or act relating to any real or personal property comprised in a will, it shall not prevent the operation of the will with respect to such estate or interest in such property as the testator has power to dispose of by will at the time of his death.

Will speaks from death

15. Unless a contrary intention appears by it, every will shall, with reference to the real and personal property comprised in it, be construed to speak and take effect as if it had been executed immediately before the death of the testator.

Lapsed and void gifts

16. Unless a contrary intention appears by the will, any real or personal property or interest therein that is comprised or intended to be comprised in any devise or bequest in the will and that fails or becomes void by reason of the death, within the lifetime of the testator, of the person to whom it is devised or bequeathed or by reason of the gift being contrary to law or otherwise incapable of taking effect shall be included in the residuary estate, if any, contained in the will.

Inclusion of leaseholds

17. Unless a contrary intention appears by the will, a devise of the land of the testator described in a general manner or as being in any particular place or in the occupation of any particular person mentioned in his will or any other general devise that would describe a leasehold estate if the testator had no freehold estate shall be construed to include the leasehold estates of the testator or any of them to which the description extends, as the case may be, as well as the freehold estates.

Appointment by general gift

18. Unless a contrary intention appears by the will, a devise or bequest of the real or personal property of the testator described in a general manner or as being in any particular

place or in the occupation of any particular person mentioned in his will shall be construed to include the real or personal property of the testator or any of it to which the description extends, as the case may be, over which he may have power to appoint in any manner he may think proper and shall operate as an execution of the power.

19. (1) Unless a contrary intention appears by the will, where real property is devised to any person without words of limitation, the devise shall be construed to pass the fee simple or other whole estate which the testator had power to dispose of by will in the real property.

Where no words of limitation

(2) Any devise or limitation that would, heretofore, have created an estate tail, shall be construed to pass the fee simple or greatest estate the testator had in the land.

Estate tail cannot be created

(3) Unless a contrary intention appears by the will, real property that is devised to the heir or heirs of the testator or of any other person shall pass to the person or persons to whom the beneficial interest in the real property would go in the case of intestacy.

Devise to heirs

20. In any devise or bequest of real or personal property, the words "die without issue" or "have no issue" or any other words which import a want or failure of issue of any person shall be construed to mean a want or failure of issue in the lifetime or at the time of the death of that person and not an indefinite failure of his issue, subject to any contrary intention appearing by the will or to any requirements as to age or otherwise therein contained for obtaining a vested estate.

Meaning of "die" without issue"

21. Unless a contrary intention appears by the will, where a person

Gifts to issue of persons who predecease testator

(a) is a child, other issue or the brother or sister of a testator to whom, either as an individual or as a member of a class, real or personal property is devised or bequeathed by the testator for an estate or interest not determinable at or before such person's death;

- (b) dies in the lifetime of the testator, either before or after the making of the will; and
- (c) leaves issue who are living at the time of the death of the testator,

the devise or bequest to such person shall not lapse but shall take effect as if it had been made directly to the persons amongst whom and in the shares in which the deceased person's estate would have been divisible if he had died intestate and without debts immediately after the death of the testator.

Illegitimate children

22. Unless a contrary intention appears by the will, the illegitimate child of a woman is entitled to take under a testamentary gift by or to her or to her children or issue the same benefit as he would have been entitled to take if he were a legitimate child.

Rights of posthumous child

23. Where no provision is made in the will of a father for his child born after his death, such child shall have the like interest in his father's estate as if the father had died intestate, and, in providing for the child's share, the devises and bequests in the will shall abate proportionately and the shares of the child shall be affixed and approved by the Court so as to affect as little as possible the disposition the father made of his property by his will.

Executor as trustee of residue

24. (1) Where any person dies after the coming into force of this Ordinance having by will appointed any person executor thereof, the executor shall be deemed a trustee of any residue not expressly disposed of for the person or persons, if any, who would be entitled to that residue in the event of intestacy, unless it appears by the will that the executor was intended to take the residue beneficially.

Where no person entitled to residue

(2) Nothing in this section affects or prejudices any rights to which an executor would have been entitled, if this Ordinance had not been passed, in cases where there is no person who would be entitled to the residue.

Unlimited devise to trustee

(3) Where real property is devised to a trustee without any express limitation of the estate to be taken by the

trustee and the beneficial interest in the real property or in the surplus rents or profits thereof is not given to any person for life or, if given to a person for life, the purposes of the trust may continue beyond his life, the devise shall be construed to vest in the trustee the fee simple or whole legal estate that the testator had power to dispose of by will and not an estate determinable when the purposes of the trust are satisfied.

- (4) Unless a definite term of years absolute or determinable or an estate of freehold is thereby given to him expressly or by implication, a devise of real property to a trustee or executor shall be construed to pass the fee simple or whole estate or interest that the testator had power to dispose of by will.

Devise to trustee other than for a term

- 25. (1) In this section, "mortgage" includes an equitable mortgage and any charge whatsoever whether equitable, statutory or of any other nature and any lien or claim upon freehold or leasehold property for unpaid purchase money.

Meaning of "mortgage"

- (2) Where a testator has not by will, deed or other document signified a contrary intention and dies possessed of or entitled to or under a general power of appointment by his will disposes of any interest in freehold or leasehold property that at the time of his death is subject to a mortgage, that interest, as between the different persons claiming through the testator, is primarily liable for the payment or satisfaction of the mortgage debt, and every part of the said interest, according to its value, shall bear a proportionate part of the mortgage debt on the whole of such debt.

Primary liability of mortgaged land

- (3) A contrary intention shall not be deemed to be signified by
 - (a) a general direction for the payment of any or all the debts of the testator out of his personal estate or out of his residuary estate either real or personal or both; or
 - (b) a charge of debts upon such estate, unless there is further signification by words expressly or im-

General charge of debts not a contrary intention

pliedly referring to all or some part of the mortgage debt.

Mortgagee's rights not affected

- (4) Nothing in this section affects any right of a person who is entitled to a mortgage debt to obtain payment or satisfaction thereof out of the other assets of the deceased or otherwise.

CONFLICT OF LAWS

Law governing immovable property

26. The manner of making, the validity and the effect of a will, so far as it relates to immovable property, is governed by the law of the place where the property is situate.

Law governing movable property

27. (1) Subject to subsections (2) and (3), the manner of making, the validity and the effect of a will, so far as it relates to movable property, is governed by the law of the place where the testator was domiciled at the time of his death.

Will of movable property made in Territory

(2) A will made in the Territory, whatever was the domicile of the testator at the time of the making of the will or at the time of his death, shall, so far as it relates to movable property, be held to be well made and be admissible to probate under the laws in force in the Territory if it is made in accordance with this Ordinance or in accordance with the law, in force at the time of the making thereof,

(a) of the place where the testator was domiciled when the will was made; or

(b) of the place where the testator had his domicile of origin.

Will of movable property made outside Territory

(3) A will made outside the Territory, whatever was the domicile of the testator at the time of making the will or at the time of his death, shall, so far as it relates to movable property, be held to be well made and be admissible to probate under the laws in force in the Territory if it is made in accordance with this Ordinance or in accordance with the law, in force at the time of the making thereof,

- (a) of the place where the testator was domiciled when the will was made;
- (b) of the place where the will was made; or
- (c) of the place where the testator had his domicile of origin.

28. A subsequent change of domicile of a person who has made a will shall not, in itself, effect revocation of a will or invalidate it or alter its construction. Change of domicile

COMMENCEMENT

29. This Ordinance shall come into force on the day on which the *Yukon Act*, chapter 53 of the Statutes of Canada 1952-53 comes into force. Coming into force

CHAPTER 36

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING THE ADMINISTRATION
OF CIVIL JUSTICE

(Assented to November 22, 1954.)

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

SHORT TITLE

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

INTERPRETATION

- Definitions 2. In this Ordinance
- "Action" (a) "action" means a civil proceeding commenced in such manner as may be prescribed by this Ordinance or by rules of Court, and includes suit;
- "Cause" (b) "cause" includes any action, suit, or other original proceeding between a plaintiff and a defendant;
- "Clerk" (c) "Clerk" or "Clerk of the Court" includes a Deputy Clerk;
- "Court" (d) "Court" means the Territorial Court of Yukon Territory, and "file in" or "pay into" Court means to file with or pay to a Clerk of the Court, as the case may be;
- "Defendant" (e) "defendant" includes a person served with any process, or served with notice of or entitled to attend any proceedings;
- "Execution creditor" (f) "execution creditor" includes an assignee of an execution creditor;
- "Judgment" (g) "judgment" includes decree;

- (h) "matter" includes every proceeding in the Court not in a cause; "Matter"
- (i) "order" includes rule; "Order"
- (j) "party" includes a person served with notice of or attending any proceeding, although not named in the record; "Party"
- (k) "petitioner" includes every person making any application to the Court, either by petition, motion or summons, otherwise than as against a defendant; "Petitioner"
- (l) "plaintiff" includes a person asking relief, otherwise than by way of counterclaim as a defendant, against any other person by any form of proceedings, whether the same are taken by action, petition, motion, summons or otherwise; "Plaintiff"
- (m) "rules of Court" includes the rules in force by virtue of this Ordinance and any other rules made under the authority of this Ordinance; "Rules of Court"
- (n) "sheriff" includes deputy sheriff; and "Sheriff"
- (o) "verdict" includes the finding of a jury and the decision of a Judge. "Verdict"

JURISDICTION

3. The jurisdiction of a Judge shall be exercised so far as regards procedure and practice in the manner provided by this Ordinance and the rules of Court. Jurisdiction as regards procedure and practice

4. Actions shall be entered and, unless otherwise ordered by a Judge, tried in the district where the cause of action arose or in which the defendant or one of several defendants resides or carries on business at the time the action is brought. Entry of action and trial

5. A Judge sitting in chambers, if he announces that he is sitting in Court, has and may exercise and enjoy all the powers and authorities, rights, privileges and immunities that he has when presiding over the trial of an action, and any judgment given or decision or determination, or rule, order Powers same as in Court where chambers sittings declared to be Court sittings

or decree made by him while sitting in chambers after such announcement has the same force and effect as if made while presiding over the trial of an action.

Power to
make vesting
orders

6. Where the Court has authority to order the execution of a deed of conveyance, transfer or assignment of any property, real or personal, the Court may by order vest such real or personal estate in such person or persons and in such manner and for such estates as would be done by any such deed, conveyance, assignment or transfer if executed; and thereupon the order has the same effect as if the legal or other estate or interest in the property had been actually conveyed by deed or otherwise for the same estate or interest to the person in whom the estate or interest is so ordered to be vested, or in the case of a chose in action as if such chose in action had been actually assigned to the person in whom the chose in action is so ordered to be vested.

Jurisdiction
as to
alimony

7. (1) The Court has jurisdiction to grant alimony to a wife who would be entitled to alimony by the law of England, or to a wife who would be entitled by the law of England to a divorce and to alimony as incident thereto, or to a wife whose husband lives separate from her without any sufficient cause and under circumstances which would entitle her by the law of England to a decree for restitution of conjugal rights; and alimony when granted shall continue until the further order of the Court.

Restraining
order

(2) The Court may, after action brought, issue an order restraining the defendant in any action for alimony or upon the covenant for payment contained in a separation agreement from transferring or otherwise disposing of or encumbering his property, whether real or personal, pending the final disposition of such action save subject to any interest which the wife may subsequently acquire in the said property under any judgment of the Court.

RULES OF LAW

Rules of
Law

8. In every civil cause or matter commenced in the Court, law and equity shall be administered by the Court according to the following rules:

- (a) where a plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim whatsoever asserted by any defendant or respondent in such cause or matter, or to any relief founded upon a legal right, the Court shall give to such plaintiff or petitioner the relief that would be given by the High Court of Justice in England in a suit or proceeding for the same or a like purpose;
- Claim by plaintiff or petitioner upon an equitable or legal right
- (b) where a defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim asserted by any plaintiff or petitioner in such cause or matter, the Court shall give to every equitable defence so alleged such and the same effect by way of defence against the claim of such plaintiff or petitioner as the High Court of Justice in England would give if the same or like matters had been relied on by way of defence in any suit or proceedings instituted in that Court for the same or a like purpose;
- Defence to claim for relief
- (c) the Court may grant to a defendant, in respect of any equitable estate or right or other matter of equity and also in respect of any legal estate, right or title claimed or asserted by him, all such relief against any plaintiff or petitioner as the defendant has properly claimed by his pleadings; and also all such relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who has been duly served with notice in writing of the claim pursuant to this Ordinance, or any order of the Court as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose, and every person served with such notice shall thenceforth be deemed a party to the cause or matter with the same rights in respect of the defence against the claim as if he had been duly sued in the ordinary way by the defendant;
- Claim by defendant against plaintiff or third party

Recognition of equitable estates, etc.

(d) the Court shall recognize and take notice of all equitable estates, titles and rights and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the High Court of Justice in England would recognize and take notice of the same in any suit or proceeding duly instituted therein;

Granting of remedies

(e) the Court in the exercise of its jurisdiction in every cause or matter pending before it has power to grant and shall grant either absolutely or on such reasonable terms and conditions as to it seems just all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them respectively in such cause or matter, so that as far as possible all matters so in controversy between the said parties respectively may be completely and finally determined and all multiplicity of legal proceedings concerning any such matters avoided;

Relief against penalties and forfeitures

(f) subject to appeal as in other cases, the Court shall have power to relieve against all penalties and forfeitures and in granting such relief to impose such terms as to costs, expenses, damages, compensation and all other matters as the Court sees fit;

No cause of proceeding restrained by prohibition or injunction

(g) no cause or proceeding at any time pending in the Court shall be restrained by prohibition or injunction; but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might have been obtained in England prior to the passing of *The Supreme Court of Judicature Act 1873*, either unconditionally or on any terms or conditions, may be relied on by way of defence thereto; except that nothing in this Ordinance shall be construed as preventing the Court from directing a stay of proceedings in any cause or matter pending before it if it sees fit; and any person, whether a party or not to any such cause or matter, who would have been entitled in England, prior to the passing of *The Supreme Court of Judicature Act, 1873*, to apply to the Court to

restrain the prosecution thereof, or who may be entitled to enforce by attachment or otherwise any judgment, decree, rule or order contrary to which all or any part of the proceedings in the cause or matter may have been taken may apply to the Court by motion in a summary way for a stay of proceedings in the cause or matter, either generally or so far as may be necessary for the purpose of justice; and the Court shall thereupon make such order as shall be just;

- (h) when default is made in payment of money due under a mortgage, whether made before or after the commencement of this Ordinance, or in the observance of a covenant contained therein, and under the terms of the mortgage by reason of such default the payment of other portions of the principal money is accelerated and such portions become presently due and payable, the mortgagor may, notwithstanding any provisions to the contrary and at any time before sale or before the grant of a final order of foreclosure, perform such covenant or pay such arrears as are in default, with costs to be taxed and the mortgagor shall thereupon be relieved from immediate payment of so much of the money secured by the mortgage as may not have become payable by lapse of time; Relief of mortgagor in default
- (i) when default has occurred in making any payment due under an agreement for sale, whether made before or after the commencement of this Ordinance, of land or in the Observance of any covenant therein contained and under the terms of the agreement by reason of such default the payment of other portions of the money is accelerated and such portions become presently due and payable, the purchaser may, notwithstanding any provision to the contrary and at any time prior to final judgment in an action brought to enforce the rights of the vendor, perform such covenant or pay such arrears as are in default, with costs to be taxed, and the purchaser shall thereupon be relieved from immediate payment of so much of the purchase money as may not have become payable by lapse of time; and Relief of purchaser in default

Amendment of pleadings in certain cases

- (j) where an action is brought to enforce any right, legal or equitable, the Court may permit the amendment of any pleading or other proceeding therein upon such terms as to costs or otherwise as it deems just notwithstanding that, between the time of the issue of the statement of claim and the application for amendment, the right of action would, but by reason of action brought, have been barred by the provisions of any statute or Ordinance, if such amendment does not involve a change of parties other than a change caused by the death of one of the parties.

Jurisdiction in lunacy

9. The jurisdiction of the Court with respect to lunatics and their property and estates shall, subject to the rules of Court, include that which in England is conferred upon the Lord High Chancellor by a Commission from the Crown under the sign manual.

Rules of law on certain matters

10. The law to be administered in the Territory as to the matters next hereinafter mentioned shall be as follows:

Express trusts

- (a) no claim of a *cestui que trust* against his trustee for any property held on an express trust or in respect of any breach of such trust shall be held to be barred by any limitations Ordinance;

Equitable waste

- (b) an estate for life without any impeachment of waste shall not confer or be deemed to have conferred upon the tenant for life any legal right to commit waste of the description known as equitable waste unless an intention to confer such right expressly appears by the instrument creating such estate;

Merger

- (c) there shall not be any merger by operation of law only of any estate the beneficial interest in which would not be deemed to be merged or extinguished in equity;

Suit by mortgagor for rents and profits

- (d) a mortgagor entitled for the time being to the possession or receipt of the rents and profits of any land as to which no notice of his intention to take possession or to enter into the receipt of the rents and profits thereof has been given by the mortgage may sue for such possession, or sue or distrain for the

recovery of such rents or profits or to prevent or recover damages in respect of any trespass or other wrong relative thereto in his own name only unless the cause of action arises upon a lease or other contract made by him jointly with any other person and in that case he may sue or distrain jointly, with such other person;

- (e) where an assignment of a debt or other chose in action is made and the debtor, trustee or other person liable in respect of such debt or chose in action has had notice that such assignment is disputed by the assignor or anyone claiming under him or of any other opposing or conflicting claims to such debt or chose in action, the debtor, trustee or such other person may
- (i) call upon the several disputing and claiming persons to interplead concerning the debt or chose in action; or
- (ii) pay the amount of the debt or chose in action into Court under and in conformity with the *Trustee Ordinance*;
- (f) stipulations in contracts as to time or otherwise that would not in England, prior to the passing of *The Supreme Court of Judicature Act, 1873*, have been deemed to be or to have become of the essence of such contracts in a court of equity shall receive in the Court the same construction and effect as they would have received in equity;
- (g) part performance of an obligation, either before or after a breach thereof, when expressly accepted by the creditor in satisfaction or rendered in pursuance of an agreement for that purpose, though without any new consideration, shall be held to extinguish the obligation;
- (h) a mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the Court in all cases in which it appears to the Court to be just or convenient that such order should be made;

Disputed assignment of a debt or other chose in action

Construction of time stipulations in contracts

Effect of part performance

Interlocutory mandamus or injunction

and such order may be made either unconditionally or upon such terms and conditions as the Court thinks just; and if an injunction is asked, either before or at or after the hearing of any cause or matter to prevent any threatened or apprehended waste or trespass, the injunction may be granted if the Court thinks fit whether the person against whom the injunction is sought is or is not in possession under any claim or title or otherwise, or, if out of possession, does or does not claim a right to do the act sought to be restrained under any color of title, and whether the estates claimed by both or by either of the parties are legal or equitable;

Damages in lieu of specific performance, etc.

(i) where the Court has jurisdiction to entertain an application for an injunction against a breach of any covenant, contract or agreement or against the commission or continuance of any wrongful act or for the specific performance of any covenant, contract or agreement, the Court may if it thinks fit award damages to the party injured either in addition to or in substitution for the injunction or specific performance, and the damages may be ascertained in such manner as the Court may direct, or the Court may grant such other relief as it may deem just;

Orders of Court as against purchasers

(j) an order of the Court under the authority of an Ordinance, or otherwise shall not as against a purchaser, whether with or without notice, be invalidated on the ground of want of jurisdiction or of want of any concurrence, consent, notice or service;

Infants

(k) in all questions relating to the custody and education of infants the rules of equity shall prevail;

Rules of equity prevail

(l) whenever there is any conflict or variance between the rules of equity and common law with reference to the same matter, the rules of equity shall prevail;

Wages of minors

(m) minors may sue for wages in the same way as if of full age;

Negligence of fellow workman no defence in action against employer

(n) it is not a good defence in law to any action against an employer, or the successor or legal representative of an employer, for damages for the injury or death of

an employee of such employer, that the injury or death resulted from negligence of an employee engaged in a common employment with the injured employee, any contract or agreement to the contrary notwithstanding;

- (o) no action or proceeding is open to objection on the ground that a merely declaratory judgment or order is sought thereby, and the Court may make binding declarations of right whether any consequential relief is or can be claimed or not; Declaratory judgments or orders
- (p) the giving of time to a principal debtor, or the dealing with or altering the security held by a principal creditor, does not of itself discharge a surety or guarantor; in such cases a surety or guarantor, in so far only as he shows he was thereby prejudiced, is entitled to set up such giving of time or dealing with or alteration of the security as a defence; and Effect of giving time to a principal debtor
- (q) when in any cause or matter relating to real estate or any interest therein it appears necessary or expedient that the real estate or interest or any part thereof should be sold the Court may order the same to be sold, and any party bound by the order and in possession of the estate or interest, or in receipt of the rents or profits thereof, shall deliver up such possession or receipt to the purchaser, or such other person as may be thereby directed. Power of court to order sale of real estate

INTEREST

11. In addition to the cases in which interest is by law payable, or may by law be allowed, the Court may in all cases where in the opinion of the Court the payment of a just debt has been improperly withheld, and it seems to the Court fair and equitable that the party in default should make compensation by the payment of interest, allow interest for such time and at such rate as the Court may think right. Allowance of interest in special cases

- 12. (1) On the trial of an issue, or on an assessment of damages upon a debt or sum certain, Interest on debts certain
 - (a) payable by virtue of a written instrument at a time certain, interest may be allowed from the time when the debt or sum became payable; or

(b) payable otherwise than by virtue of a written instrument at a time certain, interest may be allowed from the time when a demand of payment was made, in writing, informing the debtor that interest would be claimed from the date of the demand.

Interest by way of damages in certain actions

(2) In an action for the conversion of goods or for trespass *de bonis asportatis*, the jury, or the Court may give interest in the nature of damages over and above the value of the goods at the time of the conversion or seizure, and in actions on policies of insurance may give interest over and above the money recoverable thereon.

Interest on judgments

(3) Unless otherwise ordered by the Court, a verdict or judgment bears interest from the time of the rendering of the verdict or of giving the judgment, as the case may be, notwithstanding that the entry of judgment has been suspended by any proceeding in the action including an appeal.

TENDER OF AMENDS IN CASE OF TORTS

Tender in tort cases

13. A person who has committed a wrong giving a cause of action for the recovery of damages to the person wronged may at any time before action tender amends, and the tender has the same effect as a tender in an action for the recovery of a debt.

RULES OF COURT

Rules of Court

14. Subject to this or any other Ordinance, the Commissioner may make rules of practice and procedure, including tariffs of fees and costs, and until other rules are so made the Rules of the Supreme Court of British Columbia shall, *mutatis mutandis*, be followed in all causes, matters and proceedings.

JUDICIAL DISTRICTS

Judicial districts

15. For the purpose of this Ordinance the Commissioner may establish judicial districts in the Territory and may designate the place in each judicial district where the Clerk of the Court shall have his office.

CLERKS

16. (1) There shall be a Clerk of the Court. Clerk of
the Court
- (2) If a Deputy Clerk is appointed, he shall have the same powers and duties as the Clerk.
- (3) The Clerk shall have a seal of office in such form as the Commissioner may prescribe, by which proceedings in the Court shall be certified and authenticated. Seal of office
17. The duties of the Clerk shall be Duties
- (a) to attend at his office and keep it open between the hours of ten in the forenoon and four in the afternoon on all days except Sundays and holidays and except on Saturdays and during vacation when it shall be closed at one o'clock in the afternoon; Office Hours
- (b) on application of any person by himself or his agent Filing, issuing
taxing, etc.
- (i) to receive all complaints and other papers required to be filed in Court,
- (ii) to issue all statements of claim, warrants, precepts, writs of execution and other documents rendered necessary or requisite for the effectual disposition of such matters, and
- (iii) to tax costs, enter judgments and record all judgments and orders pronounced, given or made;
- (c) to keep an account of all fines, fees and moneys payable or paid into Court and to enter all such amounts in proper books in which shall be entered regularly under separate headings all the proceedings taken in any action, all moneys received and paid out and the persons to whom and by whom the same have been paid, which books shall be accessible at all times to the public; Accounting of
moneys
- (d) to attend all trials before the Court unless his attendance is dispensed with by the Court; and Attendance
at trials

- Other duties (e) to do and perform all such other acts and duties as may be necessary for the administration of civil justice in the Territory.
- Substitute 18. In the absence of the Clerk a Judge may appoint a suitable person to perform the duties prescribed in section 17.
- Judge has same powers 19.. A Judge has *ex officio* throughout the Territory all the powers of the Clerk of the Court.
- Transfer of books, etc., after resignation, removal or death 20. All books, papers, documents and moneys in the possession of a Clerk by virtue of or appertaining to his office shall upon his resignation, removal or death immediately become the property of such person as a Judge may appoint pending the appointment of a new Clerk of the Court.
- Clerks not to practise as barristers or solicitors 21. No Clerk while holding office shall practise as a barrister or solicitor of the Territory or be a member of any firm of barristers or solicitors practising in the Territory.

PUBLIC ADMINISTRATOR

- Appointment of Public Administrator 22. (1) The Commissioner may appoint a fit and proper person to be Public Administrator and Official Guardian under the name of Public Administrator.
- Oath (2) Before entering upon his duties the Public Administrator shall take such oath of office as may be prescribed by the Commissioner.
- Office subject to inspection by Auditor General of Canada (3) The work and operation of the office of Public Administrator and his dealings and accounts in connection with estates and property coming into his hands by virtue of his office is subject to inspection, examination and audit by the Auditor General of Canada.
- Security to be furnished by Public Administrator (4) The Public Administrator shall furnish security to the Commissioner in the penal sum of ten thousand dollars conditioned for the due performance of his duties, and he is not otherwise required to furnish security as an administrator unless a Judge so directs, and such security may be furnished by bond or agreement of any guarantee company approved by the Commissioner.

23. When any person dies whether testate or intestate and his lands, personal estate and effects have not been taken possession of by his executors or next of kin, the Public Administrator shall, when the facts are brought to his notice, forthwith take possession of the said lands, personal estate and effects and safely keep, preserve and protect them and pending the grant of probate to an executor or the grant of letters of administration to an administrator, as the case may be, the Public Administrator has all the powers, rights and duties of an executor or administrator.

Duty to protect assets of deceased persons

24. (1) Where a person in the charge or care or upon the premises of another person dies, the other person shall forthwith communicate to the Public Administrator or the officer or constable commanding the post of the Royal Canadian Mounted Police nearest the place where the death occurred all of the facts within his knowledge, information or belief pertaining to

Person having care of deceased, etc., to report to Public Administrator or R.C.M.P.

- (a) the death,
- (b) the name, age and nationality of the deceased,
- (c) the place of residence and the domicile of the deceased,
- (d) whether or not the deceased left a will and, if so, where the same may be found,
- (e) the names and addresses of the executors, if any, and of the next of kin of the deceased, and
- (f) what person or persons are in charge of any real or personal property of the deceased.

(2) Where there is no executor or next of kin competent and willing to take charge of the lands, personal estate and effects of a deceased, any person having custody of any moneys, goods, chattels, books, documents, papers or other effects belonging to the estate of the deceased shall forthwith deliver the same to the Public Administrator or the officer or constable mentioned in subsection (1) and advise the Public Administrator or

Person having property of deceased to report to Public Administrator or R.C.M.P.

such officer or constable of all facts within his knowledge, information or belief touching the property both real and personal and the liabilities of the deceased.

R.C.M.P. to transmit information and property to Public Administrator

- (3) Where an officer or constable is given information under subsection (1), he shall, as soon as possible, transmit the information to the Public Administrator, and where assets of the estate have been delivered to him under subsection (2) he shall also transmit these assets as soon as possible to the Public Administrator and whenever immediate transmission of the assets is practicable, he shall transmit forthwith a complete inventory with approximate valuation of the assets.

Public Administrator to administer estate when no application for probate

25. In the absence of any application for probate of a will or letters of administration within one month after the death of any person leaving property within the Territory, the Public Administrator shall, when the facts are brought to his notice, enter upon the administration of the estate of the deceased.

Public Administrator to advertise describing estate, etc.

26. (1) Where the Public Administrator is the administrator of an estate, he shall without any order for that purpose advertise twice in a newspaper published weekly or semi-weekly describing the estate and requesting anyone who may have a claim against it to file his claim verified by a statutory declaration.

Distribution of estate among claimants of whom he has notice

(2) After the expiration of three months from the time of the second advertisement, the Public Administrator shall proceed to distribute the estate having regard only to the claims of which he then has notice and he is not liable for any assets so distributed to any person of whose claim he has not notice at the time of the distribution.

Creditor may follow assets

(3) Nothing in this section prejudices the right of any creditor or claimant to follow the assets, or any part thereof, into the hands of the person or persons who have received all or part of such assets.

Application for direction

27. (1) The Public Administrator, upon making a written statement verified on oath and without the institution of a suit,

- (a) shall, when any question arises as to
 - (i) the priority of claims as between creditors or classes of creditors,
 - (ii) the incidence of succession duty,
 - (iii) the rights of beneficiaries as between themselves, or
 - (iv) the advisability of instituting or defending an action on behalf of the estate, and
- (b) may, where any other question arises respecting the administration of the estate of a testator or intestate,

apply to a Judge in chambers for direction.

- (2) Notice of an application under subsection (1) shall be served upon such persons interested in the application as the Judge before whom the application is made thinks expedient and if the Public Administrator *bona fide* acts upon the direction of the Judge he is saved harmless from any action arising out of the matter unless he has been guilty of fraud, misrepresentation or wilful concealment in obtaining the direction. Notice of application

28. When no other appointment has been made the Public Administrator shall be the guardian of the estate within the Territory of all infants who have no parent residing or living in the Territory. Public Administrator to be guardian where no other appointed

29. The Public Administrator may summon before him at such time and place as he may appoint any person who, in his opinion, has knowledge of the estate and effects of any deceased person, and may examine such person upon oath touching his knowledge of the estate and effects. Power of Public Administrator to summon witnesses

30. Whenever the Public Administrator, with a view to passing his accounts in any estate, has taken out a summons calling upon creditors, next of kin and all persons interested in the estate, to attend upon the passing of accounts, he may In passing accounts service of summons may be effected by publication in newspaper

serve the summons upon all such persons by giving notice thereof at least one month prior to the date fixed for passing the accounts in a newspaper published in the district where the deceased person resided or, if there is no such newspaper, in some other newspaper published in the Territory.

Offence and penalty

31. Any person who neglects to comply with section 24, or who does not appear to a summons, refuses to take an oath, or to be examined on oath in accordance with section 29 is liable upon summary conviction to a fine of not more than five hundred dollars and not less than fifty dollars.

Fees of Public Administrator

32. The fees of the Public Administrator on all estates coming into his hands for administration shall be as follows:

- (a) a minimum charge of ten dollars on each estate;
- (b) upon an estate of an aggregate value of five thousand dollars or less, ten per cent. of the value of the estate; and
- (c) upon an estate of an aggregate value of over five thousand dollars, ten per cent up to five thousand dollars and five per cent up to twenty-five thousand dollars and two and one-half per cent on the remainder.

JUSTICES OF THE PEACE

Liability after resignation

33. Notwithstanding the resignation or revocation of the appointment of a justice of the peace, he remains liable to transmit all fines and make all returns that he was liable to transmit or make at the time of such resignation or revocation and is subject to all penalties for failure to transmit such fines or make such returns as if he had continued to be a justice of the peace.

Application of provisions of Criminal Code relating to summary convictions or extraordinary remedies

34. Subject to the provisions of any other Ordinance, the provisions of the Criminal Code relating to summary convictions or extraordinary remedies apply to all proceedings before justices of the peace under or by virtue of any Ordinance of the Territory or by-laws of a municipality and to appeals from convictions or order made thereunder.

35. (1) Every justice of the peace who receives the amount of any fine, penalty, forfeiture or other sum of money under an Ordinance shall forthwith after he has received the same transmit the amount received to the Clerk of the Court with a statement in Form A. Disposition of fines, etc.
- (2) Every justice of the peace by or before whom, whether alone or with one or more other justice or justices, any matter of any nature whatsoever is commenced, tried, heard, revised or adjudicated upon shall in the months of January and July in each year and before the 15th day thereof make a return in writing signed by him to the Clerk of the Court showing the result, disposition or action taken upon or in regard to any such matter so dealt with theretofore that has not been included in some previous return made by such justice to the Clerk. Returns
- (3) When no proceedings whatever have been had or taken before any justice of the peace, he shall make a return to the Clerk of the Court so stating. Return when no proceedings

SHERIFF

36. (1) There shall be a sheriff. Sheriff
- (2) If a deputy sheriff is appointed he shall in the absence or during the illness of the sheriff or whenever authorized so to do by the sheriff, exercise and perform all the powers and duties of the sheriff.
37. The sheriff shall keep his office open between the hours of ten in the forenoon and four in the afternoon on all days except Sundays and holidays, and except Saturday when the same may be closed at one o'clock in the afternoon. Office hours
38. The sheriff shall keep a separate book in which he shall enter from day to day all fees and emoluments received by him in virtue of his office showing separately the fees received for each service performed and such further facts and information as the Court may from time to time require. Fee book
39. The sheriff shall on or before the 15th day of January in each year make up a statement in duplicate form the book Annual statement

referred to in section 38 and return the same to the Commissioner verified under oath and such statement shall set forth the total amount of fees that have been received during the twelve months ended on the 31st day of December next preceding.

Seal of office
and records

40. The sheriff shall keep in his office open to the inspection of any person a seal of office and the following books, namely :

Process books

(a) process books in which shall be entered a memorandum of every process other than writs of execution or writs in the nature of writs of execution received by the sheriff, the Court out of which the same was issued, the date of the receipt, the nature of the process, the names of the parties thereto, the barrister or solicitor by whom issued, the date of the return and the nature of the return made thereto or what was thereunder or therewith done respectively ;

Execution
books

(b) execution books for goods and lands respectively in which shall be entered a memorandum of every writ of execution or writ in the nature of a writ of execution, the Court out of which the same issued, the names of the parties thereto, the barrister or solicitor by whom issued, the date of return and the nature of the return made thereto or what was done thereunder or paid away by the sheriff in his official capacity or in

Cash book

(c) a cash book in which shall be entered all cash received or paid away by the sheriff in his official capacity or in connection with his office for any service whatever for fees, poundage, service of process and papers, attendance at Court, moneys levied under execution or under writs in the nature of writs of execution or otherwise, the date of the receipt or payment and the cause, matter or service in which or on account of which the same was received or paid away.

Property
in sheriff's
books, etc.

41. All books, accounts, records, papers, writs, warrants, processes, moneys and other matters and things in the possession or under the control of the sheriff by virtue of or appertaining to his office as sheriff shall be the property of

Her Majesty and the same shall immediately upon the resignation, removal from office or death of any sheriff be, by the party in whose possession or control they may come or happen to be, handed over to and taken possession of by the successor in office of such sheriff or such person as a Judge may appoint to receive the same.

42. Unless authorized by this Ordinance no person shall take, have or hold any books, accounts, records, papers, writs, warrants, processes, moneys or other matters or things referred to in section 41, and any person having or holding any of such matter shall forthwith on demand deliver over the same and every one of them to the person entitled thereto; and every person who neglects or refuses so to do is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars.

No unauthorized holding of books, etc.

43. In case of the death, resignation or removal of a sheriff after he has made a sale of lands but before he has made a transfer of the same to the purchaser, such transfer shall be made by the person who is lawfully executing the duties of the sheriff at the time when the deed of conveyance is made.

Sale of lands where sheriff dies

44. When the sheriff goes out of office during the currency of any writ of execution against lands and before the sale of such lands, such writ shall be executed and the sale and transfer of the lands be made by his successor in office or by the person who is lawfully exercising the duties of the sheriff.

Execution against lands after sheriff goes out of office

45. Notwithstanding that the sheriff has forfeited his office and become liable to be removed therefrom, the liability of the sheriff remains until a new sheriff has been appointed and sworn into office.

Liability after forfeiture of office

46. No person shall directly or indirectly purchase any goods or chattels, lands or tenements by him exposed to sale under execution.

Person levying cannot be purchaser

47. When a person entrusted with the execution of any writ, warrant, process, mesne or final, wilfully misconducts himself in the execution of the same or wilfully makes any false return to the writ, warrant or process, he is answerable in damages to any party aggrieved by such misconduct or false return.

Damages for wilful misconduct

Duty of
sheriff's
officer to
return
papers, etc.

48. A sheriff's officer or clerk entrusted with the custody of any writ or process or of any book, paper or document belonging to the sheriff or his office shall upon demand upon him by the sheriff restore and return the writ, process, book, paper or document to the custody of the sheriff; and in case of any neglect or refusal to return or restore the same the party so neglecting or refusing may be required by an order of the Court to return and restore the writ, process, book, paper or document to the sheriff, and if he disobeys the order, he may be further proceeded against by attachment as in other cases of contumacy to orders or rules of court.

Recovery of
possession
of writs, etc.

49. When the sheriff's officer has in his possession, custody or control any writ of summons, *feri facias* or other writ or any bench warrant or process whatsoever and upon demand made by the sheriff from whom the same was received or his successor in office or by any other party entitled to its possession neglects or refuses to deliver up the same, the sheriff or the party entitled to its possession may proceed by summons and order before a Judge to compel the production thereof; such order may be enforced in the same manner as like orders for the return of writs against sheriffs and with or without costs or be discharged with costs against the party applying in the discretion of the Judge.

Sheriff cannot
practise as
barrister
or solicitor

50. The sheriff while holding office shall not practise as a barrister or solicitor in the Territory or be a member of any firm of barristers or solicitors practising in the Territory.

REPEAL

Repeal

51. The following Ordinances are repealed:

- (i) *The Judicature Ordinance*, chapter 48 of the Consolidated Ordinances, 1914;
- (ii) *An Ordinance to amend the Judicature Ordinance*, chapter 4 of the Ordinances of 1915;
- (iii) *An Ordinance to amend the Judicature Ordinance*, chapter 3 of the Ordinances of 1916;
- (iv) *An Ordinance to amend the Judicature Ordinance*, chapter 7 of the Ordinances of 1924;

- (v) *An Ordinance to amend the Judicature Ordinance*, chapter 2 of the Ordinances of 1930;
- (vi) *Rn Ordinance to amend the Judicature Ordinance*, chapter 8 of the Ordinances of 1937;
- (vii) *An Ordinance to amend the Judicature Ordinance*, chapter 11 of the Ordinances of 1942;
- (viii) *An Ordinance to amend the Judicature Ordinance*, chapter 1 of the Ordinances of 1948;
- (ix) *An Ordinance to amend the Judicature Ordinance*, chapter 5 of the Ordinances of 1950 (2nd session);
- (x) *An Ordinance respecting Constables*, chapter 20 of The Consolidated Ordinances of 1914;
- (xi) *An Ordinance respecting the Clerk and Deputy Clerk of the Court*, chapter 13 of the Consolidated Ordinances, 1914;
- (xii) *An Ordinance respecting the Sheriff and Deputy Sheriffs*, chapter 81 of the Consolidated Ordinances, 1914;
- (xiii) *An Ordinance respecting Alimony*, chapter 2 of the Consolidated Ordinances, 1914;
- (xiv) *An Ordinance respecting the Office of Public Administrator*, chapter 74 of the Consolidated Ordinances, 1914;
- (xv) *An Ordinance to amend the Ordinance respecting the Office of Public Administrator*, chapter 4 of the Ordinances of 1925;
- (xvi) *An Ordinance to amend an Ordinance respecting the Office of Public Administrator*, chapter 2 of the Ordinances of 1936;
- (xvii) *An Ordinance to amend an Ordinance respecting the Office of Public Administrator*, chapter 7 of the Ordinances of 1949, (1st session); and
- (xviii) *The Justice of the Peace Ordinance*, chapter 5 of the Ordinances of 1952 (1st session).

Coming into
force

52. This Ordinance shall come into force on the day that the Yukon Act, chapter 53 of the Statutes of Canada, 1952-3 comes into force.

SCHEDULE

FORM A

Transmission of Penalty

The Clerk of the Territorial Court of the Yukon Territory
Sir,

I enclose herewith the sum of \$ _____ being the
amount of the penalty collected on the day of
from _____ of _____ imposed by
at _____ on the _____ day of
on conviction for _____ contrary to the provisions
of section _____ of _____

Your obedient servant,

J.P.

CHAPTER 37

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING JURORS AND JURIES

(Assented to November 22, 1954.)

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

SHORT TITLE

1. This Ordinance may be cited as the *Jury Ordinance*. Short title

INTERPRETATION

2. In this Ordinance, Definitions
- (a) "action" means a civil proceeding as defined in the *Judicature Ordinance*; "Action"
- (b) "Clerk" means the Clerk of the Court. "Clerk"

RIGHT TO JURY IN CIVIL MATTERS

3. (1) Where, in any action of libel, slander, false imprisonment, malicious prosecution, seduction or breach of promise of marriage, or in any action founded upon a tort or contract in which the amount claimed exceeds one thousand dollars, or in any action for the recovery of real property, either party to the action applies to the Court, not less than two weeks prior to the time fixed for the trial of the action before a jury, the action shall, subject to subsection (2) and to section 4, be tried before a jury, but in no other case shall an action be tried before a jury. Right to Jury
- (2) Where, in any action of a class specified in sub-section (1), application is made for the trial of that action before a judge and it appears to a judge, either before May dispense with Jury

or after the commencement of the trial, that the trial will involve any prolonged examination of documents or accounts or any scientific investigation that, in the opinion of the Judge, cannot conveniently be made by a jury, the Judge may direct that the action be tried without a jury or that the jury be dismissed, in which case the action shall be tried or the trial continued, as the case may be, without a jury.

JURY COSTS

Security for jury costs

4. (1) Where, in accordance with subsection (1) of section 3, application is made for the trial of an action before a jury, the party making the application shall deposit with the Clerk such sum by way of security for payment of the cost of the jury as to the Clerk appears sufficient under the circumstances.

Payment of costs

(2) Upon the conclusion of the sittings at which the action is tried the party making the application shall pay to the Clerk any amount by which the cost of the jury exceeds the amount of the security deposited by him in accordance with subsection (1), and is entitled to have returned to him any amount by which the amount of the security so deposited exceeds the cost of the jury.

Taxation of costs

(3) If the party making the application obtains judgment in his favour, he shall, unless the Judge otherwise orders, be allowed and may tax against the unsuccessful party to the action the cost of the jury.

Definitions of "cost of jury"

- (4) In this section, "cost of the jury" means
- (a) the total cost of the jury for the sittings of the Court at which the action is tried, including the cost of summoning the panel, juror's fees and allowances, and all other lawful expenses in connection therewith, as certified by the Clerk; or
 - (b) in any case where a jury is used for the trial of more than one action or proceeding at the same sittings of the Court, a portion of the total cost specified in paragraph (a), the said portion to be

determined at the conclusion of the sittings in accordance with the Rules of Court, or, if there are no such Rules applicable, in accordance with an order to be made by the presiding Judge.

PERSONS QUALIFIED TO SERVE AS JURORS

5. Subject to this Ordinance, every person who

Persons
qualified

- (a) is twenty-one or more years of age,
- (b) is a Canadian citizen or British subject, and
- (c) is able to speak and understand the English language,

is qualified to serve as a juror in any action or proceeding that may be tried by a jury in the Territory.

6. No person is qualified to serve as a juror who

Persons not
qualified

- (a) has been convicted of an offence for which he was sentenced to a term of imprisonment exceeding one year, not having been subsequently granted a free pardon, or
- (b) is afflicted with blindness or deafness, or is a lunatic, idiot or imbecile, or possesses any other physical or mental infirmity incompatible with the discharge of the duties of a juror.

PERSONS EXEMPT FROM SERVICE

Persons
exempt

7. The following persons are exempt from service as jurors:

- (a) members of the Queen's Privy Council for Canada or of the Senate or House of Commons of Canada;
- (b) the Commissioner and members of the Council of the Yukon Territory;
- (c) members of the Royal Canadian Mounted Police Force;
- (d) judges of any court of record, police magistrates, justices of the peace and coroners;

- (e) practising barristers and solicitors;
- (f) clergymen of any denomination;
- (g) salaried firemen and active members of the fire brigade of a municipality;
- (h) officers of the Court, including sheriff's officers, constables and bailiffs;
- (i) telegraph, telephone and radio operators;
- (j) postmasters;
- (k) officers and men of the regular naval, army or air forces of Her Majesty in right of Canada;
- (l) physicians, surgeons, dental surgeons and druggists in active practice;
- (m) nurses in active practice; and
- (n) persons actually engaged in the operation of
 - (i) railway trains and steamships,
 - (ii) plants producing electricity for public consumption, and
 - (iii) water distribution systems distributing water for public consumption.

Persons excused

8. No person is required to serve as a juror more than once in any two years period, unless the service of that person as a juror is necessary by reason of there being an insufficient number of persons qualified to serve as jurors within a distance of twenty miles from the place of trial.

Women jurors

9. No woman shall be empanelled as a juror for the trial of a criminal proceeding.

COMPILATION OF JURY LIST

Jury list

10. (1) The sheriff shall, prior to the first day of November in each year or as nearly as possible thereafter, compile a list in Form A, of persons who are qualified to serve

as jurors and who are not, to his knowledge, exempt from service, for each place fixed for the sittings of the Court in the following year.

(2) The list shall contain, if possible, not less than forty-eight names, and shall give the addresses and occupations of the persons whose names are listed. Contents of list

(3) The name of any person whose place of dwelling is more than twenty miles from the place fixed for the sittings of the Court shall not be entered upon the list, unless the number of persons who live within a distance of twenty miles from the place so fixed and who are qualified to serve as jurors is, in the opinion of the sheriff, insufficient, having regard to the provisions of subsection (2). Persons not to be entered on list

11. For the purpose of compiling the list referred to in section 10, the sheriff shall have access to the voters lists, assessment rolls and other public documents under the control of any officer of a municipality situated within, or partly within, a distance of twenty miles from the place fixed for the sittings, and the said officer shall furnish to the sheriff upon request any available information as to the qualifications and suitability of persons for service as jurors. Access to voters lists, etc.

12. As soon as possible after the first day of November in each year, the sheriff shall certify the lists prepared by him and shall forward them to the Clerk. Certification of lists

13. (1) If, after the lists hereinbefore referred to have been forwarded to the Clerk, a place other than one for which a list has been prepared is fixed for the sittings of the Court, or if for any other reason a Judge considers it necessary, the Judge may order the sheriff to prepare, certify and return to him a supplementary list; the order shall state the time within which the return is to be made, and may contain such other directions as to the Judge seems necessary. Supplementary lists

(2) Upon receipt by the sheriff of the order referred to in subsection (1) the sheriff shall proceed according to the tenor thereof. Duty of Sheriff

Form of supplementary list

- (3) Each supplementary list shall be substantially in accordance with Form A, and shall be marked "Supplementary List".

SELECTION OF JURY PANEL

Certificate of Clerk

14. (1) Upon receipt of notice that a jury will be required for a sittings of the Court, the Clerk shall, within a reasonable time before the day fixed for the commencement of the sittings, certify over his hand the number of jurors that, in his opinion, and having regard to the provisions of section 9, will be required for the sittings and shall forthwith forward the certificate to a Judge and apply to him for an appointment to select the panel.

Appointment to select panel

- (2) Upon receipt of the application for an appointment the Judge shall appoint a time and place for the selection of the panel, and if unable to attend at the time and place appointed he shall appoint some other person to act in his behalf.

Notice to sheriff

- (3) The Clerk shall notify the sheriff in writing of the time and place fixed for the selection of the panel, at least twenty-four hours prior to the time so fixed.

Procedure prior to selecting panel

- (4) Prior to the time fixed for the selection of the panel, the Clerk shall write the name of each person named in the list or supplementary list returned to him by the sheriff, together with the person's address and occupation, upon a card or piece of paper, each of uniform size, and shall place each card or piece of paper in a separate envelope and seal it, each such envelope being of uniform size and shape and without markings of any kind.

Criminal proceedings only

- (5) Where no civil proceeding is scheduled to be tried at the sittings the Clerk shall not, in complying with the requirements of subsection (4), include the name of any woman, notwithstanding that her name appears on the list or supplementary list.

Selection of panel

- (6) At the time appointed for the selection of the panel the Judge or the person appointed to act in his behalf

and the sheriff shall attend at the place appointed, whereupon the Clerk shall cause all the envelopes containing the names of the persons named on the list to be placed in a suitable container and thoroughly mixed in the presence of the Judge or his appointee and in the presence of the sheriff, and the sheriff shall draw from the container a number of envelopes corresponding to the number of jurors required, as certified by the Clerk; the envelopes so drawn shall be opened by the sheriff and the names contained therein shall be placed on the panel list.

- (7) If, at the time the panel is selected or at any time thereafter, the Clerk is of the opinion that the number of jurors so selected will not be sufficient, by reason of the selection of names of persons who are exempt from service as jurors or are entitled to be excused therefrom, he shall so certify, and shall further certify to the additional number that, in his opinion is necessary, and shall in accordance with the requirements of this section make a second drawing and add the names contained in the envelopes so drawn to the panel list.

Second drawing when necessary
- (8) A third drawing or as many as are required may be made in accordance with the provisions of this section.

Third drawing
- (9) Where the same person performs the duties of sheriff and Clerk or where the sheriff or Clerk is not available by reason of illness or other cause, the Judge shall appoint a person employed in the office of the sheriff or Clerk, or, if such person is not available, a magistrate or justice of the peace, to perform the duties of sheriff or Clerk as the case may be.

Performances of duties of Clerk or sheriff in certain cases
- (10) The Judge or his appointee shall certify as to his attendance at the selection of the panel and as to the regularity of the proceedings thereat.

Certification by Judge
- (11) All certificates required in accordance with this section shall be retained in the custody of the Clerk.

Custody of certificates

Proceedings
after selection
of panel

15. Upon completion of the panel list, the Clerk shall submit the same to the Judge, who may remove from the list the names of any persons who, in his opinion, would suffer undue hardship or serious inconvenience were they to be called upon to serve as jurors, and immediately thereafter shall certify the list as revised by him and return the same to the Clerk, who shall forthwith issue to the sheriff a precept, in form B, requiring the sheriff to summon the persons named on the panel list to attend the Court at the time and place fixed for the commencement of the sittings, and shall deliver the same to the sheriff at least ten days prior to the time so fixed.

Summoning
of jurors

16. (1) Upon receipt of the precept referred to in section 15, the sheriff shall summon each person named on the panel list by serving upon him or leaving with a responsible member of his household a written summons in Form C.

Hardship

(2) When serving a summons upon any person the sheriff shall ascertain or attempt to ascertain whether that person's service as a juror will inflict upon him undue hardship or serious inconvenience, and if in the opinion of the sheriff such hardship or inconvenience is likely to result he shall report the same to the Clerk.

Failure of
sheriff
to serve
summons

(3) The sheriff is not guilty of a breach of duty by reason only that he fails to serve with a summons any person whose name appears on the panel list, if his failure to serve that person is due to a cause over which he has no control.

Return by
sheriff

17. The sheriff shall, on or before the commencement of the sittings of the Court, deliver to the Clerk the precept referred to in section 15, together with a return showing his action thereon and listing the names of persons requesting to be excused from service.

SELECTION OF JURORS FROM THE PANEL

Procedure
prior to
trial

18. The sheriff shall write the name, address and occupation of each person who has been summoned by him and who is not excused from serving as a juror on a separate card or

piece of paper, each of which shall be of uniform size, and shall place the cards in a suitable container and deliver it to the Clerk.

19. (1) Immediately prior to the commencement of each trial for which a jury is required, the Clerk shall, in open court, cause the container to be shaken and the cards or pieces of paper therein thoroughly mixed, and shall then draw out the cards or pieces of paper one at a time, shaking the container after each drawing, and shall continue to draw out such cards or pieces of paper so long as it is necessary to do so in order to obtain a complete jury. Selection of individual jurors
- (2) If, in selecting the jurors for the trial of any criminal proceeding, a card bearing the name of a woman is drawn, the card shall be returned to the container. Criminal proceedings
- (3) The cards selected bearing the names of persons subsequently sworn as jurors shall be kept apart until the verdict is given or the jury is dismissed or discharged and shall then be returned to the container, unless no other action or proceeding remains to be tried by a jury at the sittings of the Court. Names selected

CHALLENGE IN CIVIL MATTERS

20. (1) A party to a civil action may, at any time before a person whose name has been selected pursuant to section 19 is sworn, challenge that person for cause. Challenges for cause
- (2) Where a challenge is exercised pursuant to subsection (1), the Judge may, in his discretion, allow the challenge or direct that the person so challenged be sworn. Idem
- (3) Each side prosecuting or defending an action may exercise not more than three peremptory challenges which, when exercised, may not be withdrawn. Peremptory challenges

SWEARING OF JURORS

21. Where a person whose name is selected pursuant to section 19 is not challenged or is challenged but the challenge is disallowed, as the case may be, the Clerk shall swear that person and when sworn that person shall be a juror for the trial of the action. Swearing of jurors

GENERAL

Judge may
excuse

22. The judge may for a good cause, excuse from service as a juror any person who has been summoned but has not been sworn.

*Tales de
circum-
stantibus*

23. Where at the trial of any action the number of jurors in attendance is less than the number required, or if so reduced for any reason that a full jury cannot be sworn, the Judge may, upon application by any party to the action, direct the sheriff to summon such other qualified persons as are needed and can be found and to add their names to the panel.

Jurors not
needed

24. If at any time during the sittings of the Court it appears to the Judge that the services of any person as a juror will not be needed, he may order that person to be discharged.

INSPECTION BY JURY

Inspection
by jury

25. Where, during the trial of an action before a jury, it appears to the Judge that a view by the jury of any place or any real or personal property in question is necessary or desirable in order that the jury may better understand the evidence, the Judge may, at any time before a verdict is returned, order such view by the jury, on such terms as to costs as to him seems just, and the order so made shall contain directions to the sheriff as to the manner in which and the persons by whom the place or property in question shall be shown to the jury, and shall contain any other direction to the sheriff that the Judge sees fit to make.

VERDICT

Verdict

26. (1) The jury for the trial of an action shall consist of six persons, any five of whom may return a verdict or answer questions submitted to them by the Judge.

Answer to
question

(2) Where more than one question is submitted to the jury in any action, it is not necessary for the same five jurors to agree upon each answer.

Special verdict

27. Subject to subsection (1) of section 7 of the *Defamation Ordinance*, in the absence of any direction by the Judge the jury may return a general or special verdict, but shall return

a special verdict if the Judge so directs and shall not return a general verdict if the Judge directs them not to do so; the Judge may direct the jury to answer any questions of fact submitted by him, in which case the jury shall answer any such questions and the answers thereto shall constitute a special verdict.

28. Subject to section 20, failure to observe any direction in this Ordinance respecting the qualification, exception or excusal of jurors, the compilation and preparations of lists for the purpose of this Ordinance, the form of such lists or any other requirements with respect thereto, the summoning of jurors or the selection or formation of the panel is not a ground for impeaching the verdict or answers given by a jury in any action.

Impeaching
verdict

ATTENDANCE OF JURORS

29. If during the trial of an action a member of the jury becomes ill, the Judge may, in his discretion, direct that the trial shall proceed without him and the verdict of the remaining five jurors, if unanimous, shall be valid.

Illness of
juror

30. (1) No jury shall be kept without meat, drink or other reasonable comfort while it is considering its verdict.

Necessities
of jury

(2) Where, during the trial of an action, the Judge directs that the jury shall not be allowed to separate, the sheriff shall provide such food and lodgings as he considers proper, the cost thereof as certified by him to be included as part of the costs of the jury.

Food and
lodging costs

31. Where a person is summoned to appear for service as a juror, fails to obey the summons or fails to answer to his or her name when called by the Clerk, the Judge may impose a fine not less than twenty-five dollars and not exceeding two hundred dollars.

Failure to
obey summons

32. Every person shall, in respect of the trial of any action or proceeding in which he serves or has served as a juror, well and truly keep secrets the Queen's counsel, his own and that of his fellow jurors, and any juror who divulges

Breach of
secrecy by
juror

any such secret is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars, or to imprisonment for a term not exceeding two months, or to both fine and imprisonment.

REGULATIONS

Jurors' fees
and
allowances

33. The Commissioner may make regulations respecting the fees and allowances payable to jurors, and in the absence of such regulations the fees and allowances payable are those specified in the Rules of Court.

REPEAL

Repeal

34. The following Ordinances are repealed;

- (a) *The Juries Ordinance*, chapter 49 of the Consolidated Ordinances, 1914;
- (b) *An Ordinance to amend the Juries Ordinance*, chapter 2 of the Ordinances of 1919;
- (c) *An Ordinance to amend the Juries Ordinances*, chapter 2 of the Ordinances of 1923;
- (d) *An Ordinance to amend the Juries Ordinance*, chapter 1 of the Ordinances of 1935.

COMING INTO FORCE

Coming into
force

35. This Ordinance shall come into force on the day upon which the *Yukon Act*, chapter 53 of the Statutes of Canada, 1952-53, comes into force.

FORM A
(Section 10)

FORM OF LIST OF JURORS TO BE COMPILED
BY SHERIFFS

In the Territorial Court
of the Yukon Territory.

List of persons liable to be returned for services as jurors
for the twelve months commencing January 1, 19 , for
sittings of the Court at

Name in full	Residence	Occupation
--------------	-----------	------------

I hereby certify that the foregoing list of persons was
selected by me as returnable for jury service at the.....
.....sittings of the Court at.....for
the twelve months commencing January 1, 19 .

Dated atthisday of
....., A.D. 19 .

.....
Sheriff

JURY

FORM B
(Section 15)

PRECEPT TO BE ISSUED TO SHERIFF TO
SUMMON JURY PANEL

In the Territorial Court of
the Yukon Territory.

The Jury Ordinance

To the Sheriff of

You are hereby required to summon the persons named in
the annexed list to attend for jury service for sittings of the
above Court to be held atin
the Yukon Territory, commencing at the hour of ten o'clock
in the forenoon of.....day, the day of.....
..... 19....., and on or before such time to return
this precept with your actions hereunder endorsed hereon.

Given under my hand and the seal of the said Court at
.....in the Yukon Territory this
day of.....19.....

Clerk of the Territorial Court
of the Yukon Territory.

Names of Persons on Panel to be Summoned

Name in full	Residence	Occupation
--------------	-----------	------------

FORM C
(Section 16)

SUMMONS TO JURORS

Sheriff's Office

(Place and date)

Sir:

You are hereby required to attend Her Majesty's Territorial Court at.....in the Yukon Territory on.....day, the.....day of..... 19....., at the hour of ten o'clock in the forenoon and following days, for jury service.

If you request to be excused, any application for exemption from service must be made in Court upon oath or affidavit at the above-mentioned time and failure to attend at the above-mentioned time will render you liable to a fine of one hundred dollars.

.....
Sheriff

To.....

of.....

CHAPTER 38

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE RESPECTING THE REGISTRATION
OF BIRTHS, MARRIAGES, DEATHS AND OTHER
VITAL EVENTS

(Assented to November 22, 1954.)

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

SHORT TITLE

- Short title 1. This Ordinance may be cited as the *Vital Statistics Ordinance*.

INTERPRETATION

- Definitions 2. In this Ordinance
- "Birth" (a) "birth" means the complete expulsion or extraction from its mother, irrespective of the duration of pregnancy, of a product of conception in which, after such expulsion or extraction, there is breathing, beating of the heart, pulsation of the umbilical cord, or unmistakable movement of voluntary muscle, whether or not the umbilical cord has been cut or the placenta is attached;
- "Burial permit" (b) "burial permit" means a permit to bury, cremate, remove or otherwise dispose of a dead body;
- "Cemetery" (c) "cemetery" means land set apart or used as a place for the interment or other disposal of dead bodies, and includes a vault, mausoleum and crematorium;
- "Cemetery owner" (d) "cemetery owner" includes the manager, superintendent, caretaker or other person in charge of a cemetery;

- (e) "certificate" means a certified extract of the prescribed particulars of a registration filed in the office of the Registrar General; "Certificate"
- (f) "cremation" means disposal of a dead body by incineration in a crematorium; "Cremation"
- (g) "Registrar General" means the Registrar General of Vital Statistics provided for under this Ordinance; "Registrar General"
- (h) "district registrar" means a district registrar appointed under this Ordinance; "District registrar"
- (i) "error" means incorrect information, and includes omission of information; "Error"
- (j) "funeral director" means any person who takes charge of a dead body for the purpose of burial, cremation or other disposition; "Funeral director"
- (k) "incapable" means unable because of death, illness, absence from the Territory, or otherwise; "Incapable"
- (l) "Indian" means an Indian within the meaning of the *Indian Act*; "Indian"
- (m) "Inspector" means an inspector of vital statistics provided for under this Ordinance; "Inspector"
- (n) "married woman" includes a woman who, within the period of gestation prior to the birth of the child in respect of whose birth an application for registration is made under this Ordinance, was lawfully married; "Married woman"
- (o) "occupier" means the person occupying any dwelling, and includes the person having the management or charge of any public or private institution where persons are cared for or confined, and the proprietor, manager, keeper or other person in charge of an hotel, inn, apartment, lodging-house or other dwelling or accommodation; "Occupier"
- (p) "prescribed" means prescribed by this Ordinance or the regulations; "Prescribed"

- "Registration district" (q) "registration district" means a registration district established under section 24;
- "Province" (r) "province" means a province of Canada and includes the Northwest Territories;
- "State" (s) "state" means a state or territory of the United States of America and includes the District of Columbia;
- "Stillbirth" (t) "stillbirth" means the complete expulsion or extraction from its mother after at least twenty weeks pregnancy of a product of conception in which, after such expulsion or extraction, there is no breathing, beating of the heart, pulsation of the umbilical cord or unmistakable movement of voluntary muscle;
- "Subregistrar" (u) "subregistrar" means a subregistrar appointed under this Ordinance.

REGISTRATION OF BIRTHS AND STILLBIRTHS

BIRTHS

- Notice of births 3. Every person who assists at the birth of a child in the Territory shall, within twenty-four hours thereafter, deliver or mail to the district registrar or subregistrar of the registration district in which the birth occurs a notice of the birth in Form H.
- Registration of births 4. (1) The birth of every child born in the Territory shall be registered as provided in this Ordinance.
- Statement respecting births (2) Within thirty days after the day of the birth of a child in the Territory
- (a) the mother of the child,
 - (b) if the mother is incapable, the father of the child,
 - (c) if the mother and the father are incapable, the person standing in the place of the parents of the child,

- (d) if there is no person to whom paragraph (a), (b) or (c) applies, the person required to give notice of the birth under section 3, or
- (e) if there is no person to whom paragraph (a), (b), (c) or (d) applies, the occupier of the premises in which the child is born, if he has knowledge of the birth,

shall complete and deliver or mail a statement in the prescribed form respecting the birth to the district registrar of the registration district in which the birth occurs, but the Registrar General may accept the statement of the father although the mother is not incapable.

- (3) The father of an illegitimate child is not required to comply with subsection (2). Exception
- (4) If more than one child is delivered during a single confinement, a separate statement for each child shall be completed and delivered or mailed as provided in subsection (2), and in each statement the number of children born during the confinement and the number of the child in the order of birth shall be given. Plural births
- (5) Except as provided in subsection (6), the birth of a child of a married woman shall be registered showing the surname of the husband as the surname of the child, and the particulars of the husband shall be given as those of the father of the child. Child of married woman
- (6) Where a child is born to a married woman, if she files with the district registrar a statutory declaration that at the time of conception she was living separate and apart from her husband, and that her husband is not the father of the child, no particulars as to the father shall be given in the statement required under subsection (2) unless the mother and a person acknowledging himself to be the father jointly so request in writing, in which case the particulars of the person so acknowledging may be given as the particulars of the father, and the birth may be registered showing Idem

the surname of the person so acknowledging as the surname of the child and, if the request is made after the registration of the birth, the Registrar General may amend the registration in accordance with the request by making the necessary notation thereon.

Child of
unmarried
woman

- (7) Except as provided in subsection (8), the registration of the birth of a child of an unmarried woman shall show the surname of the mother as the surname of the child, and no particulars as to the father shall be given.

Idem

- (8) Where an unmarried woman who is the mother of a child and a person acknowledging himself to be the father jointly so request in writing, the particulars of the person so acknowledging may be given as the particulars of the father, and the birth may be registered showing the surname of the person so acknowledging as the surname of the child and, if the request is made after the registration of birth, the Registrar General may amend the registration in accordance with the request by making the necessary notation thereon.

Additional
evidence
required by
Registrar
General

- (9) If the district registrar is not satisfied as to the truth and sufficiency of the statement, he shall refer the matter to the Registrar General who, in order to obtain such additional evidence as may be necessary, may request further details from any person whom he believes to have knowledge of the facts, or he may appoint a person to enquire into the matter.

Continuing
liability to
complete
statement.

- (10) If the statement is not completed and delivered or mailed in the manner and within the time herein provided, every person upon whom the duty of completing and delivering or mailing the statement is imposed remains liable to perform that duty notwithstanding the expiration of the time provided, and is, in respect of each successive period of seven days thereafter during which he neglects or fails to complete and deliver or mail the statement, guilty of a violation of this Ordinance.

Registration
of birth by
district
registrar

- (11) Upon the receipt, within one year from the day of the birth, of a statement in Form A respecting the birth,

the district registrar, if he is satisfied as to the truth and sufficiency thereof, shall register the birth by signing the statement, and thereupon the statement constitutes the registration of the birth.

5. When a birth is not registered within one year from the day of the birth, or the district registrar has referred the matter to the Registrar General under subsection (9) of section 4, if application for the registration thereof is made by any person to the Registrar General in Form A, verified by statutory declaration and accompanied by the prescribed fee and by a statement respecting the birth and such other evidence as may be prescribed, the Registrar General, if he is satisfied as to the truth and sufficiency of the matters stated in the application and that the application is made in good faith, shall register the birth by signing the statement, and thereupon the statement constitutes the registration of the birth.

Registration
of birth by
Registrar
General

6. (1) Where a child is legitimated by the inter-marriage of his parents subsequent to his birth, then upon the parents delivering a statement of the birth in Form A, together with such additional information as may be required and the prescribed fee, the Registrar General shall

Registration
of child
legitimated
by subsequent
marriage

(a) register the birth as if the parents had been married to each other at the time of the birth, and

(b) make a notation in the statement that the registration was made under this section,

and the statement constitutes the registration of the birth.

(2) Upon proof that one of the parents is incapable, the application may be made by the other parent.

Idem

(3) Where the birth has been registered under subsection (8) of section 4, the application may be made by the child.

Idem

Alteration
or addition
of given
names by
Registrar
General

7. (1) Except in a case to which the *Change of Name Ordinance* applies, where the birth of a child has been registered and the given name under which the child was registered is changed or the child was registered without a given name, both parents, the surviving parent, the guardian of the child or the person procuring the name to be changed or given may deliver to the Registrar General an application setting forth the particulars of the change or of the name given, accompanied by a statutory declaration completed by the applicant, and
- (a) a baptismal certificate, showing the given name under which the child was baptized, or
 - (b) if a baptismal certificate is not procurable, such other documentary evidence as is satisfactory to the Registrar General,

and the Registrar General, upon being satisfied that the application is made in good faith and upon payment of the prescribed fee, shall make a notation of the change in the registration of birth.

Time limit
for alteration
or addition

- (2) Except in a case to which the *Change of Name Ordinance* applies no alteration of or addition to a given name shall be made under this section in any registration of a birth unless that name of the child was changed or the name was given to the child within ten years next after the day of the birth.

Statutory
limitation of
alteration or
addition

- (3) No alteration of or addition to a given name shall be made in a registration of a birth, except as provided in this Ordinance.

Changes to be
shown on
certificate

- (4) Any birth certificate issued after the making of a notation pursuant to this section shall be prepared as if the registration had been made containing the changed or new name at the time of registration.

REGISTRATION OF ADOPTIONS

Registration
of adoptions

8. (1) Upon receipt of a certified copy of an order of adoption transmitted under the *Adoption Ordinance*, the Registrar General shall register the adoption.

- (2) Where, at the time of the registration of the adoption or at any time thereafter, there is in the office of the Registrar General a registration of birth of the person adopted, the Registrar General, upon production of evidence satisfactory to him of the identity of the person, shall cause a notation of the adoption and of any change of name consequent thereon to be made on the registration of the birth, and shall cause a notation of the registration of the birth to be made on the registration of the adoption. Notation of adoption on birth registration
- (3) Where a person is adopted pursuant to an order, judgment or decree of adoption made by a court of competent jurisdiction in another province, state or country, the Registrar General, Registration of adoption order of another jurisdiction
- (a) upon receipt of a certified copy of the order, judgment or decree, and
- (b) upon production of evidence satisfactory to him of the identity of the person,
- shall, if there is in his office a registration of the birth of that person, register the adoption in the manner prescribed by subsection (1) and shall make the notations required by subsection (2).
- (4) Where a person born outside the Territory is adopted under the *Adoption Ordinance*, the Registrar General, upon receipt of a certified copy of the order of adoption, shall transmit a certified copy of the order to the person having charge of the registration of births in the province, state or country in which the person was born. Adoption of person born outside the Territory
- (5) Where a notation of adoption and of a change of name consequent thereon has been made on a registration of birth, any birth certificate issued thereafter shall be issued as if the registration had been made in the name as changed. Certificate after adoption

REGISTRATION OF MARRIAGES

Registration of marriages

9. (1) Every marriage solemnized in the Territory shall be registered as provided in this Ordinance.

Statement respecting marriage

(2) Every person authorized by law to solemnize marriage in the Territory shall, immediately after he solemnizes a marriage, prepare a statement in Form B respecting the marriage, which statement shall be signed by

(a) each of the parties to the marriage,

(b) at least two adult witnesses to the marriage, and

(c) the person by whom the marriage was solemnized.

Time for registration

(3) The person by whom the marriage was solemnized shall, within thirty days after the day of marriage, deliver or mail the completed statement in Form B to the district registrar or to a subregistrar of the registration district in which the marriage was solemnized.

Registration of marriage by Registrar General

(4) Upon the receipt within one year from the day of a marriage of a completed statement in Form B respecting the marriage, the district registrar, if he is satisfied as to the truth and sufficiency thereof, shall register the marriage by signing the statement, and thereupon the statement constitutes the registration of the marriage.

Registration of marriage by Registrar General

10. When a marriage is not registered within one year from the day of the marriage, if application for registration thereof is made by any person to the Registrar General in Form B, verified by statutory declaration and accompanied by the prescribed fee and by a statement respecting the marriage and such other evidence as may be prescribed, the Registrar General, if he is satisfied as to the truth and sufficiency of the matters stated in the application and that the application is made in good faith, shall register the marriage by signing the statement, and thereupon the statement constitutes the registration of the marriage.

Registration of divorces or annulments

11. (1) Where a marriage is dissolved or annulled by an order of a court of competent jurisdiction in the Territory the clerk or registrar of the Court shall

transmit two copies of the document affecting the dissolution or annulment to the Registrar General who shall register the dissolution or annulment.

- (2) Where, at the time of the registration of the dissolution or annulment or at any time thereafter, there is in the office of the Registrar General a registration of the marriage dissolved or annulled, the Registrar General, upon production of evidence satisfactory to him as to the identity of the persons, shall cause a notation of the dissolution or annulment of the marriage to be made on the registration of the marriage, and shall cause a notation of the registration of the marriage to be endorsed on the registration of the dissolution or annulment. Notation of divorces or nullities
- (3) Where a marriage is dissolved or annulled by an Act of the Parliament of Canada, or by an order, judgment or decree made by a court of competent jurisdiction in a province, the Registrar General, Registration of divorce or nullity outside the Territory of marriage solemnized in the Territory
- (a) upon receipt of the Act or a certified copy of the order, judgment or decree, and
- (b) upon production of evidence satisfactory to him of the identity of the persons,
- shall, if there is in his office a registration of the marriage, register the dissolution or annulment in the manner prescribed by subsection (1) and shall make the notations required by subsection (2).
- (4) Every marriage certificate issued after the making of a notation pursuant to this section shall contain a copy of the notation. Certificate after divorce
- (5) Where a marriage solemnized in a province is dissolved or annulled in the Territory, the Registrar General upon receipt of the statement respecting the dissolution or annulment shall transmit a certified copy of the order, judgment or decree to the person having charge of registration of marriages in the province in which the marriage was solemnized. Marriage performed in a province

REGISTRATION OF DEATHS

Registration
of deaths

12. (1) The death of every person who dies in the Territory shall be registered as provided in this Ordinance.

Particulars
of deceased

(2) The personal particulars of the deceased shall, upon the request of the funeral director, be completed in Form C and delivered to the funeral director

(a) by the nearest relative of the deceased present at the death or in attendance at the last illness of the deceased;

(b) if no such relative is available, by any relative of the deceased residing or being within the registration district;

(c) if no relative is available, by any person present at the death;

(d) by any other person having knowledge of the facts;

(e) by the occupier of the house in which the death occurred; or

(f) by the coroner who has been notified of the death and has made an inquiry or held an inquest regarding the death.

Certification
by medical
practitioner
or coroner

(3) The medical practitioner who was last in attendance during the last illness of the deceased, or the coroner who conducted an inquest on the body or an inquiry into the circumstances of the death, shall forthwith after the death, inquest or inquiry, as the case may be, complete and sign the medical certificate in Form C, stating therein the cause of death according to the International List of Causes of Death, as last revised by the International Commission assembled for that purpose, and shall forthwith cause the medical certificate to be delivered to the funeral director.

Death without
medical
attendance

(4) Where a death occurs without medical attendance, or where a medical practitioner is not available to complete the medical certificate in Form C, and there is

no reason to believe that the death was the result of any of the circumstances set forth in subsection (5), the district registrar or subregistrar shall thereupon inquire into the facts and shall complete the medical certificate.

- (5) Subject to subsection (2) of section 15, where there is reason to believe that a person has died, Deaths by violence or misadventure
 - (a) as a result of violence or misadventure,
 - (b) by unlawful means,
 - (c) as a result of negligence or misconduct on the part of others, or
 - (d) under circumstances that require investigation, no acknowledgment of registration of the death and no burial permit shall be issued by the district registrar unless
 - (e) the body has been examined by the coroner and inquiry has been made into the circumstances of the death,
 - (f) the coroner has signed the medical certificate of the cause of death in accordance with subsection (3), and
 - (g) the other provisions of this Ordinance respecting the registration of the death have been complied with.

- (6) Upon receipt of the personal particulars respecting the deceased and of the medical certificate in Form C, the funeral director shall complete the form, and shall forthwith deliver the completed form to the district registrar or to a subregistrar of the registration district in which the death occurred, or if the place of death is not known, to the district registrar or to a subregistrar of the registration district in which the body was found. Duty of funeral director

Registration of death by district registrar

13. (1) Upon the receipt within one year from the day of a death of a statement in Form C, respecting the death, the district registrar, if he is satisfied as to the truth and sufficiency thereof, shall register the death by signing the statement, and thereupon the statement constitutes the registration of the death, and if he is requested to do so, he shall issue a burial permit in Form D.

Statement received by registrar of another district

(2) Where it is impracticable to deliver Form C to the proper district registrar or to a subregistrar, the form may be delivered to the nearest district registrar who shall

(a) register the death by signing the form and issue a burial permit, in Form D, and

(b) forward the registration forthwith to the Registrar General with a copy to the appropriate district registrar.

Registration of death by Registrar General

14. When a death is not registered within one year from the day of the death, or the district registrar refuses to register a death, if application for registration thereof is made by any person to the Registrar General in Form C verified by statutory declaration, and accompanied by the prescribed fee and by a statement respecting the death and such other evidence as may be prescribed, the Registrar General, if he is satisfied as to the truth and sufficiency of the matters stated in the application and that the application is made in good faith, shall register the death by signing the form, and thereupon the form constitutes the registration of the death.

Issuance of notice on coroner's warrant

15. (1) When a person dies under any of the circumstances referred to in subsection (5) of section 12, if it is impossible for the coroner to complete a medical certificate, the district registrar, upon the coroner releasing the body for burial, shall issue a burial permit in Form D and the coroner shall, within two days of his determining the cause of death, or of the completion of his investigation, deliver or mail to the district registrar a medical certificate.

(2) No person shall

Registration
before burial
or other
disposition

- (a) bury or otherwise dispose of the body of any person who dies in the Territory,
- (b) except temporarily for the purpose of preparing the body for burial, remove it from the registration district in which the death occurred or the body was found, or
- (c) conduct or take part in a funeral or religious service in connection with the burial or other disposition of the body,

unless the death is registered as provided in this Ordinance and a burial permit has been obtained and is in the possession of the person conducting the funeral or religious service.

(3) Where the body of any person is to be removed by a common carrier to the place of burial or other disposition, the removal shall not take place unless the prescribed copies of the burial permit have been affixed to the outside of the casket.

Removal of
body

(4) The funeral director at the place of burial or other disposition shall

Duties of
funeral
director

- (a) remove any copies of the burial permit affixed to the outside of the casket;
- (b) deliver a copy of the burial permit to the person conducting the funeral or religious service; and
- (c) deliver a copy of the burial permit to the cemetery owner.

(5) Subsections (2), (3) and (4) do not apply in areas where it is not possible to register the death and obtain a burial certificate within a period during which a body should be buried, but in all such cases any person who conducted the burial or other service or otherwise disposed of the body of a deceased person

Reports to be
made when
burial, etc.,
made before
burial
certificate
obtained

shall report as soon as possible all circumstances of the death and burial or other disposal of the body to a district registrar or subregistrar who shall forthwith enquire into such circumstances and make a full report to the Commissioner and the Commissioner may take such action as he may consider appropriate.

Stillbirth
birth
registration

16. (1) Where a stillbirth occurs,
- (a) the person who would have been responsible for the registration thereof as provided in section 4, if it had been a birth, shall complete and deliver or mail Form A to the district registrar or subregistrar of the registration district in which the birth occurred; and

Death
registration

- (b) the person responsible for the registration of the death as provided in section 14 shall complete the personal particulars in Form C and deliver such form to the funeral director.

Funeral
director to
deliver
particulars
to district
registrar

- (2) The funeral director upon receipt of the personal particulars and the medical certificate in Form C shall complete the form and deliver it to the district registrar or subregistrar of the district in which the stillbirth occurred.

Burial permit
issued

- (3) Upon receipt of Form C respecting the stillbirth, the district registrar or subregistrar, as the case may be, shall issue a burial permit in Form D.

No burial
allowed
without
burial permit

17. (1) No cemetery owner shall permit the burial or cremation of a dead body in the cemetery, unless the funeral director or the person officiating at the burial has delivered to him a burial permit in Form D.

Quarterly
returns of
burial and
cremations

- (2) Every cemetery owner shall on the first day of January, April, July and October in each year prepare a quarterly report in Form G of the burials and cremations that took place during the previous quarter, and shall, as the mails permit, transmit that report together with all burial permits in Form D received by him in respect thereof to the District Registrar for transmission to the Registrar General.

- (3) Where no burials or cremations have taken place during a quarter the cemetery owner shall prepare and transmit to the District Registrar for transmission to the Registrar General, as the mails permit, a nil report for that quarter.

Report where no burials or cremations

REGISTRATION OF BIRTHS AND DEATHS OCCURRING ON HIGH SEAS

18. Upon receipt from the Minister of Transport of information transmitted under the *Canada Shipping Act* respecting the birth of a child or the death of a person on board a ship whose port of registry is within the Territory, the Registrar General, if he is satisfied as to the truth and sufficiency of the particulars received, shall register the birth or death.

Births and deaths on high seas

CHURCH RECORDS

19. Where registers or records of baptisms, marriages or burials kept by any church or religious body in the Territory are now on file or are hereafter with the approval of the Registrar General placed on file in the office of the Registrar General, the registers or records shall be preserved and shall remain in the custody of the Registrar General as part of the records of his office.

Filing of church records of baptisms, marriages, or burials

CHANGE OF NAME

20. (1) Where the name of a person is changed under the *Change of Name Ordinance* or under a statute of a province, the Registrar General, on production to him of proof of the change and evidence satisfactory to him as to the identity of the person,
- (a) if the birth or marriage of the person is registered in the Territory, shall cause a notation of the change to be made on the registration thereof; and
- (b) if the change was made under the *Change of Name Ordinance*, and the person was born or married outside the Territory, shall transmit a copy of the proof of the change of name,

Notation to be made by Registrar General.

- (i) where the person was born or married in a province, to the officer in charge of registration of births and marriages in that province, or
- (ii) where the person was born or married outside of Canada, to the Deputy Minister of the Department of Citizenship and Immigration.

Certificate after change of name

- (2) Every birth or marriage certificate issued after the making of a notation under this section shall be issued as if the registration had been made in the name as changed.

FRAUDULENT REGISTRATIONS AND CERTIFICATES

Cancellation of registration and birth certification

- 21. (1) On written application by any person and after notice to and hearing of all persons interested, or where the holding of a hearing is not possible, on receipt of a statutory declaration or such other evidence satisfactory to the Registrar General as may be adduced by any person interested, the Registrar General, if he is satisfied that a registration was fraudulently or improperly made, may order that a notation be made on the registration to that effect and order that every certificate issued in respect of that registration be delivered to him for cancellation.

Certificate

- (2) Where a notation has been made under subsection (1), no certificate shall be issued thereafter in respect of the registration.

Certificates fraudulently or improperly obtained or used

- (3) On written application by any person and after notice to and hearing of all persons interested, or where the holding of a hearing is not possible, on receipt of a statutory declaration or such other evidence satisfactory to the Registrar General as may be adduced by a person interested, the Register General, if he is satisfied that a certificate was obtained or is being used for fraudulent or improper purposes, may make an order requiring the delivery to him of that certificate.

- (4) A person who has in his possession or under his control a certificate in respect of which an order has been made under subsection (1) or (3) shall forthwith, upon receipt of the order, deliver the certificate to the Registrar General, who shall preserve it in a permanent file together with the order and all documents relating thereto.

Certificate to be delivered to Registrar General

CORRECTIONS OF ERRORS IN REGISTRATIONS

22. (1) If, while the registration of a birth, stillbirth, marriage or death is in the possession of a district registrar or subregistrar it is reported to him that an error exists in the registration, he shall inquire into the matter and if he is satisfied that an error has been made he may correct the error according to the facts by making a notation of the correction on the registration without altering the original entry.
- (2) If the person who furnished the information contained in the registration to be corrected appears in person, the district registrar or subregistrar may permit correction by altering the original entry.
- (3) If, after a registration has been received or made by the Registrar General, it is reported to him that an error exists in the registration, the Registrar General shall inquire into the matter and, upon the production of evidence satisfactory to him verified by statutory declaration, he may correct the error by making a notation of the correction on the registration without altering the original entry.
- (4) If after the correction of an error, application is made for a certificate, the certificate shall be prepared as if the registration has been made containing correct particulars at the time of registration.

Corrections by district registrar or subregistrar

Correction by personal appearance

Correction by Registrar General

Certificate from registration after correction

ADMINISTRATION

23. The Commissioner may appoint
- (a) a Registrar General of Vital Statistics who shall be responsible for the administration of this Ordinance and for the direction and supervision of staff;

Appointments

Registrar General

Deputy Registrar General

(b) a Deputy Registrar General of Vital Statistics to assist the Registrar General and to perform the duties of that officer during the absence of the Registrar General or while the office of Registrar General is vacant; and

Inspectors

(c) an inspector or inspectors of Vital Statistics, to perform such duties as may be prescribed by the Registrar General.

Registration districts

24. (1) The Registrar General may establish registration districts and may from time to time extend, reduce, sub-divide or abolish any registration district or merge it in whole or in part with one or more registration districts.

Appointment of district registrar

(2) The Registrar General may appoint a district registrar for each registration district.

Appointment of subregistrar

25. A district registrar may appoint in writing one or more subregistrars who may exercise the powers and perform the duties of the district registrar within an area in the district.

Reports of district registrar

26. Every district registrar shall

(a) during the first week of each month prepare and transmit to the Registrar General as the mails permit, a report in Form J showing all births, marriages and deaths recorded by him during the previous month;

Register to be kept

(b) keep a register in the form prescribed of all births, marriages and deaths recorded by him;

Documents to be safeguarded

(c) retain all duplicate schedules, forms and documents received by him in a place of safety;

Violations to be reported

(d) under the supervision and direction of the Registrar General and in accordance with regulations enforce the Ordinance in his registration district and shall make an immediate report to the Registrar General of any violation of this Ordinance of which he has knowledge.

Reports of subregistrar

27. Every subregistrar shall,

- (a) on the first day of each month, prepare and transmit to his district registrar as the mails permit, a report in Form J showing each registration of birth, marriage or death reported to him, together with all documents received relevant thereto, and
 - (b) make an immediate report to the district registrar of any violation of the Ordinance of which he has knowledge. Violations to be reported
28. (1) The fees to be paid under this Ordinance shall be those provided in the Schedule. Fees payable
- (2) Except in the case of a delayed registration, no fee shall be charged for the registration of a birth, marriage or death. Where no fee payable
 - (3) Except in the case of a delayed registration and as provided in subsection (4), any person who claims, charges, or collects a fee for registration of a birth, marriage or death, is guilty of an offence against this ordinance. Offence
 - (4) A fee of twenty-five cents for each registration of birth, marriage or death shall be paid from the Yukon Consolidated Revenue Fund to Fees payable to subregistrar or district registrar
 - (a) a subregistrar receiving such a registration and returning it complete to the district registrar, or
 - (b) a district registrar receiving such a registration, except where the registration is received from a subregistrar, and returning it complete to the Registrar General.

SEARCHES

29. (1) Any person, upon applying, furnishing information satisfactory to the Registrar General and paying the prescribed fee, may, if the Registrar General is satisfied that the information is not to be used for an unlawful or improper purpose, have a search made Searches of registrations and church records

- (a) for the registration in his office of any birth, still-birth, marriage, death, adoption, change of name or dissolution or annulment of marriage, or
- (b) for the record of any baptism, marriage or burial placed on file in the office of the Registrar General under section 19.

Report on
search

- (2) The Registrar General shall make a report on the search which shall state whether or not the birth, stillbirth, marriage, death, adoption, change of name, or dissolution or annulment of marriage, baptism or burial is registered or recorded and, if registered, shall state the registration number thereof, and shall contain no further information.

ISSUANCE OF CERTIFICATE AND COPIES

Birth
certificate

30. (1) Any person, upon applying, furnishing information satisfactory to the Registrar General and paying the prescribed fee, may, if the Registrar General is satisfied that it is not to be used for an unlawful or improper purpose, obtain a certificate in Form E in respect of the registration of the birth of any person, which certificate shall contain the following particulars only of the registration;
- (a) the name of the person;
 - (b) the date of birth;
 - (c) the place of birth;
 - (d) the sex of the person;
 - (e) the date of registration; and
 - (f) the serial number of the registration.

Certified copy
of registration
of birth

- (2) A certified copy of the registration of a birth may be issued only.
- (a) to a person who requires it for a stated reason that in the opinion of the Registrar General justifies the issuance of the certified copy,

- (b) to an officer of Her Majesty in right of Canada who requires it for use in the discharge of his official duties, or
 - (c) to a person upon the order of a Judge, and only upon application and upon payment of the prescribed fee.
- (3) Any person, upon applying, furnishing information satisfactory to the Registrar General and paying the prescribed fee, may, if the Registrar General is satisfied that it is not to be used for an unlawful or improper purpose, obtain a certificate in Form F in respect of the registration of a marriage, which certificate shall contain the following particulars only of the registration:
- (a) the names of the parties to the marriage;
 - (b) the date of the marriage;
 - (c) the place where the marriage was solemnized;
 - (d) the date of registration; and
 - (e) the serial number of the registration.
- (4) A certified copy of the registration of a marriage may be issued only
- (a) to a party to the marriage;
 - (b) to a person requiring it for a stated reason where the stated reason in the opinion of the Registrar General justifies the issuance of the certified copy; or
 - (c) to a person upon the order of a Judge, and only upon application and upon payment of the prescribed fee.
- (5) Any person, upon applying, furnishing information satisfactory to the Registrar General and paying the prescribed fee, may, if the Registrar General is satis-

Marriage
certificate

Certified copy
of registration
of marriage

Death
certificate

fied that it is not to be used for an unlawful or improper purpose and subject to subsection (6) obtain a certificate in Form K in respect of the registration of a death.

Cause of death to be disclosed only in special cases

- (6) No certificate issued in respect of the registration of death shall be issued in such a manner as to disclose the cause of death as certified on the medical certificate, except,
 - (a) where required for a stated reason that in the opinion of the Registrar General justifies the issuance of the certified copies, or
 - (b) upon the order of a Judge.

Certified copy of registration of death

- (7) A certified copy of the registration of a death, may be issued only
 - (a) to a person who requires it for a stated reason that in the opinion of the Registrar General justifies the issuance of the certified copy, or
 - (b) to a person upon the order of a Judge, and only upon application and upon payment of the prescribed fee.

Certificates from church records

- (8) Any person, upon applying and paying the prescribed fee, may, with the approval of the Registrar General and subject to the same limitations as those respecting certified copies set out in subsections (2), (4) and (7), obtain a certificate in respect of the record of a baptism, marriage or burial placed on file under section 19.

No certificate of adoption, change of name, divorce or nullity of marriage

- (9) No certificate, certified copy or photographic print shall be issued under this Ordinance in respect of the registration of an adoption, change of name or dissolution or annulment of marriage.

Certificates to be issued only by Registrar General

- 31. (1) Every certificate or certified copy issued under section 30 shall be issued by the Registrar General and no person other than a person authorized by this Ordinance to do so shall issue any document.

- (2) Where the signature of the Registrar General, Deputy Registrar General, district registrar or subregistrar is required for any purposes of this Ordinance, the signature may be written, engraved or lithographed. Signatures
- (3) Every document issued under this Ordinance under the signature of the Registrar General is and remains valid, notwithstanding that such person has ceased to hold office before the issue of the certificate. Certificate valid after change of Registrar General
32. (1) Every certificate purporting to be issued under section 30 is admissible in evidence in any court in the Territory as *prima facie* evidence of the facts certified to be recorded, and every certified copy purporting to be issued under section 30 is so admissible as *prima facie* evidence of the facts recorded therein and it is not necessary to prove the signature or official position of the person by whom the certificate or certified copy purports to be signed. Certificates as evidence
- (2) Notwithstanding subsection (1) or any other Ordinance, no birth certificate and no certified copy of a registration of birth or stillbirth, purporting to be issued under section 30 is admissible in evidence to affect a presumption of legitimacy. Exception
33. (1) Where an application for the registration of a birth, stillbirth, marriage or death is refused by the Registrar General, if, within one year of the refusal, an application is made to a Judge, the Judge, upon being satisfied that the application is made in good faith and as to the truth and sufficiency of the evidence adduced on the application, and having regard to the standards respecting delayed registration set forth in the regulations for the guidance of the Registrar General may make an order requiring the Registrar General to accept the application and register the birth, stillbirth, marriage or death. Appeal from refusal of Registrar General to register
- (2) The Clerk of the Court shall forthwith send a copy of the order to the Registrar General who shall comply with the order and attach the copy to the registration. Registrar General to comply with order

Appeal from refusal of Registrar General to search or issue certificate

- (3) Where an application for a certificate or a search in respect of the registration of a birth, stillbirth, marriage or death is refused by the Registrar General, if within one year of the refusal, application is made to a Judge, the Judge upon being satisfied that the application is made in good faith and that the applicant has good reason for requiring the certificate or search, may make an order requiring the Registrar General to issue the certificate or make the search and the Clerk of the Court shall forthwith forward a copy of the order to the Registrar General who shall comply therewith.

Appeal from order of Registrar General

- (4) Where the Registrar General has made an order under section 21, any person interested may, within two years thereafter, appeal therefrom to a Judge, and the Judge may make an order confirming or setting aside the order of the Registrar General and the order of the Judge is final and binding on the Registrar General.

Notice

- (5) At least fourteen days notice of the application or appeal shall be served on the Registrar General.

GENERAL

Power to take affidavits

34. The Registrar General, Deputy Registrar General and every district registrar and subregistrar may take the affidavit or statutory declaration of any person for the purposes of this Ordinance.

Publication by Registrar General of statistical information

35. The Registrar General may compile, publish and distribute such statistical information respecting the births, stillbirth, marriages, death, adoptions, changes of name, and dissolutions and annulments of marriage registered during any period as he may deem necessary and in the public interest.

Records property of Her Majesty

- 36. (1) All records, books and other documents pertaining to any office under this Ordinance are the property of Her Majesty.

Delivery of records to successor

- (2) Where a vacancy occurs in any office under this Ordinance the person having the possession, custody or control of any books, records or other documents

pertaining to the office shall give up possession of and deliver them to the successor in office or to any person appointed by the Registrar General to demand and receive them, and any person who fails to comply with this subsection is guilty of an offence.

37. (1) No district registrar or subregistrar and no person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not entitled thereto any information obtained under this Ordinance or allow any such person to inspect or have access to any records containing information obtained under this Ordinance. Secrecy

(2) Nothing in subsection (1) prohibits the compilation, furnishing or publication of statistical data that does not disclose specific information with respect to any particular person. Exception

38. Every notation made under this Ordinance shall be effected without altering or defacing any entry on the registration, and shall be dated and initialled by the person making the notation. Notations

PENALTIES

39. (1) Every person who fails to give any notice, or to furnish any statement, certificate or particulars required under this Ordinance, within the time limited by this Ordinance, is guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars. Failure to carry out duties

(2) Where two or more persons are under a duty to give any notice, or to register, or to furnish any statement, certificate or particulars required under this Ordinance and the duty is carried out by any of such persons, the other or others are thereupon discharged from carrying out such duty. Compliance by one person sufficient

40. Every person who wilfully removes, defaces or destroys a public notice relating to the registration of births, stillbirths, marriages or deaths is guilty of an offence and liable on summary conviction to a fine not exceeding ten dollars. Interference with public notice

Failure to obtain permit for transportation of body

41. (1) Subject to subsection (2) and any other Ordinance, a common carrier transporting or carrying, or accepting through its agents or employees for transportation or carriage, the body of a deceased person without the prescribed burial permit issued under this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars.

Proviso

(2) If the death occurred outside the Territory and the body is accompanied by a burial permit issued in accordance with the law in force where the death occurred, the burial permit is sufficient to authorize the transportation or carriage of the body into or through the Territory.

Secrecy

42. Every person who violates section 37 is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars.

General penalty

43. Every person who fails to comply with or violates any provision of this Ordinance or the regulations, for which failure or violation no penalty is otherwise provided, is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars.

Consent to prosecutions

44. No prosecution shall be commenced under this Ordinance without the consent of the Registrar General.

REGULATIONS

Regulations

45. The Commissioner may make regulations,
- (a) prescribing the duties of the Registrar General;
 - (b) prescribing the duties of and records to be kept by the district registrars and subregistrars;
 - (c) prescribing the information and returns to be furnished to the Registrar General, and fixing the times when information and returns are to be transmitted;
 - (d) fixing the time when district registrars shall forward registrations to the Registrar General;

- (e) designating the persons who may have access to or may be given copies of, or information from, the records in the office of the Registrar General or of a district registrar, and prescribing an oath of secrecy to be taken by such persons;
- (f) for the registration of births, marriages, deaths, stillbirths, dissolutions and annulments of marriage, adoptions or changes of name in cases not otherwise provided for in this Ordinance;
- (g) providing for the waiver of payment of any fees in favour of any person or class of persons;
- (h) designating the persons who may sign registrations and notations;
- (i) prescribing the evidence on which the Registrar General may register a birth, stillbirth, marriage or death after one year from the date thereof;
- (j) prescribing the evidence on which the Registrar General may make a registration of birth in the case of a child legitimated by the inter-marriage of his parents, subsequent to his birth;
- (k) prescribing special forms for registration in respect of Indians;
- (l) authorizing every Indian superintendent in the Territory to act *ex officio* as district registrar for the Indians under his jurisdiction; and
- (m) for the purpose of effectively securing the due observance of this Ordinance, and generally for the better carrying out of the provisions thereof and obtaining the information required thereby.

DISINTERMENT

46. (1) Subject to the *Coroners Ordinance*

Authorizing
order required

- (a) no person shall disinter or assist in the disinterment of, and

- (b) no person being a cemetery owner shall in respect of his cemetery permit the disinterment of

the body of a deceased person which has been buried unless an order authorizing the disinterment has been secured pursuant to this section.

Reburial certificate required

(2) Subject to the *Coroners Ordinance*

- (a) no person shall rebury or assist in the reburial of, and

- (b) no person being a cemetery owner shall in respect of his cemetery permit the reburial of,

the body of a deceased person which has been disinterred unless a reburial certificate has been secured pursuant to this section.

Application

(3) Any person desiring to disinter a body buried in a cemetery, building or any other place in the Territory may make application to the Registrar General in the form of an affidavit setting out

- (a) the place where the body is buried;
- (b) the purpose of the proposed disinterment;
- (c) the place, if any, where it is intended to rebury the body.

Document and fee to accompany application

(4) An application shall be accompanied by,

- (a) the written consent of the medical officer for the area in which the body is buried to the disinterment of the body;
- (b) the prescribed fee; and
- (c) where the applicaton is by a person who is not the owner of the cemetery where the body is buried,

- (i) the consent of the owner of the cemetery where the body is buried, or
 - (ii) proof that reasonable notice of the application has been given to the owner of the cemetery where the body is buried.
- (5) If the Registrar General is satisfied that the disinterment should be allowed he may issue an order authorizing the disinterment. Order may be issued
- (6) An order made under subsection (5) is sufficient authority to the cemetery owner in which the body is buried to allow the disinterment thereof. Authority to cemetery owner
- (7) A person who disinters a body or causes a body to be disinterred pursuant to an order obtained under subsection (5) and disposes thereof in any manner other than that authorized by the order is guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding one month, or to both such fine and such imprisonment. Offence and penalty
- (8) The Registrar General may upon application accompanied by a fee of one dollar, issue a reburial certificate for the reburial of a body which has been disinterred. Burial permit
- (9) No fee is payable for the issuance of a reburial permit for the reburial of the body of a deceased person which has been disinterred upon a Coroner's Warrant. No fee for reburial upon Coroner's Warrant
47. The following Ordinances are repealed: Repeal
- (i) *The Vital Statistics Ordinance*, chapter 8 of the Consolidated Ordinances of 1914;
 - (ii) *An Ordinance to amend The Vital Statistics Ordinance*, chapter 2 of the Ordinances of 1929;
 - (iii) *An Ordinance to amend The Vital Statistics Ordinance*, chapter 7 of the Ordinances of 1944;

- (iv) *An Ordinance to amend The Vital Statistics Ordinance*, chapter 19 of the Ordinances of 1948; and
- (v) *An Ordinance to amend The Vital Statistics Ordinance*, chapter 3 of the Ordinances of 1951, (2nd session).

Coming into
force

48. This Ordinance shall come into force on the day on which the *Yukon Act*, chapter 53 of the Statutes of Canada 1952-53, comes into force.



SCHEDULE
SCHEDULE OF FEES

1. Search 50¢
2. Certificate of registration 50¢
3. Certified copy of registration 75¢
4. Delayed registration 50¢
5. Disinterment order5.00

FORM A

CERTIFICATE OF REGISTRATION OF BIRTH

- | | |
|---------------------------------|---|
| | Registered No. |
| 1. Place of birth | 2. Full name of child |
| 3. Sex of child | 4. Single, twin, triplet ,
or other? |
| 5. Was the child born
alive? | 6. Are parents married? |
| | 7. Date of birth |

FATHER

MOTHER

- | | |
|---|---|
| 8. Full name | 15. Full maiden name |
| 9. Residence at time of
this birth | 16. Residence at time of
this birth |
| 10. Nationality | 17. Nationality |
| 11. Racial origin | 18. Racial origin |
| 12. Age at time of this
birth years | 19. Age at time of this
birth years |
| 13. Birthplace | 20. Birthplace |
| 14. Occupation | 21. Children of this mother
(including the present
birth) |
| (a) Trade or
profession | (a) Number born alive |
| (b) Business in which
employed | (b) Number now living |
| | (c) Number stillborn
(born dead after
twenty-eight
weeks' pregnancy) |

- 22. Was this a premature birth?
If premature, state length of pregnancy in completed weeks
- 23. Name of physician in attendance at birth
- 24. Person giving information sign here Address
- 25. Place of marriage of parents
- 26. Date of marriage of parents
- 27. Date of registration

Registrar of Vital Statistics

FORM B

YUKON TERRITORY

CERTIFICATE OF REGISTRATION OF MARRIAGE

Registered No.

District of

Sub-district of

BRIDEGROOM

- 1. Full name
- 2. Occupation
- 3. Bachelor, Widower or Divorced
- 4. Age
- 5. Religious denomination
- 6. Residence
- 7. Place of birth
- 8. Name of father
- 9. Place of birth of father
- 10. Maiden name of mother
- 11. Can bridegroom read?
Write?

BRIDE

- | | |
|---------------------------------|---------------------------|
| 12. Full name | 13. Occupation |
| 14. Spinster, Widow or Divorced | 15. Age |
| 16. Religious denomination | 17. Residence |
| 18. Place of birth | 19. Name of father |
| 20. Place of birth of father | 21. Maiden name of mother |
| 22. Can bride read? Write? | |

23. Date of marriage day of 19

24. Place of marriage

25. By licence or banns
Groom

26. Signature of
Bride

27.	Name
Signatures	Address
of	
Witnesses	Name
	Address

I certify the above stated particulars are true to the best of my knowledge and belief:

Clergyman
Address
Religious denomination

Registered No. Filed at this office day
of 19

Registrar of Vital Statistics

FORM C

YUKON TERRITORY

CERTIFICATE OF REGISTRATION OF DEATH

Registered No.

- | | |
|--|-------------------|
| 1. Place of Death | 2. Length of Stay |
| 3. Name of Deceased
Residence | 4. Sex |
| 5. Nationality
(Citizenship) | 6. Racial Origin |
| 7. Single, Married,
Widowed or Divorced | 8. Birth place |
| 9. Date of Birth | 10. Age |

Occupation

11. Trade, profession or kind of work
12. Kind of industry or business
13. Date deceased last worked at this occupation
14. Total years spent in this occupation
15. If married give name of wife or husband of deceased

FATHER

- | | |
|----------|----------------|
| 16. Name | 17. Birthplace |
|----------|----------------|

MOTHER

- | | |
|--|--------------------------|
| 18. Maiden name | 19. Birthplace |
| 20. Person giving information sign here
Address | Relationship to deceased |
| 21. Place of Burial, Cremation or Removal
Date of burial or removal | |
| 22. Undertaker | |

Medical Certificate of Death

23. Date of Death

24. I hereby Certify that I attended deceased from.....
19..... to19..... and last saw h.....
 alive on.....19.....

Cause of Death

- (a) Immediate cause
- (b) Morbid conditions, if any, giving rise to immediate cause
- (c) Other morbid conditions (if important) contributing to death but not causally related to immediate cause.

25. If a woman, was the death associated with pregnancy?

26. Was there a surgical operation?.....
 Date of operation.....19.....
 State findingsWas there an autopsy?.....

27. If death was due to external causes (violence) fill in also the following:—
 Accident, suicide or homicide?.....
 Date of injury.....19.....
 Manner of injury
 Nature of injury
 Specify whether injury occurred in industry, in home, or in public place
 Signed byM.D.
 Address Date19.....

28. Registrar's Record Number

29. Filed.....19.....

Registrar of Vital Statistics

FORM D

Vital Statistics Yukon Territory

BURIAL PERMIT

I, Registrar at do hereby certify that particulars of the undermentioned death have been duly registered, and permission is hereby granted for the burial of the body.

Name of Deceased

Place of death Date of death

Age Sex

Name and address of undertaker or person

in charge of funeral arrangements Given under my hand at this day of 19

..... Registrar

FORM E

Vital Statistics Yukon Territory

CERTIFICATE OF BIRTH

Name

Date of Birth

Place of Birth Sex

Date of Registration Registration No.

Issued at on the day of , 19

..... Registrar General

FORM F

Vital Statistics

Yukon Territory

Canada

CERTIFICATE OF MARRIAGE

Name of Bridegroom

Name of Bride

Date of Marriage

Place of Marriage

Date of Registration.....Registration No.....

Issued at

on the day of

, 19 .

.....
Registrar General

FORM G

Vital Statistics

Yukon Territory

Return of the.....Cemetery at.....
For quarter ending19.....

- 1. Name of deceased
- 2. Sex
- 3. Place of death
- 4. Date interment
- 5. If Cemetery surveyed
state number of lot,
otherwise describe place of interment, from nearest
boundary of cemetery
- 6. Name and address of registrar who issued burial permit

I hereby certify that the above is a correct
return of the persons interred in
.....Cemetery during quarter
year ending19.....

(Caretaker, Superintendent, Owner, Clergy-
man or other person in charge)

P.O. Address

(Obverse side)
FORM H

Vital Statistics for the Yukon Territory

PHYSICIAN'S NOTICE OF BIRTH

To the District Registrar at

I beg to notify you of the following birth in accordance with the Vital Statistics Ordinance, section 3.

Date of Birth Sex.....
 Place of Birth
 Name of Father
 Maiden Name of Mother.....
 Address of Parents..... Single, Twins.....
 Was child born alive..... Triplets.....
 Signature of Physician
 Address of Physician Date.....

(Reverse side)

DOMINION STATISTICS—FREE

(Penalty for improper use \$50.00)

To be forwarded by
 attending Physician to
 the local Registrar who
 will obtain registration
 from parents.



District Registrar of Vital
 Statistics,

.....

Post Office
 Canada

FORM J

Vital Statistics Yukon Territory
MONTHLY RETURN FORM

To

Enclosed find returns in duplicate for the month of.....
.....19.....

Births.....
Marriages.....
Deaths.....
Stillbirths.....

Total

.....
District Registrar

.....
Address

Date.....19.....

FORM K

Vital Statistics Yukon Territory
Canada

CERTIFICATE OF DEATH

Name of Deceased
Date of Death Sex.....
Marital Status Age.....
Place of Death
Date of Registration Registration No.....
Issued at
on the day of
 , 19 .

.....
Registrar General

CHAPTER 39

 ORDINANCES OF YUKON TERRITORY
 1954 (Third Session)

 AN ORDINANCE TO AMEND THE
 "MUNICIPAL ORDINANCE"

(Assented to November 20, 1954.)

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

1. The "Municipal Ordinance", chapter 8 of the Ordinances of 1949 (second session) is amended by inserting immediately after paragraph (56) of section 172 thereof the following paragraph:

Section 172
amended

"(56A) preventing children below a specified age from being on the streets or other public places in the municipality after a specified hour at night or at any time fixed by by-law and providing for a daily public curfew notice and for the imposition of a fine or other penalty upon any child or the parent or guardian of any child for the breach of such by-law."

Curfew

2. The said Ordinance is further amended by repealing Section 184 and substituting therefor the following section:

"184. The Council of the City of Dawson shall appoint an officer who shall be called the City Clerk and who shall hold office during pleasure and perform the duties of a municipal clerk and treasurer of the City of Dawson."

City Clerk
Dawson

CHAPTER 40

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE TO AMEND
"THE YUKON TERRITORIAL PUBLIC
SERVICE ORDINANCE"

(Assented to November 20, 1954.)

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

Section 2
substituted

1. "The Yukon Territorial Public Service Ordinance," being chapter 76 of the Consolidated Ordinances of 1914, is hereby amended by repealing section 2 and substituting therefor the following:

"2. In this Ordinance

"head of
department"
defined

(a) "head of Department" or "head" means the officer appointed for the time being to take charge of a Department, and

"public lands"
defined

(b) "public lands" means lands belonging to Her Majesty in right of Canada and includes lands of which the Government of Canada has power to dispose."

Section 16
substituted

2. Section 16 of the said Ordinance is repealed and the following substituted therefor:

Cheque
signatures

"16. Every expenditure of public money shall be made by cheque on a chartered bank and such cheque shall be signed by

(a) the Treasurer or in his absence or illness by an employee appointed by the Commissioner, and

- (b) the Commissioner or an employee appointed by him other than the employee appointed to act in the absence or illness of the Treasurer."

3. The said Ordinance is further amended by repealing section 45 as enacted by chapter 12 of the Ordinances of 1949 (first session) and substituting therefor the following:

Section 45 substituted

- "45. (1) Without the permission in writing of the Commissioner, no officer, clerk or servant appointed under the provisions of this Ordinance shall directly or indirectly in his own name or that of any other person purchase or acquire any public lands or any interest therein.
- (2) No officer, clerk or servant appointed under this Ordinance or any person on his behalf or any person in partnership with him shall enter into or obtain any interest directly or indirectly in any contract entered into by or with the Government of the Yukon Territory.
- (3) Notwithstanding subsection (1) or (2) an officer, clerk or servant appointed under this Ordinance may be interested as a shareholder in any corporation or company purchasing or acquiring public lands or entering into a contract by or with the Government of the Yukon Territory, but he may not serve or act as a director, manager, adviser or other officer of such corporation or company.
- (4) Any officer, clerk or servant appointed under this Ordinance violating any of the provisions of this section shall be liable to summary dismissal on the order of the Commissioner but his dismissal shall not affect the right which any person may have to bring against him any civil or criminal action."

Purchase of public lands by public servants

Contracts by public servants with government

Public servants as shareholders

Penalty

CHAPTER 41

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE TO AMEND THE
"ANNUITY PLAN ORDINANCE"

(Assented to November 20, 1954.)

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

1. The "Annuity Plan Ordinance" being chapter 4 of the Ordinances of 1950 (1st session) is amended by repealing section 4A as enacted by chapter 3 of the Ordinances of 1951 (1st session) and amended by chapter 10 of the Ordinances of 1952 (1st session) and substituting therefor the following section:

Section 4A
substituted

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

CHAPTER 42

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE TO AMEND THE
"ASSIGNMENTS OF BOOK DEBTS ORDINANCE"

(Assented to November 20, 1954.)

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

1. The "Assignments of Book Debts Ordinance" chapter 2 of the Ordinances of 1954 (first session) is hereby amended by striking out the words "or police magistrate" wherever the name appears in section 14, 15 and 16 of the said Ordinance.

Sections 14
15 and 16
amended

CHAPTER 43

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE TO AMEND THE
WORKMEN'S COMPENSATION ORDINANCE

(Assented to November 20, 1954.)

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

1. Section 6 of the Workmen's Compensation Ordinance Chapter 12 of the Ordinances of 1952 (second session) is amended by adding thereto the following subsections:

Employer
deemed to
be workman

"(2) An employer who is himself insured against injury or death by the terms of a contract of insurance entered into by him under this Ordinance for the protection of his workmen is deemed to be a workman for the purposes of this Ordinance.

Amount to be
included as
employer's
remuneration

(3) Every employer who is insured as described in subsection (2) shall include in the payroll referred to in subsection (1) of section 42 an amount for each month of the year while so insured not exceeding two hundred and fifty dollars and the amount so included in respect of any such period shall, for the purposes of this Ordinance and any contract of insurance entered into by him under this Ordinance, be deemed to be his remuneration for that period."

CHAPTER 44

ORDINANCES OF YUKON TERRITORY
1954 (Third Session)

AN ORDINANCE TO AMEND THE
"GOVERNMENT LIQUOR ORDINANCE"

(Assented to November 22, 1954.)

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

1. The Government Liquor Ordinance, chapter 14 of the Ordinances of 1952 (first session) is amended Section 2
amended

(a) by inserting immediately after the definition of "bottle" where the same appears in Section 2 thereof the following definition:

" 'cocktail lounge' means a room equipped with such facilities as are approved by the Commissioner in licensed premises other than licensed premises for which a club licence has been issued", and Cocktail
lounge

(b) by inserting immediately after the definition of "store" where the same appears in said section 2 thereof the following definition:

" 'tavern' means a room in licensed premises where beer only may be sold and consumed." Tavern

2. Section 30 of the said Ordinance is repealed and the following substituted therefor: Section 30
amended

"30 (1) Every person other than a corporation who violates a provision of this Ordinance or the regulations for which no other penalty is provided in this Ordinance, is guilty of an offence and is liable upon summary conviction General
penalty for
persons

- First offence (a) for the first offence, to a fine not exceeding one hundred dollars or in default of immediate payment of such fine, to imprisonment with hard labour for a term not exceeding one month;
- Second offence (b) for the second offence to a fine not exceeding three hundred dollars or in default of immediate payment of such fine to imprisonment with hard labour for a term not exceeding four months; and
- Third offence, etc (c) for the third or subsequent offence to a fine not exceeding five hundred dollars, or in default of immediate payment of such fine, to imprisonment with hard labour for a term not exceeding six months or to both fine and imprisonment.
- General penalty for corporations (2) Every corporation that violates a provision of this Ordinance or the regulations for which no other penalty is provided in this Ordinance, is guilty of an offence and is liable upon summary conviction.
- First offence (a) for the first offence to a fine not exceeding one thousand dollars; and
- Second or subsequent offence (b) for the second or subsequent offence to a fine not exceeding three thousand dollars."
- Section 68 amended 3. Section 68 of the said Ordinance is repealed and the following substituted therefor:
- Payments for liquor "68. (1) The funds of the Liquor Account may be paid out by the Commissioner from time to time in payment of stocks of liquor for Government Liquor Stores, salaries and other expenses incidental to the conducting of said stores.
- Signatures (2) All payments made under this section shall be by cheque drawn on the Liquor Account, signed by
- (a) the Treasurer, or in his absence or illness by an employee appointed by the Commissioner, and
- (b) the Commissioner, or an employee appointed by him other than the employee appointed to act in the absence or illness of the Treasurer."

CHAPTER 45

 ORDINANCES OF YUKON TERRITORY
 1954 (Third Session)

 AN ORDINANCE TO AMEND THE
 GASOLINE AND DIESEL OIL TAX ORDINANCE

(Assented to November 20, 1954.)

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

1. Section 2 of the *Gasoline and Diesel Oil Tax Ordinance*, chapter 3, of the Ordinances of 1949, (second session), is amended by striking out the words, "and commonly known or sold as diesel or twenty-seven plus oil" where the same appears at the end of the definition of "Diesel Oil".

Section 2
amended.

CHAPTER 46

ORDINANCES OF THE YUKON TERRITORY
1954 (Third Session)AN ORDINANCE FOR GRANTING TO THE
COMMISSIONER CERTAIN SUMS OF MONEY TO
DEFRAY THE EXPENSES OF THE PUBLIC SERVICE
OF THE TERRITORY

(Assented to November 20, 1954.)

WHEREAS it appears by message from Wilfred George Brown, Esquire, Commissioner of the Yukon Territory, and in the estimates accompanying the same, that the sums hereinafter mentioned in Schedule "A" to this Ordinance are required to defray certain expenses of the Public Service of the Yukon Territory and for the purposes relating thereto, for the twelve months ending March 31, 1955.

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

1. From and out of the Yukon Consolidated Revenue Fund there may be paid and applied a further sum not exceeding in the whole one hundred and thirty-one thousand two hundred and sixty dollars for defraying the several charges and expenses of the Public Services of the Yukon Territory and for the twelve months ending March 31, 1955, as set forth in Schedule "A" of this Ordinance.
2. The due application of all monies expended shall be duly accounted for.

GOVERNMENT OF THE YUKON TERRITORY

SCHEDULE "A"

Sums granted to the Commissioner by the Ordinance for the twelve months ending March 31st, 1955, and the purpose for which they are granted.

Vote
No.

1.	Legislative Council		
	Travelling Expenses	\$	750.00
3	Education		
	Salaries	\$	4,000.00
	School Supplies		2,000.00
	Rental of Land, Buildings		300.00
	Public Utilities Service		2,100.00
	Grants		3,000.00
			<u>11,400.00</u>
5	Health and Public Welfare		
	Special Grant to Hospital		13,700.00
6	Municipal and Town Administration		
	Material and Supplies	\$	300.00
	Repairs and Upkeep of Equipment		600.00
	Contingencies		150.00
			<u>1,050.00</u>
9	Roads, Bridges and Public Works		
	Materials and Supplies	\$	2,000.00
	Rentals of Equipment		8,000.00
	Whitehorse-Mayo Highway		14,260.00
			<u>24,260.00</u>
10	Capital Account		
	Stewart-Crossing-Dawson Road-Construction		35,000.00

Construction of Buildings

Whitehorse - New		
Teacherage	20,000.00	
Mayo School	6,400.00	
Carcross School	2,700.00	29,100.00
	<hr/>	

Public Building - Furnishings

Whitehorse - New		
Teacherage	12,000.00	
Mayo - Teacherage	2,000.00	
Elsa - Teacherage	1,000.00	
Watson Lake - Teacherage	1,000.00	16,000.00
	<hr/>	

\$131,260.00

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