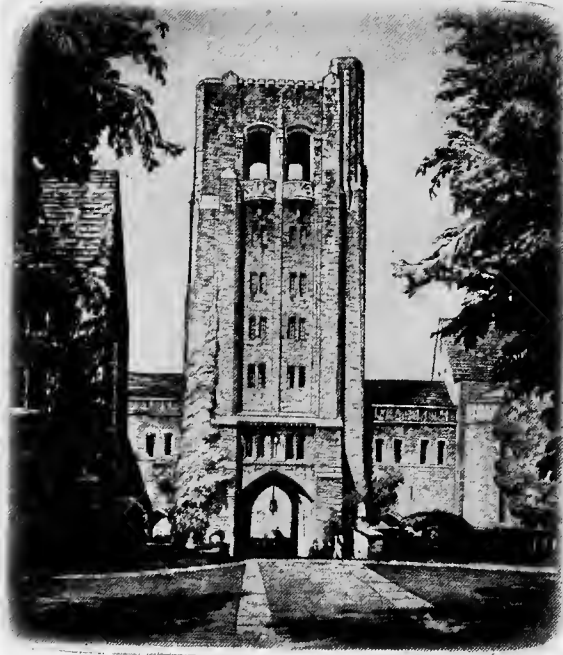


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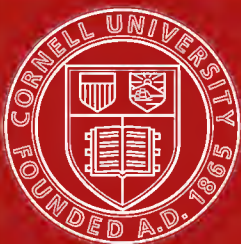
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*Edwards, etc. (Consolidated Ordinances, 1902)*

# CONSOLIDATED ORDINANCES

OF THE

## YUKON TERRITORY

1902

Being a Consolidation of The Consolidated Ordinances of the  
North-West Territories, 1898, with the subsequent  
Public General Ordinances

OF THE

## COUNCIL OF THE YUKON TERRITORY



PRINTED BY DIRECTION OF THE COMMISSIONER OF THE YUKON TERRITORY

1903

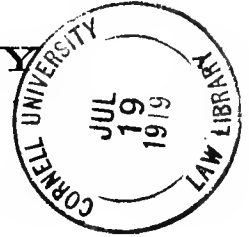


# THE CONSOLIDATED ORDINANCES

OF THE

## YUKON TERRITORY

1902



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# PROCLAMATION

BRINGING THE CONSOLIDATED ORDINANCES, 1902, INTO FORCE.



[L.S.]

F. T. CONGDON,  
*Commissioner.*

CANADA, )  
YUKON TERRITORY. )

## PROCLAMATION.

To all to whom these presents shall come :—

GREETING.

**W**HEREAS in and by a certain Ordinance of the Council of the Yukon Territory, assented to by the Commissioner of the said Territory on the eleventh day of September, one thousand nine hundred and two, and intituled "An Ordinance to authorize the consolidation of the Ordinances," it was, amongst other things, enacted that so soon as the consolidation of the Ordinances should be completed the Commissioner might cause a correct Roll thereof, attested under his signature and countersigned by the Clerk of the Council, to be deposited in the office of the Territorial Secretary, and that the Commissioner after such deposit, might by proclamation declare the day on, from and after which the same should come into force and have effect as law by the designation of "The Consolidated Ordinances of the Yukon Territory, 1902."

AND WHEREAS the Commissioners appointed under said Ordinance have completed the said consolidation and I have caused a correct Roll thereof to be deposited in the office of the Territorial Secretary ;

Now KNOW YE that I do by this my proclamation declare that the said Roll so attested and deposited shall come into force and have effect as law by the designation of "The Consolidated Ordinances of the Yukon Territory, 1902," on, from and after the tenth day of the month of July, in the year one thousand nine hundred and three.

Given under the hand of the Commissioner of the Yukon Territory, and issued under the seal of the said Territory this seventeenth day of June, one thousand nine hundred and three, and in the third year of His Majesty's Reign.

By command,

J. N. E. BROWN,  
*Territorial Secretary.*



## ORDINANCE No. 21 OF 1902.

An Ordinance to authorize the Consolidation of the Ordinances.

[Assented to September 11th, 1902.]

**WHEREAS** it is expedient that measures should be adopted for consolidating the Ordinances of the Yukon Territory:

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

1. It shall be lawful for the Commissioner to issue a commission to one or more person or persons, constituting him or them Commissioner or Commissioners for consolidating the Ordinances of the North-West Territories in force in the Yukon Territory and the Ordinances of the Yukon Territory, and from time to time in case of the death, or refusal or incapacity to act of any or either of the said Commissioners, to appoint some other person or persons to be a Commissioner or Commissioners as aforesaid to accomplish the purpose of this Ordinance. Commissioners to be appointed to consolidate Ordinances.
2. The said Commissioner or Commissioners shall be and he or they is or are hereby fully authorized and empowered to prepare and arrange for publication of the said Ordinances, to omit all such Ordinances and parts of Ordinances which have expired, been repealed or had their effect, and all Ordinances repealing any or any parts or any Ordinances as well as the Ordinances and parts of Ordinances repealed, and the schedules of all such repealed or repealing Ordinances, and to alter the numbers of the said Ordinances and the sections thereof, and without in any manner changing or affecting the legal effect of the said Ordinances, correct any misprint or error, or any contradiction or ambiguity in the said Ordinances, and make such alterations in the language of the said Ordinances, as are requisite in order to preserve a uniform mode of expression, and may make such minor amendments as are necessary to correct clerical or typographical errors, and to frame a comprehensive index to the entire work. Powers of commissioners

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

**4.** So soon as the said consolidation of such Ordinances has been completed the Commissioner may cause a correct roll thereof (which may be partly printed and partly written), attested under his signature and countersigned by the Clerk of the Council, to be deposited in the office of the Territorial Secretary, which roll shall be held to be the original thereof and to embody the several Ordinances and parts of Ordinances mentioned as repealed in schedule 2 thereto annexed; any marginal notes, however, and headings in the body of the Ordinances and references to former enactments being held to form no part of the said Ordinances but to be inserted for convenience of reference only.

**5.** The Commissioner after such deposit of the said last mentioned roll may by proclamation declare the day of, from and after which the same shall come into force and have effect as law by the designation of "The Consolidated Ordinances of the Yukon Territory, 1902."

**6.** On and from such day the same shall accordingly come into force and effect by the said designation to all intents as though the same were expressly embodied in and enacted in this Ordinance to come into force and to have effect on and from such day; and on and from the same day all the enactments in the several Ordinances and parts of Ordinances in schedule 2 mentioned as far as they relate to the Territory shall stand and be repealed to the extent mentioned in the said schedule save only as hereinafter is provided.

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

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

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

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

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

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

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

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

(a.) Penalty, forfeiture and liability ;

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

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

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

(e.) Marriage certificate and registry thereof and every such other matter and thing, and the force and effect thereof respectively may and shall continue as if no such repeal had taken place, and so far as necessary may be continued, prosecuted, enforced and proceeded with under the said Consolidated Ordinances of the Territory and other Ordinances and laws having force in the Territory, so far as applicable thereto and subject to the provisions of the said several Ordinances and laws.

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

Consolidated  
Ordinances  
not to be  
deemed  
new law.



amongst the said Consolidated Ordinances of the Territory ;

Construction where the same in effect as the repealed Ordinances.

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

Reference to repealed Ordinance in former Ordinance.

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

Effect of insertion of an Ordinance in schedule II.

**11.** The insertion of any such Ordinance in the said schedule 2 shall not be construed as a declaration that such Ordinance or any part of it was or was not in force immediately before the coming into force of the said Consolidated Ordinances.

Copies printed by direction of commissioner to be evidence

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

Distribution of copies.

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

This Ordinance to be printed with Consolidated Ordinances.

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

Citation of Consolidated Ordinances.

**15.** Any chapter of the said Consolidated Ordinances may be cited and referred to in any Ordinance or proceeding whatsoever either by its title as an Ordinance or by its short title or by using the expression "The Consolidated Ordinance respecting —" (adding the remainder of the title at the beginning of the particular chapter) or by using the expression "The Consolidated Ordinances 1902 chapter —" (adding the number of the particular chapter printed in the copies printed under the direction of the Commissioner).

# THE YUKON TERRITORY ACT.

61 VICTORIA, CHAP. 6.

As amended up to the date of the coming into force of the Consolidated Ordinances, 1902.

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

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

As amended by 62-63 Victoria, Chapter 11. [Assented to 11th August, 1899.]

*(Consolidated for Office Purposes.)*

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

1. This Act may be cited as *The Yukon Territory Act*. Short title.
2. The territory described in the schedule to this Act, is hereby constituted and declared to be a separate territory under the name of the Yukon Territory, and the same shall no longer form part of the North-west Territories. (S. 13, c. 41, 1 Edw. VII.) The Yukon Territory defined and constituted.
3. The Governor in Council may, by instrument under the Great Seal, appoint for the Yukon Territory a chief executive officer, to be styled and known as the Commissioner of the Yukon Territory. Commissioner
4. The Commissioner shall administer the government of the Territory under instructions from time to time given him by the Governor in Council or the Minister of the Interior. Administra-  
tion of  
Government.
5. The Governor in Council, by warrant under his Privy Seal, may constitute and appoint such and so many persons, from time to time, not exceeding six persons, as may be deemed desirable, to be a Council to aid the Commissioner in the administration of the Territory, and such persons so appointed to the Council shall, before entering upon the duties of their office, take and subscribe before the Commissioner such oaths of allegiance and office as the Governor in Council may prescribe. Composition  
of Council.  
  
Appointed  
members.  
  
Oaths of office.

- Quorum.** 2. A majority of the Council, including the Commissioner, shall form a quorum.
- Elected members.** 3. The natural-born and naturalized male British subjects in the Territory, who have attained the full age of twenty-one years and continuously resided there for a period of not less than twelve months, shall elect five representatives to the Territorial Council, and such representatives shall have the same power and be charged with the same duties as those members of the Council who are appointed by the Governor in Council; and any person qualified to vote shall be eligible for election.
- Powers and duties.**
- Qualification.** 4. The Commissioner in Council shall, by Ordinance, make all necessary provisions for the election of such representatives.
- Provisions for election.**
- Term of office.** 5. Such representative members of the Council shall hold office for two years from the date when they are returned as elected. (S. 1, c. 11, 62-63 V., part.)
- Powers to make ordinances.** 6. The Commissioner in Council shall, subject to the provisions of any Ordinance of the Governor in Council, have the same powers to make Ordinances for the government of the Territory as are at the date of this Act possessed by the Lieutenant Governor of the North-west Territories, acting by and with the advice and consent of the Legislative Assembly thereof, to make Ordinances for the government of the North-west Territories: Provided that the Commissioner in Council may, subject as aforesaid, notwithstanding anything to the contrary in any Act of Parliament, make Ordinances for the control and regulation of the sale of and traffic in intoxicating liquor in the Territory. (S. 2, c. 34, 2 Edw VII)
- Disallowance by Governor in Council.** 7. A copy of every such Ordinance made by the Commissioner in Council shall be despatched by mail to the Governor in Council within ten days after the passing thereof, and shall be laid before both Houses of Parliament as soon as conveniently may be thereafter, and any such Ordinance may be disallowed by the Governor in Council at any time within two years after its passage.
- Ordinances by Governor in Council. Restrictions.** 8. Subject to the provisions of this Act, the Governor in Council may make Ordinances for the peace, order and good government of the Territory, and of His Majesty's subjects and others therein; but no such Ordinance shall—
- Penalties.** “(a.) for the enforcement of any Ordinance, impose any penalty exceeding five hundred dollars;
- Punishments.** “(b.) alter or repeal the punishment provided in any Act of the Parliament of Canada in force in the Territory for any offence;
- Public lands; customs or excise duties.** “(c.) appropriate any public land or other property of Canada without authority of Parliament, or impose any duty of customs or any excise;

Nor shall any tax be imposed by Ordinance except as in this Act provided: Provided always that the Governor in Council may make Ordinances—

Imposing taxes.

“(d.) imposing a tax or royalty (not exceeding five per cent thereof) upon gold and silver the output of mines in the Territory, to be levied from and after the date of the Ordinance imposing it;

“(e.) prescribing and regulating the place and manner of collection of such tax or royalty, and the methods of securing and enforcing the payment thereof;

“(f.) providing for the confiscation and forfeiture of gold and silver upon which such tax or royalty has not been duly paid, as well as for the confiscation and forfeiture of any vessel, vehicle, cart, or other receptacle containing it, or used or intended to be used for the transportation thereof;

“(g.) giving to any officer of the Crown, in respect of searches, examinations, and other proceedings for the enforcement of the provisions of any such Ordinance, all such powers, rights, privileges, and protection as officers of customs have under the provisions of *The Customs Act*.

2. Every Ordinance made under the authority of this section shall remain in force until the day immediately succeeding the day of prorogation of the then next session of Parliament, and no longer, unless during such session of Parliament such Ordinance is approved by resolution of both Houses of Parliament.

Approval of Parliament.

3. Every Ordinance made by the Governor in Council under the provisions of this Act shall have force and effect only after it has been published for four successive weeks in *The Canada Gazette*; and all such Ordinances shall be laid before both Houses of Parliament within the first fifteen days of the session next after the date thereof. (S. 3, c. 34, 2 Edw. VII.)

Publication.

(Sa.) No intoxicating liquor or intoxicants shall be manufactured, compounded, or made in the Territory, nor shall any intoxicating liquor or intoxicants be imported or brought into the Territory from any province or territory in Canada or elsewhere except by permission of the Governor in Council. (S. 3, c. 11, 62-63 V.)

As to manufacture and importation of intoxicants.

(Sb.) All intoxicating liquors or intoxicants imported or brought from any place out of Canada, as aforesaid, shall be subject to the customs and excise laws of Canada. (S. 4, c. 11, 62-63 V.)

Customs and excise laws to apply.

(Sc.) The terms “intoxicating liquors” and “intoxicants” shall, in this Act, have the same meaning attached to them respectively as is given by paragraphs (e) and (f) of section 2 of *The North-West Territories Act*. (S. 5, c. 11, 62-63 V.)

Interpretation.  
“Intoxicating liquors,”  
“intoxicants.”  
R.S.A., c. 50,  
s. 2 paras.  
(e.) (f.).

Existing laws to remain in force until altered by the proper legislative authority.

**9.** Subject to the provisions of this Act, the laws relating to civil and criminal matters and the Ordinances as the same exist in the North-West Territories at the time of the passing of this Act, shall be and remain in force in the said Yukon Territory in so far as the same are applicable thereto until amended or repealed by the Parliament of Canada or by any Ordinance of the Governor in Council or the Commissioner in Council made under the provisions of this Act.

Territorial Court constituted.

**10.** There is hereby constituted and appointed a superior court of record in and for the said Territory, which shall be called the Territorial Court.

Judges.

The said court shall consist of one or more judges, who shall be appointed by the Governor in Council by letters patent under the Great Seal.

Their qualifications.

2. Any person may be appointed judge of the court who is or has been a judge of a superior or a county court of any province of Canada or of the North-West Territories, or a barrister or advocate of at least ten years' standing at the bar of any such province or of the North-West Territories.

Their dis-qualifications.

3. A judge of the court shall not hold any other office or emolument under the Government of Canada, or of any province of Canada or of the said Territory, but this provision shall not prevent a judge from being eligible for appointment as a member of the Council of the said Territory.

Law as to judges and jurisdiction of the court.

**11.** The law governing the residence, tenure of office and oath of office of the judge or judges of the court, and the rights, privileges, power, authority and jurisdiction of the court and the judge or judges thereof, shall be the same, *mutatis mutandis*, as the law governing the residence, tenure of office and oath of office of the judges, and the rights, privileges, power, authority and jurisdiction of the Supreme Court of the North-West Territories and of the judges of that court, except as the same are expressly varied by this Act.

Appeals from Territorial Court to Supreme Court of Canada.

**(11a.)** An appeal shall lie from any final judgment of the Territorial Court to the Supreme Court of Canada where the matter in controversy amounts to the sum or value of two thousand dollars or upwards, or where the title to real estate or some interest therein is in question, or the validity of a patent is affected, or the matter in question relates to the taking of an annual or other rent, customary or other duty or fee, or a like demand of a public or general nature affecting future rights, or in cases of proceedings for or upon mandamus, prohibition or injunction.

In cases relating to mining lands.

2. An appeal shall also lie to the Supreme Court of Canada from any final judgment of the Court of Appeal constituted by the Ordinance of the Governor in Council of the eighteenth day of March, 1901, governing the hearing and decision of disputes in relation to mining lands in the Yukon Territory. (S. 4, c. 35, 2 Edw. VII.)



(11b.) The Territorial Court *en banc* shall sit at such times and places as the Commissioner appoints, and the sittings thereof may be adjourned from time to time as may be necessary. (S. 5, c. 35, 2 Edw. VII.)

Sittings of  
Territorial  
Court *in banc*.

(11c.) At such sittings the court may hear and dispose of motions for new trials, appeals, and motions in the nature of appeals, and any other business or matter within the jurisdiction of the Territorial Court.

Jurisdiction.

(11d.) Subject to the provisions of any Act or Ordinance relating to the Territorial Court, the judges of the said court may make general rules and orders prescribing and regulating the procedure and practice of the court in civil matters.

Rules of  
court in civil  
matters.

12. Sittings of the court presided over by a judge or judges shall be held at such times and places as the Governor in Council or the Commissioner appoints and such sittings shall be public.

Sittings of  
the court.

13. The Governor in Council may appoint such officers of the court as may be deemed necessary, and may define and specify the duties and emoluments of the officers so appointed.

Officers of  
the court.

14. The judge of the Supreme Court of the North-West Territories assigned to the Yukon Judicial District at the time this Act comes into force, and the officers of that court for the said district, shall be the judge and officers of the Territorial Court until otherwise provided, but the said judge may at his option, at any time within twelve months after this Act comes into force, resume his office as one of the judges of the Supreme Court of the North-West Territories, his transfer to that court being in such case made by Order of the Governor in Council.

Provisional  
appointment  
of judge and  
officers.

15. The procedure in criminal cases in the Territorial Court shall, subject to the provisions of any Act of the Parliament of Canada, conform as nearly as possible to the procedure existing in like cases in the North-West Territories at the time of the passing of this Act.

Procedure in  
criminal cases.

16. While in the said Yukon Territory the Commissioner of the Territory, each member of the Council thereof, every judge of the court, and every commissioned officer of the North-West Mounted Police, shall *ex officio* have, possess and exercise all the powers of a justice of the peace, or of two justices of the peace, under any laws or Ordinances, civil or criminal, in force in the said Territory, and the Governor in Council may, by commission, appoint such other persons justices of the peace or police commissioners,

Justices of  
the peace.

having each the authority of two justices of the peace within the said Territory, as may be deemed desirable.

Jury men to be British subjects.

**17.** No person shall be summoned or sworn as a jurymen on any trial in the Territorial Court unless he is a British subject.

Penitentiaries, jails and places of confinement.

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

Governor in Council to make rules and regulations as to penitentiaries, etc.

**2.** The Governor in Council shall have power to make rules and regulations respecting the management, discipline and policy of every penitentiary, jail or place of confinement used as such in the Territory.

Coroners.

**19.** All persons possessing the powers of two justices of the peace in the Territory shall also be coroners in and for the said Territory.

Police magistrates.

**(19a.)** The Governor in Council may appoint police magistrates for Dawson and White Horse in the Yukon Territory who shall reside at those places, respectively, and shall ordinarily exercise their functions there, but who shall have jurisdiction, respectively, in such portions of the Yukon Territory as are defined in their commissions. (S. 1, c 41, 1 Edw. VII.)

Appointment and territorial jurisdiction.

Tenure of office.

**(19b.)** Such police magistrates shall hold office during pleasure and shall be debarred from practising professionally while holding office, (S. 2, c. 41, 1 Edw. VII.)

Salaries.

**(19c)** The annual salary of the police magistrate for Dawson shall be \$2,400, and that of the police magistrate for White Horse shall be \$2,400, and such salaries may be paid out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada. The said magistrates may be paid in addition to the said salaries such living allowances as may be fixed by the Governor General in Council. (S. 2, c. 41, 1 Edw VII.)

Living allowances.

Qualification.

**(19d.)** No person shall be appointed a police magistrate hereunder unless he has been admitted and has practised as an advocate, barrister or solicitor in one of the provinces of Canada for a period of not less than three years. (S. 2, c. 41, 1 Edw. VII.)

(19e.) Each of the police magistrates so appointed shall *ex officio*, within the territorial limits of his jurisdiction, be a justice of the peace and have and exercise the authority and jurisdiction of two or more justices of the peace sitting or acting together. Powers as  
J. P.

2. Each such police magistrate shall also within such limits be a magistrate for the purposes of Part LV. of *The Criminal Code*, 1892, and amendments thereto, and shall have and exercise all the jurisdiction of such a magistrate, including that vested in police magistrates of cities and incorporated towns by section 785 of *The Criminal Code*, 1892, as that section is enacted by section 3 of chapter 46 of the statutes of 1900, and his jurisdiction under the said Part shall be absolute without the consent of the person charged, except where such jurisdiction is dependent upon the provisions of said section 785 or of sections 789 and 790 of *The Criminal Code*, 1892, as amended. (S. 5, c. 41, 1 Edw. VII.) Powers as  
magistrate.

(19f.) The civil jurisdiction of a police magistrate so appointed, if the Governor in Council thinks proper to vest such jurisdiction in him, shall, subject to the exceptions hereinafter mentioned, extend to the following cases:— Civil  
jurisdiction,  
if conferred  
by Governor  
in Council.

(a.) Personal actions where the amount claimed does not exceed \$300.

(b.) Where the parties consent in writing, personal actions where the amount claimed does not exceed \$500.

(c.) Claims and demands of debt, account or breach of contract or covenant or money demand, whether payable in money or otherwise, where the amount does not exceed \$500.

(d.) Claims for the recovery of a debt or money demand, the amount or balance of which does not exceed \$1,000 where the amount or original amount of the claim is ascertained by the signature of the defendant, or of the person whom, as executor or administrator, the defendant represents. Interest accumulated upon any claim of this class, since the amount or balance was so ascertained by the signature of the defendant or of such person as aforesaid, shall not be included in determining the question of jurisdiction, but interest so accumulated may be recovered before a police magistrate, notwithstanding that the interest and the amount of the claim so ascertained, together exceed the sum of \$1,000. (S. 6, c. 41, 1 Edw. VII.)

(19g.) Such police magistrates, if given civil jurisdiction, shall also have jurisdiction in cases of replevin where the value of the goods or other property or effects distrained, taken or detained, does not exceed \$300. (S. 6, c. 41, 1 Edw. VII.) Replevin.

(19h.) The following classes of cases are excepted from the jurisdiction of such police magistrates:— Exceptions  
from jurisdic-  
tion.

(a) Actions for gambling debts;

(b.) Actions for spirituous or malt liquors drunk in a hotel, tavern or house of public entertainment ;

(c.) Actions on notes of hand given wholly or partly in consideration of a gambling debt or for such liquors ;

(d.) Actions for the recovery of land or in which the right or title to any corporeal or incorporeal hereditaments, or to any toll, custom or franchise comes in question ;

(e.) Actions in which the validity of any device, bequest or limitation under any will or settlement is disputed ;

(f.) Actions for malicious prosecution, libel, slander, criminal conversation, seduction or breach of promise of marriage ;

(g.) Actions against a justice of the peace for anything done by him in the execution of his office, if he objects to such jurisdiction. (S. 8, c. 41, 1 Edw. VII.)

Appeal in  
civil cases

(19i.) There shall be an appeal to the Territorial Court from the final judgment of a police magistrate in any civil case where the amount in dispute, exclusive of costs, exceeds \$100. The appeal in such case shall be heard upon the evidence taken before the police magistrate, and the judgment of the Territorial Court shall be final. (S. 9, c. 41, 1 Edw. VII.)

Rules of  
practice.

(19j.) The Commissioner in Council shall have full power, from time to time, to make Ordinances, or to empower the judges of the Territorial Court to make general rules and orders, prescribing and regulating the procedure and practice to be observed in connection with the exercise of the civil jurisdiction of such police magistrates. (S. 10, c. 41, 1 Edw. VII.)

Appeals under  
Crim. Code,  
Part LII.

(19k.) For the purposes of Part LII. of *The Criminal Code*, 1892, and amendments, the court of appeal from the verdict or judgment of the Territorial Court or a judge thereof shall be the Supreme Court of Canada.

Criminal  
Code, s. 785.

2. For the purposes of the said Part LII. the court of appeal from the judgment of a police magistrate proceeding under section 785 of *The Criminal Code*, 1892, as amended, shall be the Territorial Court *en banc*.

When final.

3. The judgment of the Territorial Court upon any such appeal from a police magistrate shall be final and conclusive if the judges of the court are unanimous therein, otherwise there shall be an appeal therefrom to the Supreme Court of Canada.

Under Crim.  
Code, Part  
LVIII.

4. In the said Territory the appeal from a summary conviction or order under Part LVIII. of *The Criminal Code*, 1892, shall be to a judge of the Territorial Court sitting without a jury at the place where the cause of the information or complaint arose, or the nearest place thereto where a court is appointed to be held. (S. 11, c. 41, 1 Edw. VII.)

(19l.) The expression "province" in any Act of the Parliament of Canada includes the Yukon Territory, unless the context otherwise requires, and except in so far as the effect of the application of this rule would be inconsistent with the intent and object of such Act. (S. 12, c. 41, 1 Edw. VII.)

Interpretation.  
"Province."  
R.S.C., c. 1,  
s. 7 (13).

(19m.) Each of the judges of the Territorial Court shall have, and may exercise in any part of the Yukon Territory, the criminal jurisdiction vested in the police magistrate for Dawson by chapter 41 of the statutes of 1901, and in the exercise of such jurisdiction shall have all the powers of a police magistrate under the said chapter 41. (S. 1, c. 41, 1 Edw. VII.)

Criminal jurisdiction of judges.

(19n.) The Governor in Council may from time to time assign to one of the judges of the said court the duty of ordinarily exercising such jurisdiction. (S. 1, c. 41, 1 Ed. VII.)

Power of a single judge.

20. The Governor in Council may appoint such officers as are necessary for the due administration of justice in the Territory, may fix the fees or emoluments of such officers and may fix the fees or emoluments of coroners, justices of the peace, jurors, witnesses and other persons attending or performing duties in relation to the administration of criminal justice, and provide the manner in which such fees and emoluments shall be paid. (S. 20, c. 41, 1 Edw. VII.)

Appointment of necessary officers, fixing of fees, etc.

21. In case of the death of the Commissioner the senior member of the Council shall act as Commissioner until a successor is appointed. (S. 21, c. 41, 1 Edw. VII.)

Provision for case of Commissioner's death.

(22.) Every regulation made by the Governor in Council under the authority of section 47 of *The Dominion Lands Act*, applicable or relating to the Yukon Territory, shall remain in force until the day immediately succeeding the day of prorogation of the then next session of Parliament, and no longer, unless during such session of Parliament such regulation is approved by resolution of both Houses of Parliament. (S. 5, c. 34, 2 Edw. VII.)

Regulations under R.S.C., c. 54.

## SCHEDULE.

The Yukon Territory shall be bounded as follows:—On the south, by the Province of British Columbia and the United States Territory of Alaska; on the west, by the said United States Territory of Alaska; on the north, by that part of the Arctic Ocean called Beaufort Sea; and on the east, by a line beginning at the point of intersection of the left bank of the Liard River, by the northern boundary of the Province of British Columbia in approximate longitude 124° 16 west

of Greenwich; thence north-westerly along the line of the watershed separating the streams flowing into the Liard River below the point of beginning, or into the Mackenzie River, from those flowing into the Liard River above the point of beginning, or into the Yukon River, to the line of watershed of the basin of Peel River; thence northerly along the line of watershed between the Peel and Mackenzie Rivers to the sixty-seventh degree of north latitude; thence westerly along the parallel of the sixty-seventh degree of north latitude to the line of watershed between the Peel and Yukon Rivers; thence northerly along the said line of watershed to the trail across the portage in McDougall Pass between Rat and Bell Rivers; thence due north to the northern limit of the Yukon Territory; the said territory to include the islands within twenty statute miles from the shores of the Beaufort Sea as far as the aforesaid due north line from McDougall Pass.

# THE NORTH-WEST TERRITORIES ACT.

## CHAPTER 50, REVISED STATUTES OF CANADA.

As amended up to the date of the coming into force of the Consolidated  
~~Ordinances of the North-West Territories, 1898.~~

*New sections from amending Acts have the numbers bracketed  
 thus (1.)*

References at the end of sections or clauses indicate that the section or clause  
 was amended to read as shown by the enactment referred to.

### An Act respecting the North-West Territories.

**H**ER Majesty, by and with the advice and consent of the  
 Senate and House of Commons of Canada, enacts as  
 follows :

#### SHORT TITLE.

**1.** This Act may be cited as "*The North-West Territories Act*." Short title.

#### INTERPRETATION.

- 2.** In this Act, unless the context otherwise requires,—
- (a.) The expression "Territories" means the North-West Territories, as defined in this Act; Interpretation "Territories."
- (b.) The expression "The Lieutenant Governor" means the Lieutenant Governor of the North-West Territories; "Lieutenant Governor."
- (c.) The expression "Lieutenant Governor in Council" means the Lieutenant Governor of the Territories by and with the advice and consent of the Executive Council of the Territories, or in conjunction with the Executive Council of the Territories, as the case may be. 60-61 Vic., c. 28, s. 2. "Lieutenant Governor in Council" defined.
- (d.) The expression "Supreme Court" means the Supreme Court of the North-West Territories; "Supreme Court."
- (e.) The expression "intoxicating liquor" means and includes all spirits, strong waters, spirituous liquors, wines, fermented or compounded liquors or intoxicating fluids; "Intoxicating liquor."
- (f.) The expression "intoxicant" includes opium or any preparation thereof, and any other intoxicating drug or substance, and tobacco or tea mixed, compounded or impreg-

nated with opium, or with any other intoxicating drug, spirit or substance, and whether the same or any of them is liquid or solid ;

“ Legislative Assembly ” defined.

(g.) The expression “ Legislative Assembly ” means the Legislative Assembly of the Territories composed, under the provisions of this Act, of the members elected to represent the several electoral divisions into which the Territories are or from time to time may be divided. 60-61 Vic., c. 28, s. 3.

THE NORTH-WEST TERRITORIES.

Territories defined.

3. The Territories formerly known as “ Rupert’s Land ” and the North-West Territory shall, with the exception of such portions thereof as form the Province of Manitoba and the District of Keewatin continue to be called and known as the North-West Territories. (But see the Yukon Territory Act, 61 Vic., c. 6, s. 2 )

THE LIEUTENANT GOVERNOR.

Lieutenant Governor.

4. There shall be for the Territories an officer called the Lieutenant Governor appointed by the Governor in Council by instrument under the Great Seal of Canada who shall hold office during pleasure.

His powers.

(2.) The Lieutenant Governor shall administer the Government under instructions from time to time given him by the Governor in Council or by the Secretary of State of Canada.

Administrator

5. The Governor in Council may from time to time appoint an Administrator to execute the office and functions of the Lieutenant Governor during his absence, illness or other inability.

Oaths to be taken.

6. Every Lieutenant Governor or Administrator so appointed shall before assuming the duties of his office take and subscribe before the Governor General or before some person duly authorized to administer such oaths, an oath of allegiance and an oath of office similar to those required to be taken by a Lieutenant Governor under The British North America Act, 1867.

Salary.

(106.) There shall be payable out of the Consolidated Revenue Fund of Canada the following sum annually, that is to say :—

Travelling allowances.

To the Lieutenant Governor, not exceeding..... \$7,000 together with such sums of money as are from time to time fixed by the Governor in Council in respect of travelling allowances. 51 Vic., c. 19, s. 17.

(Sections 7 and 8 were repealed by 51 Vic., c. 19, s. 1.)



## SEAT OF GOVERNMENT.

**9.** The seat of Government of the Territories shall be fixed and may from time to time be changed by the Governor in Council. Seat of government.

*(Section 10 was repealed by 51 Vict., c. 19, s. 1.)*

## LAWS IN FORCE.

**11.** Subject to the provisions of this Act, the laws of England relating to civil and criminal matters, as the same existed on the fifteenth day of July, in the year of our Lord one thousand eight hundred and seventy, shall be in force in the Territories, in so far as the same are applicable to the Territories, and in so far as the same have not been or are not hereafter repealed, altered, varied, modified or affected by any Act of the Parliament of the United Kingdom applicable to the Territories, or of the Parliament of Canada, or by any Ordinance of the Lieutenant Governor in Council or of the Legislative Assembly. 60-61 Vic., c. 28, s. 4. Laws of England on July 15, 1870, in force in Territories with certain exceptions.

**12.** All laws and Ordinances in force in the Territories and not repealed by or inconsistent with this Act, shall remain in force until it is otherwise ordered by the Parliament of Canada, by the Governor in Council, or by the Legislative Assembly under the authority of this Act. 60-61 Vic., c. 28, s. 5. Laws in force continued.

## THE LEGISLATIVE ASSEMBLY.

**(2.)** There shall be a Legislative Assembly for the Territories which shall be composed of twenty-six members elected to represent the electoral districts set forth in the schedule to this Act until the said Legislative Assembly otherwise provides. 57-58 Vic., c. 17, s. 15. Legislative Assembly.

**(3.)** Every Legislative Assembly shall continue for four years from the date of the return of the writs for choosing the same; but the Lieutenant Governor may at any time dissolve the Assembly and cause a new one to be chosen. 54-55 Vic., c. 22, s. 3; 57-58 Vic., c. 17, s. 16. Duration of Assembly.

**(4.)** There shall be a session of the Legislative Assembly convened by the Lieutenant Governor at least once in every year, so that twelve months shall not intervene between the last sitting of the Assembly in one session and its first sitting in another session; and such Assembly shall sit separately from the Lieutenant Governor, and shall present Bills passed by it to the Lieutenant Governor for his assent, Limit of time for session. Proceedings on bills.

who may approve or reserve the same for the assent of the Governor General. 54-55 Vic, c. 22, s. 4.

*By 54-55 Vic., c. 22, s. 5, provision was made for issue of writs and conduct of elections until the Assembly should otherwise provide. See now The Elections Ordinance.*

Who may vote.

(7.) The persons qualified to vote at an election for the Legislative Assembly shall be the male British subjects by birth or naturalization (other than unenfranchised Indians) who have attained the full age of twenty-one years, who have resided in the North-West Territories for at least the twelve months and in the electoral district for at least the three months respectively immediately preceding the time of voting: 51 Vic., c. 19, s. 7.

Who eligible for election.

(8.) Any British subject by birth or naturalization shall be eligible for nomination and election.

Deposit at nomination.

(2.) No nomination at any election shall be valid and acted upon unless at or before the time of nomination a sum of one hundred dollars is deposited in the hands of the returning officer; and the receipt of the returning officer shall in every case be sufficient evidence of the payment herein mentioned.

How applied.

(3.) The sum so deposited shall be returned to the person by whom the deposit was made in the event of the candidate by or on whose behalf it was so deposited, being elected or of his obtaining a number of votes at least equal to one-half the number of votes polled in favour of the candidate elected,—otherwise it shall belong to Her Majesty for the public uses of the Territories; and the sum so paid and not returned as herein provided shall be applied by the returning officer towards the payment of the election expenses and an account thereof shall be rendered by him to the Lieutenant Governor. 51 Vic., c. 19, s. 8.

Qualification of member of Legislative Assembly.

(18.) No person holding any office, commission or employment to which an annual salary from the Crown is attached shall be eligible as a member of the Legislative Assembly or shall sit or vote therein during the time he holds such office, commission or employment; but nothing herein contained shall render ineligible any member of the Executive Council of the Territories by reason of any salary, fee, allowance, emolument or profit of any kind or amount attaching to such membership from being a member of the Assembly or shall disqualify him from sitting or voting therein: Provided he is elected while holding such office and is not otherwise disqualified. 60-61 Vic., c. 28, s. 9.

Oath to be taken by members.

(9.) Elected members of the Legislative Assembly shall take and subscribe before the Lieutenant Governor or before

such person as is designated by the Governor in Council the following oath of allegiance:—

“I, A. B., do swear that I will be faithful and bear true allegiance to Her Majesty, her heirs and successors.” 51 Vic., c. 19, s. 9.

(10.) Until the Legislative Assembly otherwise provides a majority of the members shall form a quorum for the transaction of business. 51 Vic., c. 19, s. 10; 57-58 Vic., c. 17, s. 13. Quorum in Assembly.

(11.) The Legislative Assembly on its first assembling after a general election shall proceed with all practicable speed to elect one of its elected members to be Speaker. Election of Speaker.

(2.) In case of a vacancy happening in the office of Speaker by death, resignation or otherwise the Legislative Assembly shall proceed with all practicable speed to elect another of its elected members to be Speaker. Vacancy in office of Speaker.

(3.) The Speaker shall preside at all meetings of the Legislative Assembly. Speaker to preside.

(4.) Until the Legislative Assembly otherwise provides in case of the absence for any reason of the Speaker from the chair of the Assembly for forty-eight consecutive hours the Assembly may elect another of its members to act as Speaker and the member so elected shall during the continuance of such absence of the Speaker have and execute all the powers, privileges and duties of Speaker. 51 Vic., c. 19, s. 11. Case of absence provided for.

(12.) Questions arising in the Legislative Assembly shall be decided by a majority of voices other than that of the Speaker and when the voices are equal but not otherwise the Speaker shall have a vote. 51 Vic., c. 19, s. 12. Majority to decide.

13. The Legislative Assembly shall, subject to the provisions of this Act or of any other Act of the Parliament of Canada declared to be applicable to the Territories, have power to make Ordinances for the government of the Territories in relation to the classes of subjects next hereinafter mentioned that is to say:— Powers of Assembly.

1. The mode of providing voters' lists, the oaths to be taken by voters, the appointment, powers and duties of returning officers and deputy returning officers, election and poll clerks and their oaths of office, the proceedings to be observed at elections, the periods during which such elections may be continued, and such other provisions with respect to such elections as may be thought fit;

2. Direct taxation within the Territories in order to raise a revenue for Territorial or municipal or local purposes;

3. The establishment and tenure of Territorial offices and the appointment and payment of Territorial officers out of Territorial revenues;

4. The establishment, maintenance and management of prisons in and for the Territories,—the expense thereof being payable out of Territorial revenues;

5. Municipal institutions in the Territories, including the incorporation and powers, not inconsistent with any Act of Parliament, of irrigation districts, that is to say, associations of the land owners and persons interested in the lands in any district or tract of land for the purpose of constructing and operating irrigation works for the benefit of such lands; 58-59 Vic., c. 31, s. 1.

6. Shop, saloon, tavern, auctioneer and other licenses, in order to raise a revenue for Territorial or municipal purposes;

7. The incorporation of companies with Territorial objects, with the following exceptions:—

(a.) Such companies as cannot be incorporated by a Provincial Legislature;

(b.) Railway companies (not including tramway and street railway companies) and steamboat, canal, telegraph and irrigation companies; 54-59 Vic., c. 31, s. 2.

8. The solemnization of marriage in the Territories;

9. Property and civil rights in the Territories;

10. The administration of justice in the Territories, including the constitution, organization and maintenance of Territorial courts of civil jurisdiction, including procedure therein, but not including the power of appointing any judicial officers;

11. The imposition of punishment by fine, penalty or imprisonment for enforcing any Territorial Ordinances;

12. The expenditure of Territorial funds and such portion of any moneys appropriated by Parliament for the Territories as the Lieutenant Governor is authorized to expend by and with the advice of the Legislative Assembly or of any committee thereof;

13. Generally all matters of a merely local or private nature in the Territories.

Limitation.

(2.) Nothing in this section contained gives or shall be construed to give to the Legislative Assembly any greater powers with respect to the subjects therein mentioned than are given to Provincial Legislatures under the provisions of section ninety-two of *The British North America Act*, 1867, with respect to the similar objects therein mentioned. 54-55 Vic., c. 22, s. 6; 60-61 Vic., c. 28, s. 6.

Ordinances respecting education. Majority schools.

14. The Legislative Assembly shall pass all necessary Ordinances in respect to education; but it shall therein always be provided that a majority of the ratepayers of any district or portion of the Territories or of any less portion or subdivision thereof, by whatever name the same is known, may establish such schools therein as they think fit and make the necessary assessment and collection of

rates therefor; and also that the minority of the ratepayers therein whether Protestant or Roman Catholic may establish separate schools therein,—and in such case the ratepayers establishing such Protestant or Roman Catholic separate schools shall be liable only to assessments of such rates as they impose upon themselves in respect thereof. 61 Vic., c. 5, s. 12.

Minority  
schools.

(Section 15 of the Act was repealed by 57-58 Vic., c. 17, s. 2.)

(14.) The Legislative Assembly shall not adopt or pass any vote, resolution, address or bill for the appropriation of any part of the public revenue or of any tax or impost to any purpose that has not been first recommended to the Assembly by message of the Lieutenant Governor in the session in which such vote, resolution, address or bill is proposed. 51 Vic., c. 19, s. 14.

Money votes  
to be first  
recommended.

16. The Legislative Assembly may, from time to time, make Ordinances in respect to the mode of calling juries, other than grand juries, in criminal as well as civil cases, and when and by whom and the manner in which they may be summoned or taken, and in respect to all matters relating to the same. 60-61 Vic., c. 28, s. 7.

Juries.

(20.) For the removal of doubts it is hereby declared that subject to the provisions of *The North-West Territories Act* the Legislative Assembly has and shall have power to confer on Territorial courts jurisdiction in matters of alimony. 57-58 Vic., c. 17, s. 20.

Jurisdiction  
in matters of  
alimony.

(19.) Notwithstanding anything in this Act or the said Act contained the Legislative Assembly may, by Ordinance, repeal the provisions of sections twenty-six to forty, both inclusive, and also in so far as they apply to the Territories comprising the several electoral divisions mentioned in the schedule to this Act, the provisions of sections ninety-two to one hundred, also both inclusive, of the said Act, together with all amendments thereto, and may re-enact the said provisions or substitute other provisions in lieu thereof. 54-55 Vic., c. 22, s. 19.

As to wills  
and  
intoxicants.

17. An authentic copy of every Ordinance shall be transmitted by mail to the Secretary of State within thirty days after its passing; and if the Governor in Council at any time within one year after its receipt by the Secretary of State thinks fit to disallow the Ordinance, such disallowance, when signified by the Secretary of State to the Lieutenant Governor, shall annul the Ordinance from and after the date of such signification; and all Ordinances so made, and all Orders in Council disallowing any Ordinances so made, shall be laid before both Houses of Parliament as soon as

Disallowance  
of Ordinances.

Submission to  
Parliament.

conveniently may be after the making and enactment thereof respectively.

(Sections 18 to 25, both inclusive, were repealed by 51 Vic., c. 19, s. 1.)

#### THE EXECUTIVE COUNCIL.

Executive  
Council of the  
Territories.

(17.) There shall be a Council to aid and advise in the government of the Territories to be styled the Executive Council of the Territories; and the persons who are to be members of that Council shall be, from time to time, chosen and summoned by the Lieutenant Governor and sworn in; and members thereof may be, from time to time, removed by the Lieutenant Governor.

Powers.

(2.) All powers, authorities and functions which, under any Act of the Parliament of Canada or Ordinance of the Territories, are vested in or exercisable by the Lieutenant Governor with the advice, or with the advice and consent, of the Executive Committee of the Territories, or in conjunction with that Committee, shall, upon the passing of this Act be vested in and shall or may be exercised by the Lieutenant Governor with the advice, or with the advice and consent of, or in conjunction with, the Executive Council of the Territories; subject, nevertheless, to be abolished or altered by competent legislative authority. 60-61 Vic., c. 28, s. 8.

#### WILLS.

Wills may be  
made.

26. Every person may devise, bequeath or dispose of, by will executed in manner hereinafter mentioned, all real and personal property to which he is entitled either at law or in equity at the time of his death and which if not so devised, bequeathed or disposed of would devolve upon his heir-at-law or upon his executor or administrator.

Testator must  
be of age.

27. No will made by any person under the age of twenty-one years shall be valid.

Execution  
of wills.

28. No will shall be valid unless it is in writing and executed in manner hereinafter mentioned, that is to say:—it shall be signed at the foot or end thereof by the testator or by some other person in his presence and by his direction; and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses present at the same time; and such witnesses shall attest and shall subscribe the will in the presence of the testator but no form of attestation shall be necessary.

No further  
publication.

29. Every will executed in manner hereinbefore required shall be valid without any other publication thereof.

**30.** If any person who attests the execution of a will is at the time of the execution thereof or at any time afterwards incompetent to be admitted as a witness to prove the execution thereof, such will shall not on that account be invalid. Subsequent incompetency of witness.

**31.** No person shall on account of his being an executor of a will be incompetent to be admitted as a witness to prove the execution of such will or as a witness to prove the validity or invalidity thereof. Executor may be witness.

**32.** If any person attests the execution of any will to whom or to whose wife or husband any beneficial devise or legacy affecting any real or personal property (other than a charge for the payment of a debt) is thereby given, such devise or legacy shall so far only as concerns such person attesting the execution of such will, or the wife or husband of such person or any person claiming under such person, wife or husband, be null and void, and such person so attesting shall be admitted to prove the execution of such will or the validity or invalidity of such will notwithstanding such devise or legacy. Devise to witness to be void, but witness may prove execution.

**33.** No will or codicil or any part thereof shall be revoked otherwise than by marriage or by another will or codicil executed in manner hereinbefore required or by some writing declaring an intention to revoke the same and executed in the manner in which a will is hereinbefore required to be executed, or by the burning, tearing or otherwise destroying the same by the testator or by some person in his presence and by his direction with the intention of revoking the same. Revocation of wills and codicils.

**34.** Every will shall be construed with reference to the real and personal property affected by it, to speak and take effect as if it had been executed immediately before the death of the testator unless a contrary intention appears by the will. How a will shall be construed.

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

#### MARRIED WOMEN.

**36.** All the wages and personal earnings of a married woman and any acquisitions therefrom and all proceeds or profits from any occupation or trade which she carries on separately from her husband or derived from any literary, Her own earnings to belong to her.

artistic or scientific skill, and all investments of such wages, earnings, moneys or property shall be free from the debts or dispositions of the husband and shall be held and enjoyed by such married woman and disposed of without her husband's consent as fully as if she were a *feme sole*, and no order for protection shall be necessary in respect of any such earnings or acquisitions; and the possession, whether actual or constructive, of the husband, of any personal property of any married woman shall not render the same liable for his debts.

No order  
necessary.

Deposits  
in bank.

**37.** A married woman may make deposits of money in her own name in any savings or other bank and withdraw the same by her own cheque; and any receipt or acquittance of such depositor shall be a sufficient discharge to any such bank.

Fraudulent  
investment  
not valid.

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

Debts of wife  
before and  
after marriage

**39.** A husband shall not, by reason of any marriage, be liable for the debts of his wife contracted before marriage, but the wife shall be liable to be sued therefor, and any property belonging to her for her separate use shall be liable to satisfy such debts as if she had continued unmarried; and a husband shall not be liable for any debts of his wife in respect of any employment or business in which she is engaged on her own behalf, or in respect of any of her own contracts.

Suits by and  
against a  
married  
woman.

**40.** A married woman may maintain an action in her own name for the recovery of any wages, earnings, money and property, declared by this Act or which is hereafter declared to be her separate property, and shall have in her own name, the same remedies, both civil and criminal, against all persons whomsoever for the protection and security of such wages, earnings, money and property, and of any chattels or other her separate property, for her own use, as if such wages, earnings, money, chattels and property belonged to her as an unmarried woman; and any married woman may be sued or proceeded against separately from her husband in respect of any of her separate debts, engagements, contracts or torts, as if she were unmarried.



## ADMINISTRATION OF JUSTICE.

**41.** The Supreme Court of record of original and appellate jurisdiction now existing under the name of "The Supreme Court of the North-West Territories" is hereby continued under the name aforesaid.

Supreme Court continued.

**42.** The Supreme Court shall consist of five puisné judges, who shall be appointed by the Governor in Council by letters patent under the Great Seal.

Constitution of court.

**43.** Any person may be appointed a judge of the court who is or has been a judge of a Superior Court of any Province of Canada, a stipendiary magistrate of the Territories, or a barrister or advocate of at least ten years' standing at the bar of any such Province, or of the Territories.

Who may be appointed judge.

**44.** No judge of the court shall hold any other office of emolument under the Government of Canada, or of any Province thereof, or of the Territories.

No other office of emolument to be held.

**45.** Each judge of the court shall reside at such place in the Territories as the Governor in Council, in the commission to such judge, or by Order in Council, directs.

Residence.

**46.** The judges of the court shall hold office during good behaviour, but shall be removable by the Governor General, on address of the Senate and House of Commons of Canada.

Tenure of office.

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

Oath to be taken.

"I, \_\_\_\_\_, do solemnly and sincerely promise and swear that I will duly and faithfully and to the best of my skill and knowledge, execute the powers and trusts reposed in me as one of the judges of the Supreme Court of the North-West Territories. So help me God."

Form of oath.

(2) Such oaths shall be administered by the Lieutenant Governor or by a judge of the court.

How administered.

**48.** The court shall, within the Territories, and for the administration of the laws for the time being in force within the Territories, possess all such powers and authorities as by the law of England are incident to a Superior Court of civil and criminal jurisdiction; and shall have, use and exercise all the rights, incidents and privileges of a court of record and all other rights, incidents and privileges as fully to all intents and purposes as the same were on the fifteenth day of July, one thousand eight hundred and seventy, used, exercised and enjoyed by any of Her Majesty's superior courts of common law, or by the Court of Chancery, or by the Court of Probate in England,—and shall hold pleas in

Jurisdiction within the Territories civil and criminal.

all and all manner of actions, causes and suits as well criminal as civil, real, personal and mixed,—and shall proceed in such actions, causes and suits by such process and course as are provided by law, and as tend with justice and despatch to determine the same,—and shall hear and determine all issues of law, and shall also hear and (with or without a jury as provided by law) determine all issues of fact joined in any such action, cause or suit, and give judgment thereon and award execution thereof in as full and as ample a manner as might at the said date be done in Her Majesty's Court of Queen's Bench, Common Bench, or in matters which regard the Queen's revenue (including the condemnation of contraband or smuggled goods) by the Court of Exchequer, or by the Court of Chancery or the Court of Probate in England.

Sittings of  
Supreme  
Court.

**49.** The court shall sit *in banc* at such times and places as the Lieutenant Governor in Council appoints; the senior judge present shall preside, and three judges of the court shall constitute a quorum. 61 Vic., c. 5, s. 3.

Jurisdiction  
in banc.

**50.** The court sitting *in banc* shall hear and determine all applications for new trials, all questions or issues of law, all questions or points in civil or criminal cases reserved for the opinion of the court, all appeals or motions in the nature of appeals, all petitions and all other motions, matters or things whatsoever which are lawfully brought before it:

Appeals.

Provided that the judge by or before whom the judgment, order or decision then in question was rendered or made, shall not sit as one of the judges composing the court unless his presence is necessary to constitute a quorum. 57-58 Vic., c. 17, s. 4.

Judicial  
districts.

**51.** The Governor in Council may at any time by proclamation divide the Territories into judicial districts, and give to each such district an appropriate name, and in like manner, from time to time, alter the limits and extent of such districts.

Territorial  
jurisdiction  
of judges.

**52.** Every judge of the court shall have jurisdiction throughout the Territories, but shall usually exercise the same within the judicial district to which he is assigned by the Governor in Council, and in all causes, matters and proceedings, other than such as are usually cognizable by a court sitting *in banc*, and not by a single judge of the said court, shall have and exercise all the powers, authorities and jurisdiction of the court.

Writs of  
*certiorari*.

(2.) Subject to any statute prohibiting or restricting proceedings by way of *certiorari*, a single judge shall, in addition to his other powers, have all the powers of the court as to proceedings by way of *certiorari* over the proceedings,

orders, convictions and adjudications had, taken and made by justices of the peace, and in addition thereto shall have the power of revising, amending, modifying or otherwise dealing with the same; and writs of *certiorari* may, upon the order of a judge, be issued by the clerk of the court mentioned in such order returnable as therein directed. 54-55 Vic., c. 22, s. 7.

**53.** Whenever, under any Act in force in the Territories, any power or authority is to be exercised, or anything is to be done by a judge of a court, such power or authority shall, in the Territories, be exercised or such thing shall be done by a judge of the Supreme Court, unless any other provision is made in that behalf by such Act. Powers of single judge.

**54.** The judges of the Supreme Court shall have all the powers, authority and jurisdiction vested in the stipendiary magistrates of the Territories on the second day of June, one thousand eight hundred and eighty-six; and whenever in any Act of the Parliament of Canada relating to the Territories, the words "stipendiary magistrate" or "stipendiary magistrates" are used, the same shall mean a judge or the judges of the Supreme Court, as the case may be. Judges to replace the former stipendiary magistrates.

**55.** Sittings of the Supreme Court, which shall be presided over by a judge of the court, shall be held in each judicial district at such times and places as the Lieutenant Governor of the Territories appoints. Sittings, where held.

**56.** For each judicial district the Governor in Council may appoint a sheriff and the Lieutenant Governor in Council may appoint a clerk of the court, and may respectively name the place at which such sheriff and clerk, respectively, shall reside and keep an office; and the clerk of the district within which the seat of government of the Territories is situate, shall be registrar of the court sitting *in banc*. 60-61 Vic., c. 28, s. 10. Sheriffs and clerks.

(2.) And each sheriff and clerk shall appoint a deputy or deputies at such places within the district and with such powers as are, from time to time, determined by an Ordinance of the Legislative Assembly. Deputy sheriffs and clerks.

(3.) In case of a vacancy happening in the office of sheriff or clerk by reason of death, incapacity or otherwise, his deputy may perform his duties until a successor is appointed; and where there is no such deputy, the judge usually exercising jurisdiction within the judicial district may appoint a person to fill the vacancy in the meantime. Vacancies.

(4.) The Legislative Assembly may, subject to the provisions of this Act, define by Ordinance the powers, duties and obligations of sheriffs and clerks, and their respective deputies. 54-55 Vic., c. 22, s. 8. Duties, etc., of sheriffs and clerks.

Seal of  
the court.

**57.** Each clerk of the court shall use such a seal for sealing processes issued out of the court in the district for which he is appointed as the Lieutenant Governor approves.

Bond to be  
given by  
sheriff.

**58.** Before entering on the duties of his office every sheriff appointed under the provisions of this Act shall give security by bond, or by guarantee of some guarantee company approved by the Governor in Council, in the sum of two thousand dollars, and every clerk shall give the like security in the sum of one thousand dollars.

Sheriffs'  
and clerks'  
remuneration.

**59.** Each sheriff shall be paid a yearly salary of five hundred dollars, and the Lieutenant Governor, by and with the advice and consent of the Legislative Assembly, may legislate with respect to the remuneration, by fees or otherwise, in civil matters, of sheriffs and clerks, including the registrar of the Supreme Court. 57-58 Vic., c. 17, s. 5.

*(Sections 60 and 61 of the Act were repealed by 57-58 Vic., c. 17, s. 6.)*

Sheriffs and  
clerks to be  
officers of  
the court  
generally.

**62.** Every sheriff and clerk shall be an officer of the Supreme Court generally, and not merely of the judges sitting or acting in his district, and shall obey the lawful orders of the said court and of the judges thereof, in whatever district such orders are made, provided anything is required to be done under them by the sheriff or clerk in his district.

Disposal of  
North-West  
Mounted  
Police Force.

**63.** The Lieutenant Governor may, subject to any orders made in that behalf from time to time by the Governor in Council, issue orders to the North-West Mounted Police force, in aid of the administration of civil and criminal justice and for the general peace, order and good government of the Territories.

Justices of  
the peace.

Property  
qualification.

**64.** The Lieutenant Governor may appoint justices of the peace for the Territories, who shall have jurisdiction as such throughout the same; but, until the Legislative Assembly otherwise provides, no person shall be appointed a justice of the peace for the Territories or shall act as such who is not the owner in fee simple for his own use and benefit of lands lying and being in the Territories of and above the value of three hundred dollars over and above what will satisfy and discharge all encumbrances affecting the same and over and above all rents and charges payable out of or affecting the same, and who has not resided in the Territories for a period of at least three years. 60-61 Vic., c. 28, s. 11.

Oaths of  
qualification  
and office.

(2.) Every justice of the peace for the Territories, before he takes upon himself to act as such justice, shall take and subscribe before the Lieutenant Governor, a judge of the

Supreme Court or any justice of the peace for the Territories, the oath of qualification and the oath of office contained in the schedule to this Act or such other oath or oaths as the Legislative Assembly from time to time prescribes. 60-61 Vic., c. 28, s. 12.

(3.) The Governor in Council may appoint police magistrates in the Territories and such police magistrates shall have all powers and authorities now vested in two justices of the peace under any law in Canada and shall exercise jurisdiction in and for such territory as is defined by the Order in Council appointing them respectively or by any Order in Council amending the same. 57-58 Vic., c. 17, s. 7.

(4) No person shall be appointed a police magistrate unless he has been admitted and has practised as an advocate, barrister or solicitor in one of the provinces of Canada for a period of not less than three years.. 57-58 Vic., c. 17, s. 7; 60-61 Vic., c. 28, s. 13.

(19.) Unless otherwise therein specially provided proceedings for the imposition of punishment by fine, penalty or imprisonment for enforcing any Territorial Ordinance may be brought summarily before a justice of the peace under the provisions of part LVIII of *The Criminal Code*, 1892. 57-58 Vic., c. 17, s. 19.

#### ADMINISTRATION OF CRIMINAL LAW.

**65.** The procedure in criminal cases in the court shall, subject to any Act of the Parliament of Canada, conform as nearly as may be to the procedure existing in like cases in England on the fifteenth day of July in the year one thousand eight hundred and seventy; but no grand jury shall be summoned or sit in the Territories.

(12.) Every justice of the peace or other magistrate holding a preliminary investigation into any criminal offence which may not be tried under the provisions of *The Summary Convictions Act*, shall immediately after the conclusion of such investigation transmit to the clerk of the court for the judicial district in which the charge was made all informations, examinations, depositions, recognizances, inquiries and papers connected with such charge; and the clerk of the court shall notify the judge thereof.

(2) Whenever any person charged is committed to jail for trial the sheriff or other person in charge of such jail shall within twenty-four hours notify the judge exercising jurisdiction at the time in the judicial district, in writing, that such prisoner is so confined, stating his name and the nature of the charge preferred against him; whereupon with as little delay as possible the judge shall cause the

prisoner to be brought before him for trial either with or without a jury as the case requires. 54-55 Vic., c. 22, s. 12.

Formal charge.

(11.) In lieu of indictments and forms of indictment as provided by *The Criminal Procedure Act* the trial of any person charged with a criminal offence shall be commenced by a formal charge in writing setting forth as in an indictment the offence wherewith he is charged. 54-55 Vic., c. 22, s. 11.

Powers as to certain offences.

**66.** Every judge of the Supreme Court shall have and exercise the powers of a justice of the peace or of any two justices of the peace under any laws or Ordinances in force in the Territories,—and may also hear and determine any charge against any person for any criminal offence alleged to have been committed in the Territories or (subject to the provisions of section fourteen of the Act passed by the Parliament of Canada in the forty-seventh year of Her Majesty's reign, and chaptered six) in any territory eastward of the Rocky Mountains wherein the boundary between the province of British Columbia and the Territories has not been officially ascertained, when the accused is charged—

Theft, etc.

(a) With having committed or attempted to commit theft, embezzlement, or obtaining money or property by false pretences, or receiving stolen property, in any case in which the value of the whole property alleged to have been stolen, embezzled, obtained or received does not in the opinion of such judge exceed two hundred dollars; or—

Aggravated assault.

(b) With having committed an aggravated assault by unlawfully and maliciously inflicting upon any other person either with or without a weapon or instrument any grievous bodily harm or by unlawfully and maliciously wounding any other person; or—

Assault on a female, etc.

(c) With having committed an assault upon any female whomsoever or upon any male child whose age does not in the opinion of the judge exceed fourteen years; and when such assault, if upon a female, does not in his opinion amount to an assault with intent to commit a rape; or—

Escape from custody.

(d) With having escaped from lawful custody or committed prison breach, or assaulted, obstructed, molested or hindered any judge, justice of the peace, commissioned officer of police, constable, bailiff or other peace officer or officer of customs or excise or other officer in the lawful performance of his duty or with the intent to prevent the performance thereof.

Summary trial.

(2.) The charge shall be tried in a summary way and without the intervention of a jury. 60-61 Vic., c. 28, s. 14.

Trial by jury.

**67.** When the person is charged with any other criminal offence the same shall be tried, heard and determined by the judge with the intervention of a jury of six; but in any such case the accused may with his own consent be tried

by a judge in a summary way and without the intervention of a jury. 54-55 Vic., c. 22, s. 9.

**68.** Whenever upon a trial before a judge in a summary way under either section sixty-six or section sixty-seven of this Act such judge is not satisfied that the accused is guilty of the offence with which he stands charged but the circumstances are such that upon a trial before a jury under *The Criminal Procedure Act* for the like offence the jury might find the accused guilty of some other offence, the judge shall have the same power as to findings as a jury would have in the like circumstances under the said last mentioned Act, and may convict the accused of such other offence, notwithstanding that such offence is one for which under section sixty-seven aforesaid the accused could not without his own consent have been tried in a summary way; and the person so convicted shall be liable to the punishment by the said last mentioned Act or otherwise by law prescribed for the offence of which he is so found guilty. 54-55 Vic., c. 22, s. 10.

On trial for one offence, conviction may be for another.

R.S.C., c. 174.

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

Notes of evidence.

Defence by counsel.

**70.** When any person is convicted of a capital offence and is sentenced to death the judge shall forward to the Minister of Justice full notes of the evidence with his report upon the case; and the execution shall be postponed from time to time by the judge if found necessary until such report is received and the pleasure of the Governor General thereon is communicated to the Lieutenant Governor.

Sentence of death to be reported.

Stay of execution.

**71.** Persons required as jurors for a trial shall be summoned by a judge from among such male persons as he thinks suitable in that behalf; and the jury required on such trial shall be called from among the persons so summoned as such jurors and shall be sworn by the judge who presides at the trial.

Summoning jurors.

(2.) The Governor in Council may at any time by proclamation declare that this section shall be repealed from and after the date named in such proclamation. 57-58 Vic., c. 17, s. 8.

**72.** Any one arraigned for treason or an offence punishable with death or an offence for which he may be sentenced to imprisonment for more than five years, may

Peremptory challenges by accused.

challenge peremptorily, and without cause, any number of jurors not exceeding six; and every peremptory challenge beyond that number shall be void. 57-58 Vic., c. 17, s. 9. 4

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

Challenges for cause. (3.) Challenges for cause shall be the same as are provided for under *The Act respecting Procedure in Criminal Cases*.

If the list of jurors is exhausted.

**73.** If by reason of challenges or otherwise, the number of jurors summoned for the trial is exhausted, the judge shall direct some constable or other person to summon, by word of mouth, from among the bystanders or from the neighbourhood, such number of persons as are necessary to make up a jury,—the persons so summoned being subject to challenge as those summoned by the judge in the first instance; and the like proceedings shall be repeated, if necessary, until a jury is obtained, competent to try the case; and any person summoned, as hereby provided, to serve as a juror, who makes default or refuses to serve as such juror,, without lawful excuse to the satisfaction of the judge, may be fined by him a sum not exceeding ten dollars, and committed to prison until such fine is paid.

Tales.

Fine for non-attendance.

Witness failing to attend guilty of contempt.

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

Proceedings in such case.

**75.** Upon proof, to the satisfaction of the judge, of the summoning of any witness who fails to attend, and upon such judge being satisfied that the presence of such witness before him is indispensable to the ends of justice, he may, by his warrant, cause the said witness to be apprehended and forthwith brought before him to give evidence and to answer for his contempt; and such witness may be detained on such warrant, with a view to secure his presence as a witness, or may be released on recognizance, with or without sureties, conditioned for his appearance to give evidence as therein mentioned, and to answer for his contempt; or the judge may, in a summary manner, examine and dispose of the charge of contempt against the said witness, who, if found guilty thereof, may be fined or imprisoned, or both,—such fine not to exceed one hundred dollars, and such imprisonment to be with or without hard labor, and not to exceed the term of ninety days.

Fine and imprisonment

Returns to Lieutenant Governor.

**76.** Returns of all trials and proceedings, civil and criminal, shall be made to the Lieutenant Governor in such form and at such times as he directs.



**77.** The Governor in Council may, from time to time, by proclamation, declare that the ten sections next preceding, or any of them, shall be repealed from and after the date named in such proclamation.

Governor in Council may repeal ss. 67 to 76 inclusive by proclamation.

**78.** If imprisonment for any term not less than two years is awarded in any case, the convict may be ordered to be imprisoned in any jail or penitentiary in the Territories or to be conveyed to the penitentiary in the Province of Manitoba, on the warrant of the judge; and whenever any convict or accused person is ordered to be conveyed to the penitentiary in Manitoba, any constable or other person in whose charge he is to be so conveyed, may hold and convey him, or retake him in case of an escape; and the warden of the penitentiary in Manitoba may detain and deal with him, in the said Province, as if such penitentiary was within the Territories, or as if the said convict or accused person had been ordered to be conveyed to such penitentiary by some competent court or authority in the said Province.

Where convict may be imprisoned.

Convey of prisoners.

Duties and powers of warden.

**79.** If it is impossible or inconvenient in the absence or remoteness of any jail or other place of confinement, to carry out any sentence of imprisonment, any judge or justice of the peace may sentence any person convicted before him of an offence, other than the breach of a municipal by-law, to be placed and kept in the custody of the North-West Mounted Police force, with or without hard labour; and any police guard-house or guard-room in the Territories shall be a penitentiary, jail or place of confinement for all purposes, except the confinement of any person sentenced to imprisonment for breach of a municipal by-law; but if any municipality makes arrangements with the Commissioner of the North-West Mounted Police for the maintenance of persons convicted of a breach of any by-law of such municipality during the period of their sentence, the provisions of this section shall thereafter apply to such persons in like manner as to other offenders.

When prisoner may be placed in custody of N. W. M. Police.

**80.** The Governor in Council may, from time to time, direct that any building or buildings, or any part thereof, or any enclosure or enclosures, in any part or parts of the Territories, shall be a jail or lock-up for the confinement of prisoners charged with the commission of any offence or sentenced to any punishment or confinement therein; and confinement therein shall thereupon be held lawful and valid whether such prisoners are being detained for trial or are under sentence of imprisonment in a penitentiary, jail or other place of confinement; and the Governor in Council may at any time direct that any building or any part thereof, or any enclosure, shall cease to be a jail or lock-up,

What may be a gaol.

and thereupon such building or part thereof, or such enclosure shall cease to be a jail or lock-up.

Gaol discipline.

(2.) The Governor in Council shall have power to make rules and regulations for the management, discipline and policy of such jails or lock-ups and for fixing and prescribing the duties and conduct of the jailer and every other officer or servant employed therein and for the diet, bedding, maintenance, employment, classification, instruction, discipline, correction, punishment and reward of persons confined therein, and to annul, alter and amend the same from time to time; and all jailers, officers, prisoners and other persons shall be bound to obey such rules and regulations.

Conditions upon which prisoners are kept.

(3.) The Governor in Council shall also have power from time to time to prescribe the terms and conditions upon which persons convicted or accused of any offence under any Ordinance of the North-West Territories or any municipal by-law or regulation, or sentenced to confinement under any such Ordinance, by-law or regulation, or arrested under any civil process, shall be received and kept in any jail or lock-up created under the authority of this section; and he may from time to time specify what jails and lock-ups shall be available for the confinement of such persons. 54-55 Vic., c. 22, s. 14.

Limitation of time for

**81.** In all cases in the Territories when proceedings before justices of the peace are authorized to be summary and when no time is specially limited for making any complaint or laying any information in the Act or law relating to the particular case, the complaint shall be made and the information shall be laid within twelve months from the time when the matter of the complaint or information arose.

#### CORONERS AND INQUESTS.

Who shall be coroners.

**82.** The Indian Commissioner for the Territories, the judges of the Supreme Court, the Commissioner and Assistant Commissioner of the North-west Mounted Police, and such other persons as the Lieutenant Governor from time to time appoints, shall be coroners in and for the Territories.

When inquests may be held.

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

Deceased prisoners.

**84.** Upon the death of any prisoner the jailer or officer in charge of the jail wherein such prisoner dies shall im-

mediately give notice to the nearest resident coroner, and such coroner shall proceed forthwith to hold an inquest upon the body.

**85.** It shall not be necessary in any case that a coroner's jury shall exceed six persons, but in every case of an inquest six jurors must agree in order to render the verdict valid. Number of jury.

**86.** Coroners shall have the same powers to summon witnesses and to punish them for disobeying a summons to appear or for refusing to be sworn or to give evidence as are enjoyed by justices of the peace. Powers of coroners.

**87.** The fees of coroners, jurors and witnesses attending criminal trials and inquests may be fixed from time to time by the Governor in Council and paid in such manner as he directs. Fees.

#### ADMINISTRATION OF CIVIL JUSTICE.

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

(2.) Provided that in cases where the claim, dispute or demand arises out of a tort, wrong or grievance and in which the amount claimed exceeds five hundred dollars, or if for a debt or on a contract in which the amount claimed exceeds one thousand dollars, or for the recovery of the possession of real property, if either party demands a jury or in any such case in which the judge thinks fit so to direct, he may direct that all questions of fact therein shall be tried and determined by a sworn jury of six in number summoned in the manner hereinbefore provided as to criminal trials. Trial by jury in certain cases.

(3.) Provided further that in cases of disputed accounts the judge may in place of a trial by jury direct the evidence to be taken by the clerk of any court or by any other competent person; which clerk or other person shall be sworn to take the same truly and to reduce it to writing. Reference of disputed accounts.

(4.) The judge may give judgment on the verdict of the jury or upon the evidence taken by the clerk or other person as aforesaid or may order a new trial when justice seems to require the same; and in all cases a judge may give such judgment and make such orders and decrees, interlocutory and final, as in such cases brought before him appear just and agreeable to equity and good conscience; but no court Judgment.

No acting for gambling debts or intoxicants. or judge in the Territories shall have jurisdiction in respect of any action for a gambling debt or for the price of any intoxicating liquor or intoxicant, or of any action by any person on any promissory note, bill of exchange, cheque, draft or other document or writing whatsoever, the consideration or any part of the consideration for which, was a gambling debt or any intoxicating liquor or intoxicant. 60-61 Vic., c. 28, s. 15.

Judgment, how given. **89.** Every judgment of the judge shall be pronounced in open court as soon as may be after the hearing of the case; except that in any case where the judge is not prepared to pronounce judgment at the close of the trial he may postpone judgment and deliver and enter the same subsequently, and such judgment shall be as effectual as if rendered in court at the trial.

Execution of judgment **90.** The proceedings to carry into effect any such judgment, order or decree, whether interlocutory or final, shall be as prescribed by any Ordinance of the Legislative Assembly; or if no such Ordinance is in force when any such judgment, order or decree is rendered, then in such manner as the judge who pronounced the same directs. 60-61 Vic., c. 28, s. 16.

Governor in Council may repeal sections 88 to 90 by proclamation. **91.** The Governor in Council may from time to time by proclamation declare that the three sections next preceding, or any of them, or any portion or portions of the said sections or of any of them, shall be repealed from and after the date named in such proclamation. 57-58 Vic., c. 17, s. 10.

PROHIBITION OF INTOXICANTS.

Intoxicants not to be manufactured, etc., without permission. **92.** No intoxicating liquor or intoxicant shall be manufactured, compounded or made in the Territories, except by special permission of the Governor in Council; nor shall any intoxicating liquor or intoxicant be imported or brought into the Territories from any Province of Canada, or elsewhere, or be sold, exchanged, traded or bartered, or had in possession therein, except by special permission, in writing, of the Lieutenant Governor.

Customs and excise laws to apply. (2.) Intoxicating liquors or intoxicants imported or brought from any place out of Canada into the Territories, by special permission in writing of the Lieutenant Governor, shall be subject to the customs and excise laws of Canada.

Return of permissions. **93.** The Lieutenant Governor shall make an annual return, up to the thirty-first day of December in each year, of the number of such permissions so given by him, and the quantity and nature of the intoxicating liquors and

intoxicants in each case, to the Minister of the Interior, who shall lay the same before Parliament.

**94.** If any such intoxicating liquor or intoxicant is manufactured or made in the Territories, or is imported or brought into the Territories, or is sold, exchanged, traded or bartered in violation of the provisions of this Act, such liquor or intoxicant shall be forfeited, and may be seized by any officer of the customs or excise, or by any constable or other duly qualified person wheresoever found; and any judge of the Supreme Court or justice of the peace on complaint made before him may, on the evidence of one credible witness that the provisions of this Act have been violated in respect thereof, order such intoxicating liquor or intoxicant so seized to be forthwith destroyed; or if such liquor or intoxicant has not been seized such judge or justice of the peace on complaint as aforesaid may issue a search warrant, as in cases of stolen goods, and upon the same being found may cause them to be forthwith destroyed; and the still, machinery, keg, barrel, case, box, package or receptacle whence or in which any intoxicating liquor or intoxicant has been manufactured, imported or made, sold, exchanged, traded or bartered, and as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the remainder of the contents thereof, if such still, machinery, barrel, keg, case, box, package, receptacle or vessel aforesaid, respectively, can be identified, may be seized by any officer of the customs or excise or by any constable or other duly qualified person wheresoever found within the Territories; and any judge of the Supreme Court or justice of the peace may, on complaint before him and on the evidence of one credible witness that the provisions of this Act have been violated in respect thereof, declare such intoxicating liquor or intoxicant, still, machinery, vessel or receptacle forfeited and cause the same to be forthwith destroyed; and the person in whose possession any of them are found shall incur a penalty not exceeding \$200 and not less than \$50 with costs; and a moiety of such penalty shall belong to the person laying the information, and the other moiety thereof shall belong to Her Majesty for the public uses of Canada. 54-55 Vic., c. 22, s. 15.

Forfeiture of intoxicant.

Search warrant may be granted.

Still, machinery and receptacle may be seized.

And forfeited.

Penalty and application thereof.

(2.) Every vehicle on which any such intoxicating liquor or intoxicant is imported or conveyed into or through or over any portion of the Territories contrary to the provisions of this Act shall, together with the horses or other cattle employed in drawing any such vehicle as aforesaid, be forfeited to Her Majesty and may be seized and dealt with accordingly. 51 Vic., c. 19, s. 18.

Vehicles conveying liquor may be seized.

**95.** Every person who without special permission as aforesaid issued to him, manufactures, makes, compounds,

Penalty for manufac-

turing  
intoxicating  
liquors, etc.,  
without  
permission.

imports, sells, exchanges, trades or barter any intoxicating liquor or intoxicant, or in whose possession or on whose premises any intoxicating liquor or intoxicant of any kind is, without such special permission issued to him, shall incur a penalty not exceeding \$200 and not less than \$50,— a moiety of which penalty shall belong to the person laying the information. 54-55 Vic., c. 22, s. 16.

Penalty for  
having articles  
exchanged for  
intoxicants in  
possession.

**96.** Every person who knowingly has in his possession any article, chattel, commodity or thing purchased, acquired, exchanged, traded or bartered, either wholly or in part, for any intoxicating liquor or intoxicant shall for each offence incur a penalty not exceeding \$200 and not less than \$50,— a moiety of which penalty shall belong to the informer.

Forfeiture of  
things  
accessory to  
offence.

**97.** Every article, chattel, commodity or thing, in the purchase, acquisition, exchange, trade or barter of which the consideration either wholly or in part is any intoxicating liquor or intoxicant, shall be forfeited to Her Majesty and shall be seized as hereinbefore provided in respect to any receptacle of any intoxicating liquor or intoxicant.

Penalty for  
refusing to  
assist  
constable.

**98.** Every person who refuses or neglects to aid any constable, sub-constable or other duly authorized person in the execution of any act or duty required under any of the six sections next preceding, or who knowingly refuses to give information or gives false information in respect to any matter arising therefrom, shall incur a penalty not exceeding \$200 and not less than \$50,— a moiety of which penalty shall belong to the informer.

Recovery of  
penalties.

**99.** Every penalty incurred under any of the seven sections next preceding shall be recoverable with costs on summary conviction on the evidence of one credible witness before any judge of the Supreme Court or justice of the peace, who shall on payment of such penalty and costs pay the informer his share thereof; and in case of non-payment of the penalty and costs immediately after conviction the convicting judge or justice of the peace may in his discretion levy the same by distress and sale or may commit the person who is so convicted and makes default to any common jail or house of correction or lock-up house for a term not exceeding six months with or without hard labour, unless the said penalty and costs are sooner paid; and upon conviction for a subsequent offence the offender shall be liable to a penalty not exceeding \$400 and not less than \$200, payable and recoverable as in this section provided and, in the discretion of the convicting judge or justice of the peace, to imprisonment with or without hard labour in any common jail or house of correction or lock-up house for a further term not exceeding six months.

Penalty for  
a subsequent  
offence.

**100.** No seizure, prosecution, conviction or commitment under this Act shall be invalid for want of form, so long as the same is according to the true intent and meaning of this Act.

Conviction, etc., not invalid for want of form.

SALE OF ARMS AND AMMUNITION.

**101.** In this section—

Interpretation

(a.) The expression "improved arm" means and includes all arms except smooth bore shot guns;

"Improved arm."

(b.) The expression "ammunition" means fixed ammunition or ball cartridge.

"Ammunition."

(2.) Every person who, in the Territories,—

(a.) Without the permission in writing (the proof of which shall be on him) of the Lieutenant Governor, or of a commissioner appointed by him to give such permission, has in his possession or sells, exchanges, trades, barter or gives to, or with any person, any improved arm or ammunition, or—

Supplying arms and ammunition without a permit.

(b.) Having such permission, sells, exchanges, trades, barter or gives any such arm or ammunition to any person not lawfully authorized to possess the same—

Or to unauthorised persons;

shall on summary conviction before a judge of the Supreme Court or two justices of the peace, be liable to a penalty not exceeding \$200, or to imprisonment for any term not exceeding six months, or to both.

To be offences, and how punishable.

(3.) All arms and ammunition which are in the possession of any person, or which are sold, exchanged, traded, bartered or given to or with any person in violation of this section, shall be forfeited to the Crown, and may be seized by any constable or other peace officer; and any judge of the Supreme Court or justice of the peace may issue a search warrant to search for and seize the same, as in the case of stolen goods.

Search for and seizure of arms and ammunition sold contrary to this section.

(4.) The Governor in Council may, from time to time, make regulations respecting—

Regulations by Governor in Council.

(a.) The granting of permission to sell, exchange, trade, barter, give or possess arms or ammunition;

Permits for arms, etc.

(b.) The fees to be taken in respect thereof;

Fees.

(c.) The returns to be made respecting permissions granted; and—

Returns.

(d.) The disposition to be made of forfeited arms and ammunition.

Disposition.

(5.) The provisions of this section respecting the possession of arms and ammunition shall not apply to any officer or man of Her Majesty's forces, of the Militia force, or of the North-West Mounted Police force.

Proviso.

(6.) The Governor in Council may, from time to time, declare by proclamation that upon and after a day therein named this section shall be in force in the Territories, or in any place or places therein in such proclamation designated; and upon and after such day, but not before, the

Section may be proclaimed in force at any place in N.W.T.

provisions of this section shall take effect and be in force accordingly.

And  
proclamation  
may be  
revoked.

(7.) The Governor in Council may in like manner, from time to time, declare this section to be no longer in force in any such place or places, and may again, from time to time, declare it to be in force therein.

To be  
judicially  
noticed.

(8.) All courts, judges and justices of the peace shall take judicial notice of any such proclamation.

#### APPEALS FROM JUSTICES OF THE PEACE.

Court of  
appeal from  
justices of the  
peace.

**102.** The court of appeal from convictions and orders of justices of the peace in the Territories shall be a judge of the Supreme Court sitting without a jury; and the clerk of the peace or other proper officer mentioned in the *Act respecting summary proceedings before justices of the peace* shall in the Territories mean the clerk of the Supreme Court of the judicial district within which such conviction takes place or such order is made.

#### LUNATICS.

Removal of  
lunatics in  
custody, by  
order of Lt.  
Governor.

**103.** Whenever under any law or Ordinance in force in the Territories, any insane person is kept in custody until the pleasure of the Lieutenant Governor is known or until such person is discharged by law, the Lieutenant Governor may cause such person to be removed to and confined in any asylum or place of confinement from time to time designated for that purpose by the Governor in Council, and the superintendent or warden of such asylum or place of confinement shall receive such person and detain him therein until the pleasure of the Lieutenant Governor is known or until such person is discharged by law.

Removal of  
lunatics  
confined  
before date  
specified.

(2.) The Lieutenant Governor of the Province of Manitoba may cause any insane person who came from the Territories and who was confined in a temporary lunatic asylum on the twentieth day of July, one thousand eight hundred and eighty-five, to be removed to the Manitoba lunatic asylum; and the superintendent of the said asylum or the superintendent of such temporary lunatic asylum, as the case may be, shall detain every such person committed to his keeping until the pleasure of the Lieutenant Governor is known, or until such person is discharged by law.

Recapture  
of lunatics  
escaping from  
confinement.

**104.** If any insane person confined in such asylum or place of confinement under this Act, escapes therefrom, any of the officers or servants thereof or any other person or persons at the request of such officers or servants or any of them, may within forty-eight hours after such escape if no warrant has been issued and within one month after such escape if a warrant in the form in the schedule to this Act



has been issued by the superintendent or warden of such asylum or place of confinement in that behalf, retake such escaped person and return him thereto; and he shall remain in custody therein under the authority by virtue of which he was detained prior to such escape.

**105.** The Minister of the Interior may, subject to the approval of the Governor in Council, make such arrangements with the Lieutenant Governor of Manitoba as seem reasonable as to the compensation to be made by Canada to that Province for the care and maintenance of persons detained in the Manitoba lunatic asylum or in such temporary asylum as aforesaid.

Manitoba to be indemnified for care of lunatics from N.W.T.

*(Section 106 is placed under heading "The Lieutenant Governor.")*

#### ROAD ALLOWANCES.

**107.** All road allowances in townships now or hereafter surveyed and subdivided in the Territories and all road allowances set out on block lines now or hereafter surveyed in the Territories, the plans of survey whereof have been duly approved, shall be subject to the direction, management and control of the Lieutenant Governor in Council for the public use of the Territories, subject to any Ordinance made or to be made with respect thereto. 60-61 Vic., c. 28, s. 18.

Control of road allowances.

**108.** On the Minister of the Interior receiving notice from the Lieutenant Governor in Council of any particular thoroughfare or public travelled road or trail in the Territories which existed as such prior to the subdivision of the land into sections and which it is desired to have transferred to the Territories, the Governor in Council may pass an order authorizing the survey of such road or trail by a Dominion land surveyor, such survey to be made under instructions from the Lieutenant Governor in accordance with a manual of instructions regarding the manner of making such surveys approved by the Surveyor General of Dominion lands; and upon approval of the returns of such survey by the Surveyor General one copy thereof shall be filed in the Department of the Interior and one in the Land Titles Office for the district within which such road or trail is situated; and such road or trail may then be transferred by the Governor in Council for the use of the Territories subject to any rights which may have been acquired under letters patent issued previous to such transfer.

Survey and transfer of certain roads.

(2.) The width of such road or trail shall be one chain or sixty-six feet; and in making the survey the surveyor shall make such changes in the location of the road or trail as he finds necessary for improving it, without however altering its main direction. 60-61 Vic., c. 28, s. 19.

Closing up old roads, etc.

(21.) Subject to any Ordinances made with respect thereto, the Lieutenant Governor in Council may close up any road allowance or trail which has been transferred to the Territories or vary its direction, and may open and establish any new highway instead thereof, and may deal with the land in any road allowance, public travelled road or trail so closed as he sees fit. 60-61 Vic., c. 28, s. 20.

(2.) Notwithstanding section six of chapter fifteen of the statutes of 1892 any action heretofore taken by the Lieutenant Governor in the manner provided in subsection one of this section with respect to roads or trails, with the consent of the Governor in Council, but without the concurrence of the Assembly of the North-West Territories, is hereby declared to have been and to be valid. 57-58 Vic., c. 17, s. 21 (2).

Survey of new roads.

(21.) The Lieutenant Governor in Council may cause to be surveyed and marked on the ground such roads or trails as are from time to time deemed necessary to aid in the development of any district which cannot be served by existing road allowances or by old trails mentioned in the section substituted for section one hundred and eight of the said Act by section nineteen of this Act.

(2) Such roads shall be laid out one chain or sixty-six feet in width; and in making the survey the manual of instructions mentioned in the said section shall be followed and one copy of the returns of such survey shall be filed in the Land Titles Office for the district within which such trail is situated and a second copy in the offices of the North-West Government at Regina. 60-61 Vic., c. 28, s. 21.

GENERAL PROVISIONS.

Provision when there are no such officers as are designated in Act of Parliament.

**109.** Whenever in any Act of the Parliament of Canada in force in the Territories any officer is designated for carrying on any duty therein mentioned and there is no such officer in the Territories, the Lieutenant Governor in Council may order by what other person or officer such duty shall be performed,—and anything done by such person or officer under such order shall be valid and lawful in the premises; or if it is in any such Act ordered that any document or thing shall be transmitted to any officer, court, Territorial division or place, and there is then in the Territories no such officer, court or Territorial division or place, the Lieutenant Governor in Council may order to what officer, court or place such transmission shall be made or may dispense with the transmission thereof.

English and French languages.

**110.** Either the English or the French language may be used by any person in the debates of the Legislative Assembly of the Territories and in the proceedings before

the courts ; and both those languages shall be used in the records and journals of such Assembly ; and all Ordinances made under this Act shall be printed in both those languages : Provided, however, that after the next general election of the Legislative Assembly, such Assembly may, by Ordinance or otherwise, regulate its proceedings and the manner of recording and publishing the same ; and the regulations so made shall be embodied in a proclamation which shall be forthwith made and published by the Lieutenant Governor in conformity with the law, and thereafter shall have full force and effect 54-55 Vic., c. 22, s. 18

Proviso.  
Proceedings  
in Assembly.

**111.** Any copy of any proclamation or order made by the Governor in Council, or Ordinance, proclamation or order made by the Lieutenant Governor in Council, or by the Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the North-West Territories, as the case may be, printed in the *Canada Gazette*, or purporting to be printed by the Queen's Printer for Canada, or by the printer to the Government of Manitoba at Winnipeg, or by the printer to the Government of the North-West Territories, shall be *prima facie* evidence of such proclamation or order, and of the fact that it is in force.

Certain  
printed copies  
of laws, etc.,  
to be evidence.

APPLICATION OF ACTS TO TERRITORIES.

**112.** Every Act of the Parliament of Canada, except in so far as otherwise provided in any such Act, and except in so far as the same is by its terms applicable only to one or more of the Provinces of Canada, or in so far as any such Act is for any reason, inapplicable to the Territories, shall subject to the provisions of this Act apply and be in force in the Territories.

Application  
of Acts of  
Canada.

(2) The Governor in Council may by proclamation from time to time direct that any Act of the Parliament of Canada, or any part or parts thereof, or any one or more of the sections of any one or more of any such Acts not then in force in the Territories, shall be in force in the Territories generally or in any part or parts thereof mentioned in such proclamation.

Governor in  
Council may  
extend Acts  
to the  
Territories.

SCHEDULE.

WARRANT TO RETAKE ESCAPED PATIENT.

Manitoba Lunatic Asylum (or as the case may be.)

To \_\_\_\_\_ and all or any of  
the peace officers in the County (or as the case may be) of \_\_\_\_\_

Whereas, on the \_\_\_\_\_ day of \_\_\_\_\_ last  
past, being within one month from the date hereof, A.B.,

an insane person confined in the Manitoba Lunatic Asylum (or as the case may be), of which I, \_\_\_\_\_ am superintendent (or warden), did escape from the said asylum (or as the case may be):

These are therefore to authorize and command you or any of you the said constables or peace officers in Her Majesty's name at any time within one month from the date of the said escape to retake the said A.B. and safely convey him to this asylum (or as the case may be) and deliver him into my charge.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ at \_\_\_\_\_, in the county \_\_\_\_\_ aforesaid.

(Signature.) [L.S.]  
Superintendent.

OATH OF QUALIFICATION OF A JUSTICE OF THE PEACE FOR THE NORTH-WEST TERRITORIES.

I, A.B., of \_\_\_\_\_ in the North-West Territories, do swear that I truly and *bona fide* have to and for my own proper use and benefit an estate in fee simple in lands situate in the North-West Territories of such value as doth qualify me to act as a justice of the peace, according to the true intent and meaning of the statute in that behalf and that such lands are the following:—

So help me God.

Sworn (or affirmed) before me, }  
at this day } (Signature.)  
of this A.D., 18 }

OATH OF OFFICE OF A JUSTICE OF THE PEACE FOR THE NORTH-WEST TERRITORIES.

I, A.B., of \_\_\_\_\_ in the North-West Territories, do swear that I will well and truly serve our Sovereign Lady Queen Victoria in the office of justice of the peace and will do right to all manner of people, after the laws and usages of these Territories, without fear or favour, affection or ill-will.

So help me God.

Sworn (or affirmed) before me, }  
at this } (Signature.)  
day of A,D 18 }

THE  
CONSOLIDATED ORDINANCES

OF THE  
YUKON TERRITORY

1902

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





# THE CONSOLIDATED ORDINANCES

OF THE

## YUKON TERRITORY.

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### TITLE I.

P R E L I M I N A R Y.

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#### CHAPTER 1.

An Ordinance respecting the Form and Interpretation  
of Ordinances.

SHORT TITLE.

**1.** This Ordinance may be cited as "*The Interpretation Ordinance.*" N.W.T. c. 1, s. 1. Short title.

THE CONSOLIDATED ORDINANCES—CITATION.

**2.** This Ordinance and following series of Ordinances shall constitute and may be cited for all purposes as "*The Consolidated Ordinances of the Yukon Territory, 1902,*" and any chapter of the said consolidated Ordinances may be cited and referred to for all purposes whatever either by its title as an Ordinance or by its short title or by using the expression "*The Ordinance (or The Consolidated Ordinance) respecting—*" (adding the remainder of the title given at the

What  
constitute  
consolidated  
Ordinances  
Citation

beginning of the particular chapter) or by using the expression "*The Consolidated Ordinances*" or "*The Consolidated Ordinances of the Yukon Territory*" together with a reference to the number of the particular chapter in the copies printed by authority. N.W.T. c. 1, s. 2.

#### APPLICATION.

Application of this Ordinance

**3.** This Ordinance and every provision thereof shall extend and apply to every Ordinance of the Territory, now or hereafter passed except in so far as the provision is inconsistent with the intent and object of such Ordinance or the interpretation which such provision would give to any word, expression or clause is inconsistent with the context and except in so far as any provision hereof is in any such Ordinance declared not applicable thereto; and the omission in any Ordinance of a declaration that *The Interpretation Ordinance* applies thereto shall not be construed to prevent it so applying although such express declaration is inserted in some other Ordinance or Ordinances of the same session. N.W.T. c. 1, s. 3.

#### FORM OF ENACTING.

Form of enacting clause

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

Preamble and operative part of Ordinances

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

#### TIME OF COMMENCEMENT OF ORDINANCES.

Indorsement of assent

**6.** The Territorial Secretary shall indorse on every Ordinance of the Territory, immediately after the title of such Ordinance, the day, month and year when the same was by the Commissioner assented to or reserved by him for the assent of the Governor General; and in the latter case such Secretary shall also indorse thereon the day, month and year when the Commissioner has signified (either by speech or message to the Council or by proclamation) that the same was laid before the Governor General and that the Governor General was pleased to assent to the same;



and such indorsement shall be taken to be a part of such Ordinance; and the date of such assent or signification (as the case may be) shall be the date of the commencement of the Ordinance if no later commencement is therein provided. N.W.T. c. 1, s. 6.

#### AMENDMENT OR REPEAL.

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

Amendment  
of law in same  
session

#### INTERPRETATION.

8. In every Ordinance unless the context otherwise requires—

Interpretation

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

Law always  
speaking

2. The expression "shall" shall be construed as imperative, and the expression "may" as permissive;

"Shall"  
"May"

3. Whenever the expression "herein" is used in any section of an Ordinance it shall be understood to relate to the whole Ordinance and not to that section only;

"Herein"

4. The expression "His Majesty," the "King," or "the Crown," means His Majesty, his Heirs and Successors, Sovereigns of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the seas;

The Sovereign

5. The expression "Commissioner" means the Commissioner for the time being or other chief executive officer or administrator for the time being carrying on the government of the Territory by whatever title he is designated;

"Commis-  
sioner"

6. The expression "Commissioner in Council" means the Commissioner or person administering the government of the Territory for the time being acting by and with the advice of or by and with the advice and consent of or in conjunction with the Council of the said Territory;

"Commis-  
sioner in  
Council"

7. The expression "Government," "Government of the Territory" or "Yukon Government" used in any Ordinance whenever enacted means His Majesty the King acting for the Territory;

"Govern-  
ment"

8. The expression "the United Kingdom" means the United Kingdom of Great Britain and Ireland;

"United  
Kingdom"

9. The expression "the United States" means the United States of America;

"United  
States"

10. The expression "Territory" means the Yukon Territory as defined by *The Yukon Territory Act*.

"Territory"

Name of  
country, place,  
officer, etc.

11. The name commonly applied to any country, place, body, corporation, society, officer, functionary, person, party or thing means such country, place, body, corporation, society, officer, functionary, person, party or thing, although such name is not the formal and extended designation thereof;

“ Procla-  
mation ”

12. The expression “ proclamation ” means a proclamation under the seal of the Territory ;

Acts by  
proclamation

13. When the Commissioner is authorized to do any act by proclamation such proclamation is to be understood to be a proclamation issued under an Order of the Commissioner, but it shall not be necessary to mention in the proclamation that it is issued under such Order ;

Number and  
gender

14. Words importing the singular number or the masculine gender only, include more persons, parties or things of the same kind than one and females as well as males and the converse ;

“ Person ”

15. The expression “ person ” includes any body corporate and politic or party and the heirs, executors, administrators or other legal representatives of such person to whom the context can apply according to law ;

“ Writing ”

16. The expression “ writing,” “ written ” or any term of like import includes words printed, painted, engraved, lithographed or otherwise traced or copied ;

“ Now ”

“ Next ”

17. The expression “ now ” or “ next ” shall be construed as having reference to the time when the Ordinance was assented to ;

“ Month ”

“ Year ”

18. The expression “ month ” means a calendar month ; and the expression “ year ” means a calendar year ; and the number of any year (unless the contrary is indicated) means “ the year of our Lord ” without the mention of “ the year of our Lord.”

“ Holiday ”

19. The expression “ holiday ” includes Sunday, New Year’s Day, Ash Wednesday, Good Friday, Easter Monday, the second Friday in May to be known as Arbour Day, Christmas Day, the birthday or the day fixed by proclamation for the celebration of the birthday of the reigning Sovereign, Dominion day, Labour day and such day as may in each year be proclaimed a public holiday for the planting of forest and other trees and any other day appointed by proclamation for a general fast or thanksgiving ;

“ Gazette ”

20. The term “ gazette ” or “ official gazette ” means *The Yukon Official Gazette* ;

Time expiring  
on holiday,

21. If the time limited by any Ordinance for any proceeding or the doing of anything under its provisions expires or falls upon a holiday, the time so limited shall be extended to and such thing may be done on the day next following which is not a holiday ;

Standard time

22. The local time of and at the one hundred and thirty-fifth meridian of longitude is hereby declared to be the standard time of the Yukon Territory ; and when any

Ordinance heretofore or hereafter passed refers to any particular time of day such standard time shall be considered to be meant;

23. The expression "felony" means any crime which before the passing of *The Criminal Code* 1892 would have been a felony under the law of Canada; and "misdemeanour" means any crime or offence which before the passing of the said Code would have been a misdemeanour under the said law; "Felony"

24. The expression "oath" includes a solemn affirmation or declaration whenever the context applies to any person and case by whom and in which a solemn affirmation or declaration may be made instead of an oath; and in like cases the expression "sworn" includes the expression "affirmed" or "declared"; "Oath"  
"Sworn"

25. Whenever (by any Ordinance or by any Order, regulation or commission made or issued by the Commissioner under any law authorizing him to require the taking of evidence under oath) an oath is authorized or directed to be made, taken or administered, such oath may be administered and a certificate of its having been made, taken or administered may be given by any one named in any such Ordinance, Order, regulation or commission, or by a judge of any court, a notary public, a justice of the peace or a commissioner for taking affidavits having authority or jurisdiction within the place where the oath is administered; Officers to  
take oaths

26. The expression "sureties" means sufficient sureties and the expression "security" means sufficient security; and whenever these words are used one person shall be sufficient therefor unless otherwise expressly required; "Sureties"  
"Security"

27. The expression "magistrate" includes justice of the peace; "Magistrate"

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

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

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

31. If in any Ordinance any person is directed to be imprisoned or committed to prison, such imprisonment or committal shall (if no other place is mentioned or provided by law) be in or to the common gaol of the locality in which the order for such imprisonment is made, or if there Imprisonment

is no common gaol there then in or to that common gaol which is nearest to such locality ; and the keeper of any such common gaol shall receive such person and safely keep and detain him in such common gaol under his custody until discharged in due course of law or bailed in cases in which bail may by law be taken ;

Public  
expenditure

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

Appointment,  
removal, etc.,  
of officials

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

Successors  
and deputies  
of officials

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

Officers  
retained  
during  
pleasure

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

When  
majority may  
act

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

Effect of  
incorporation

37. Words making any association or number of persons a corporation or body politic and corporate shall vest in such corporation power to sue and be sued, contract and be contracted with by their corporate name ; to have a common seal and to alter or change the same at their pleasure ; and to have perpetual succession ; and power to acquire and hold personal property or movables for the purposes for which the corporation is constituted and to alienate the same at pleasure ; and shall also vest in any majority of the members of the corporation the power to bind the others by their acts ; and shall exempt the individual members of the corporation from personal liability for its debts or obligations or acts, provided they do not violate the provisions of the Ordinance incorporating them ;

Forms

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

Repeal of  
by-laws, etc.

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

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

Private Ordinances

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

Power of repeal reserved

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

Effect of repeal limited

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

Repeal no declaration as to law previously

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

Repeal : Continuation of previous officers, etc.

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

Repeal : By-laws, etc., continued

46. Whenever any Ordinance or part of an Ordinance is repealed and other provisions are substituted by way of amendment, revision or consolidation, any reference in any unrepealed Ordinance (or in any rule, order or regulation made thereunder) to such repealed Ordinance or enactment shall, as regards any subsequent transaction, matter or thing be held and construed to be a reference to the provisions of the substituted Ordinance or enactment relating to the same subject matter as such repealed Ordinance or enactment :

Repeal ; Reference to old law

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

Repeal :  
Existing  
rights  
reserved!

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

Enforcement  
of Ordinances

48 Unless otherwise therein specially provided, proceedings for the imposition of punishment by fine, penalty or imprisonment for enforcing any Territorial Ordinance or municipal by-law may be brought summarily before a justice of the peace under the provisions of part LVIII of *The Criminal Code* 1892; and the words "on summary conviction" whenever they occur in any Ordinance shall refer to and mean under and by virtue of part LVIII aforesaid;

Application  
of fines, etc.

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

Recovery of  
penalties in  
unprovided  
cases

50. Where a pecuniary penalty or a forfeiture is imposed for the contravention of any Ordinance then (if the provisions of part LVIII of the *Criminal Code* 1892 are not applicable to the case and if no other mode is prescribed for the recovery of such penalty or forfeiture or if the mode prescribed is not applicable to the case) the penalty or forfeiture shall be recoverable with costs by civil action or proceeding at the suit of the Legal Adviser or of a private party suing as well for the Crown as himself in the Territorial Court; if no other provision is made for the appropriation of the penalty or forfeiture one-half thereof shall belong to the Government of the Territory and the other half shall belong to the private plaintiff if there is any, and if there is none the whole shall belong to the Crown;

Repeal :  
Penalties and  
forfeitures not  
affected

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

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

Ordinances  
public  
Judicial  
notice

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

Printed copies  
of Ordinances

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

Evidence of  
Orders in  
Council

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

Construction  
of Ordinances

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

Reference to  
sections

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

Reference  
by number.

58. Where an Ordinance is not to come into operation immediately on the passing thereof and confers power to hold any election, to make any appointment, to make, grant or issue any instrument, Order in Council, order, warrant, scheme, letters patent, rules, regulations or by-laws, to give notices, to prescribe forms or to do any other thing for the purposes of the Ordinance, that power may (unless the contrary intention appears) be exercised at any time after the passing of the Ordinance so far as may be necessary or expedient for the purpose of bringing the Ordinance into operation at the date of the commencement thereof, subject to this restriction that any such instrument, Order in Council, order, warrant, scheme, letters patent, rules, regulations or by-laws shall not (unless a contrary intention appears in the Ordinance or the contrary is necessary for bringing the Ordinance into operation) come into operation until the Ordinance comes into operation ;

Proceedings  
under  
Ordinance  
preliminary  
to coming into  
force

General rules  
of construction.

59. Nothing in this section shall exclude the application to any Ordinance of any rule of construction applicable thereto and not inconsistent with this section. N. W. T. c. 1, s. 8.

#### CUSTODY OF ORDINANCES.

Ordinances to  
be of record

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

#### CERTIFIED COPIES OF ORDINANCES.

Authenti-  
cation of  
copies

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

Certified  
copies

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

Certificate

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

Disallowance

#### CONSTRUCTION OF THIS ORDINANCE.

Interpre-  
tation hereof

13. The provisions of this Ordinance shall apply to the construction thereof and to the words and expressions used therein. N. W. T. c. 1, s. 14.





## TITLE II.

### LEGISLATURE AND GENERAL GOVERNMENT.

#### CHAPTER 2.

An Ordinance respecting the Council of the Yukon Territory.

##### COUNCIL.

**1.** The elected members of the Yukon Council shall be elected to represent the electoral districts set forth in Schedule 1 appended to this Ordinance. No. 28 of 1902, s. 1.

##### VACATING OF SEATS.

**2.** Any elected member of the Yukon Council may vacate his seat therein in the manner herein provided:

(1) He may openly in his place in Council declare his wish to vacate his seat as a Member; and in such case the Territorial Secretary shall record the same in the journals and the seat of such Member shall forthwith be vacated; or,

(2) He may deliver to the Commissioner of the Yukon Territory a statement in writing under his hand, attested by two witnesses, declaring his resignation of such seat; upon receipt whereof by the Commissioner (whether during a session of the Council or not) the seat of such Member shall become vacant. No. 28 of 1902, s. 2.

**3.** Upon any vacancy in the representation of any electoral district created by death or in any way other than by resignation, any two members of the Council may give notice of the vacancy to the Commissioner. No. 28 of 1902, s. 3.

**4.** The Commissioner upon receiving notice of the resignation or death of any Member of the Council shall fix the

Yukon council.

Resignation of members.

In House.

To commissioner.

Vacancy other than by resignation.

Issue of writ to fill vacancy.

date for the election of a Member to fill such vacancy, appoint a returning officer and direct the Territorial Secretary to issue a writ under his hand and the seal of the Territory to such Returning Officer requiring him to hold such election. No. 28 of 1902, s. 4.

Resignation not allowed pending election petition.

**5.** No Member elected to the Council shall be permitted to resign under the provisions of this Ordinance so long as any proceedings are pending under any of the provisions of the Ordinance respecting elections nor until he has been finally declared elected. No. 28 of 1902, s. 5.

Resignation not to affect proceedings.

**6.** The resignation of a Member shall in no way affect the conduct or result of any proceedings taken under the provisions of any Ordinance of the Territory respecting controverted elections. No. 28 of 1902, s. 6.

#### INDEMNITY TO MEMBERS.

Member's indemnity.

**7.** The Commissioner shall pay to each elected Member an allowance of one thousand two hundred dollars for each year of service after election.

Provided always, that a deduction at the rate of twenty-five dollars per day shall be made from such allowance for every day on which a representative does not attend a sitting of the Council, if the Council sits on such a day, or of a committee of such Council, if such committee sits on such day and he is a member of such committee. No. 28 of 1902, s. 7.

How paid.

**8.** Such allowance may be paid from time to time as the representative becomes entitled to the same to the extent of fifty dollars for each day's attendance as aforesaid, but the remainder shall not be paid until the close of the year in respect of which the same is payable, when the final payment shall be made. No. 28 of 1902, s. 8.

Travelling expenses.

**9.** There shall also be allowed to each member of the said Council his actual travelling expenses from his place of residence in attending sittings of the Council and of any such committee as aforesaid and returning to such residence. No. 28, of 1902, s. 9.

Council may waive deduction.

**10.** The Council may by resolution waive any deduction for non-attendance of any representative. No. 28 of 1902, s. 10.

#### EXAMINATION OF WITNESSES.

Attendance of witnesses.

**11.** The Council may at all times command and compel the attendance before the Council or before any committee

thereof of such persons, papers and things as the Council or committee may deem necessary for any of its proceedings or deliberations. No. 28 of 1902, s. 11.

**12.** Whenever the Council requires the attendance of any person before the said Council or before a committee thereof, the Clerk may issue his warrant directed to the person named in the order of the Council requiring the attendance of such persons before the Council or a committee thereof and the production of such papers and things as may be ordered. No. 28 of 1902, s. 12.

Clerk's warrant or subpoena.

#### OATH TO WITNESSES.

**13.** Any standing or select committee of the Council may require the facts, matters and things relating to the subject of inquiry to be verified or otherwise ascertained by the oral examination of witnesses and may examine such witnesses upon oath, and for that purpose the chairman or any other member of the committee may administer to any witness an oath or affirmation in the form A in the Schedule to this Ordinance. No. 28 of 1902, s. 13.

Examination on oath.

#### SCHEDULE I.

1. The Electoral District of Dawson shall consist of all that portion of the Yukon Territory commencing at the point of intersection of the eastern limit of the Yukon Territory with the watershed dividing the Peel River and tributaries from the Stewart River and its tributaries; thence westerly along said watershed to the head of the Klondike River; thence southerly and westerly along the centre of the main channel of the Klondike River to its intersection with the main channel of the Yukon River; thence up stream along the centre of the main channel of the Yukon River to its intersection with the main channel of the White River; thence up stream along the centre of the main channel of the White River to its intersection with Meridian 141 degrees west; thence north along said meridian to the northern limit of the Territory; thence easterly and southerly along the northern and eastern limits of the Territory to the point of commencement, and such Electoral District shall return two members.

Dawson.

2. The Electoral District of Klondike shall consist of all that portion of the Yukon Territory lying to the east of the main channel of the Yukon River and to the north of the watershed dividing the Pelly River and its tributaries from the Yukon River and its tributaries north of the Pelly River and not included in Electoral District No. 1 hereinbefore

Klondike.

described, and such electoral district shall return two members.

White Horse. 3. The Electoral District of White Horse shall consist of all those portions of the Yukon Territory not included in Electoral Districts Nos. 1 and 2 hereinbefore described, and such electoral district shall return one member.

## SCHEDULE II.

### *Form A.*

The evidence you shall give upon this examination shall be the truth, the whole truth and nothing but the truth. So help you, God.

### *Form B.*

You do solemnly, sincerely and truthfully affirm that the evidence you shall give on this examination shall be the truth, the whole truth and nothing but the truth. No. 28 of 1902.

## CHAPTER 3.

### An Ordinance respecting Elections.

#### ISSUE OF WRIT.

**1.** Every writ for the election of a member of the Yukon Council shall be dated and shall be returnable on such day as the Commissioner determines, and shall be issued by the Territorial Secretary under his hand and the seal of the Territory to such resident elector of the electoral district in which the election is to be held as the Commissioner appoints, and such person shall be the returning officer at the election to which such writ relates. Provided always that if the person to whom the writ has been addressed refuses or is unable or not qualified to act, he shall (under penalty hereinafter provided) forthwith after the receipt of such writ, notify the Commissioner by the most speedy means available of such refusal, inability or want of qualification, when the Commissioner may order another writ to issue or may appoint some other resident elector as returning officer who shall act under the writ already issued. Provided, also, that no election shall be declared void if the person to whom the writ is addressed acts thereunder as returning officer on the ground that such person is not a resident elector of the district or is otherwise disqualified to act as returning officer. No. 29 of 1902, s. 3.

Writ, date of issue and return.

Returning Officer.  
Refusal or inability to act.

Proviso.

**2.** The Commissioner shall fix the day and locality for the nomination of candidates at such election; and the day and locality so fixed shall be specified in the writ of election for that electoral district. Provided always that in the case of a general election the day so fixed shall be the same in the case of every electoral district except that it may be varied when rendered necessary under any other provision of this Ordinance. Provided further, that there shall be an interval of at least fourteen days between the date of the writ and the day of nomination mentioned therein.

Day and place of nomination to be named in writ.

A general election day to be same in all districts.

Fourteen days to elapse between date of writ and nomination.

(2.) The writs of election shall be in Form A in Schedule 2 to this Ordinance and shall be transmitted by registered letter by the Territorial Secretary addressed to the respective returning officers, unless otherwise ordered by the Commissioner. No. 29 of 1902, ss. 4 and 5.

Form of writ.  
How to be transmitted.

## RETURNING OFFICER.

Indorsement  
of receipt of  
writ.

**3.** The returning officer shall, on receiving the writ of election forthwith indorse thereon the date on which he received the same and before taking any action under this Ordinance, shall take before a Justice of the Peace or Commissioner for taking affidavits, the oath of office set out in form "A" in schedule 1 to this Ordinance, and shall forthwith thereafter cause a certificate (form "B" in said schedule) made by such Justice of the Peace or Commissioner, of the said oath having been taken, to be filed with the Territorial Secretary. No. 33 of 1902, s. 3.

Oath of office.

To appoint an  
election clerk.

**4.** The returning officer, by a warrant under his hand, in form "C" in said Schedule 1, shall appoint an election clerk, and may, at any time, during the election, appoint in the same manner, another election clerk, if the one so appointed resigns or is unable to perform his duties as such clerk. No. 33 of 1900, s. 4.

Duties of elec-  
tion clerk.

**5.** The election clerk shall assist the returning officer in the performance of his duties, and act in his stead as returning officer whenever the returning officer, after appointing such election clerk refuses or is unable to perform his duties.

Responsibility  
of election  
clerks acting  
as returning  
officers.

(2.) All the provisions of this Ordinance in regard to returning officers shall apply to election clerks acting as returning officers.

(3.) The returning officer or election clerk shall not act as deputy returning officer or poll clerk in any polling place. No. 33 of 1900, s. 5.

Oath of elec-  
tion clerk.

**6.** The election clerk before acting as such shall take the oath of office in form "D" in said schedule 1 before the returning officer or any person authorized to administer an oath within the Territory; and a certificate as in form "E" in said schedule of his having taken such oath shall be delivered to him by the person before whom such oath is taken, which he shall cause to be forwarded to the Territorial Secretary. No. 33 of 1900, s. 6.

Penalties.

**7.** The election clerk when acting for or in the stead of the returning officer shall be subject to like penalties as the returning officer for violating any of the provisions of this Ordinance, but this shall not relieve the returning officer from any penalties to which he may render himself liable. No. 33 of 1900, S. 7.

## POLLING DIVISIONS.

**8.** The returning officer shall with all reasonable speed after receiving the writ of election,—

(1) Fix upon and secure a suitable building in the locality in which the nomination is to be held for use as a hustings; Building for hustings.

(2.) Subdivide the electoral district into as many polling divisions as he deems necessary for the convenience of electors and number them consecutively and give to each a distinctive name. Provided always that no such polling division shall have a greater voting population than 200; Provided further, however, that if a polling division should include a greater number of voters than 200 the fact shall not be held to invalidate the poll held in that polling division; nor shall it render the returning officer liable to a penalty, unless it can be shown that one or more duly qualified voters have been deprived of the opportunity to vote by reason of such larger number of voters having been included within the polling division. Polling division. Proviso.

(3.) Provide suitable and conveniently situated buildings for use as polling places. Buildings for polling place.

(4.) Procure or cause to be procured, as many boxes (hereinafter called ballot boxes) as there are polling places within the District. Ballot boxes to be procured.

(5.) The ballot boxes shall be made of some durable material, shall be provided with a lock and key and shall be so constructed that the ballot paper can be introduced therein and not withdrawn therefrom unless the box is unlocked. Ballot boxes how made.

(6.) The name and number of the polling place at which the ballot box is to be used shall be plainly painted, or otherwise securely marked thereon, so that it may be easily distinguished from the ballot box of any other polling place. Name and number of polling place to be on the box.

(7.) If the returning officer fails to furnish ballot boxes in the manner herein provided, he shall incur a penalty of one hundred dollars in respect of every ballot box which he has failed to furnish in the manner prescribed. No. 33 of 1900, s. 8; No. 29 of 1902, s. 8. Penalty for failing to furnish ballot boxes.

**9.** At least fourteen days before the day fixed for the nomination of candidates, the returning officer shall provide and cause to be posted up in some conspicuous place in the immediate neighbourhood of each polling place a proclamation in form "F" in said schedule 1, in which proclamation shall be set forth: Posting proclamation.

(a.) The time and place at which the nomination is to be held;

(b.) The place or building to be actually used;

(c.) The time allowed for the nomination by this Ordinance;

(d.) The date when the polls will be opened at the several polling places, if a poll is required, and the time during which such polls shall remain open;

(e.) The numbers and names of the places at which the several polls shall be held. No. 33 of 1900, s. 9.

POSTPONEMENT OF NOMINATION.

Nominations may be postponed by returning officer

**10.** Whenever, from unforeseen accident, delay or otherwise, the proclamation cannot be posted up so as to leave the required time before the posting up of the proclamation and the nomination day, or whenever any candidate dies, after being nominated, and before the close of the polls, the returning officer shall fix another day for the nomination of candidates, which day shall be the nearest day conveniently possible after allowing the number of days required by section 9 of this Ordinance between the posting up of the proclamation and nomination day, and in every such case the returning officer shall proceed as directed in said section 9, and shall, with his return, make to the Territorial Secretary a special and full report under oath of the causes which occasioned the postponement of the election. No. 33 of 1900, s. 10.

NOMINATIONS.

Time and manner of nomination.

**11.** At any time before twelve o'clock noon of the day fixed for the nomination, any ten or more electors may nominate a candidate by signing before any credible witness or witnesses, and causing to be filed with the returning officer a nomination paper in form "G" in said schedule 1, and any vote given at the election for any person other than a candidate so nominated shall be null and void.

Vote for person not nominated.

Nomination papers.

Witness to signatures.

(2) A nomination paper shall not be valid or be acted upon by the returning officer unless—

(a.) It is accompanied by an affidavit of some credible witness or witnesses that the persons whose signatures are appended to the nomination paper are severally known to such witness or witnesses and that they are, or will be, to the best of his knowledge and belief, electors severally entitled to vote at the election under this Ordinance.

Absent for candidate.

(b.) It is accompanied by the consent in writing of the person therein nominated (except when such person is absent from the Territory, when such absence shall be stated in the nomination paper), and,

Deposit of \$200.

(c.) A sum of two hundred dollars is deposited in the hands of the returning officer at the time the nomination paper is filed with him.

Receipt for nomination paper.

(3.) The returning officer shall, the foregoing requirements of this section being complied with, give his receipt for the nomination paper, and the said receipt of the returning officer shall in every case be sufficient evidence



of the production of the nomination paper, of the consent of the candidate and of the payment herein mentioned.

(4.) The returning officer shall accept the sum of money hereinbefore mentioned if it is tendered—

How deposit may be made.

(a). In gold coin ;

(b). In Dominion of Canada notes ;

(c). In the notes of, or accepted cheque on any bank chartered by the Parliament of Canada which, at the time, is redeeming its notes on demand ; or

(d). Partly in one and partly in another or others of the description of money herein mentioned ; but he will not be obliged to accept such tender if any part of it consists of other descriptions of money than herein specified.

(5.) The sum so deposited by any candidate shall be returned to him in the event of his being elected, or of his obtaining a number of votes at least equal to one half the number of votes polled in favour of the candidate elected, as decided in the final count, who polls the smaller number of votes.

Condition upon which deposit may be returned.

(6.) If such candidate has not obtained the number of votes in the next preceding subsection mentioned, the said deposit shall be transmitted by the returning officer to the Territorial Treasurer and by him deposited to the credit of the general revenue fund of the Territory. No. 33 of 1900, s. 11.

Forfeiture of deposit.

#### NOMINATION PROCEEDINGS.

**12.** Every returning officer shall on the date of nomination and at the place fixed as aforesaid, proceed to the hustings, which shall be at such a place that all the electors may have free access thereto, and at the hour of eleven of the clock in the forenoon, shall proceed to read in an audible voice the nominations which he has received, and from time to time until twelve o'clock of the day shall so read further nominations as he receives them. No. 33 of 1900, s. 12.

Proceedings at hustings.

**13.** At the hour of twelve o'clock the returning officer shall declare the nominations closed and shall announce in an audible voice the names of the several candidates. No. 33 of 1900, s. 13.

Closing nominations.

**14.** If, at the close of the hour for receiving nominations only one candidate, or if there are two candidates to be elected, only two candidates remain in nomination, the returning officer shall then and there—

Procedure where only one candidate is nominated.

(a). Declare the said candidate or candidates duly elected.

(b). Give to such candidate or each of such candidates or any agent of either of such candidates if the candidate is not present, a certificate that such candidate has been duly elected ;

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(c). Forward to the Territorial Secretary, a certificate in writing declaring such candidate or candidates duly elected; and all ballot boxes, poll books and other books, forms, materials and things sent to him to be used in the election and which have not been used. No. 33 of 1900, s. 14.

Procedure where more than one candidate is nominated.

**15.** If at the close of the hour for receiving nominations more candidates than the number required to be elected remain in nomination, the returning officer shall announce the day upon which a poll will be held, and the day, hour and place at which the ballots will be counted, which must not be more than fourteen days after the polling. No. 33 of 1900, s. 15.

Candidate may withdraw his nomination.

**16.** Any candidate nominated may withdraw at any time after his nomination and before the opening of the poll by filing with the returning officer a declaration in writing under oath to that effect, signed by himself, and stating that his withdrawal is *bona fide*, and not for the purpose of assisting or injuring the prospects of election of any other candidate; and any vote cast for a candidate who shall have so withdrawn shall be null and void, and in case after such withdrawal there should remain only the number of candidates to be elected then it shall be the duty of the returning officer to forthwith return as duly elected the candidate or candidates so remaining, and to proceed as directed in section 14 of this Ordinance.

But will forfeit his deposit

Provided always that if a candidate withdraw at any time after his nomination he shall forfeit the money deposited by him and the returning officer shall transmit the same to the Territorial Treasurer as provided in section 11 of this Ordinance. No. 33 of 1900, s. 16.

#### PROVIDING FOR THE POLLING.

Date and hour of polling.

**17.** Whenever a poll has been granted it shall be held on the fourteenth day after the day of nomination, and shall be opened at nine o'clock in the forenoon, and kept open until five o'clock in the afternoon, of the same day, and the votes at the several polling places shall be given between the said hours of that day. No. 32 of 1900, s. 17.

Election notices.

**18.** Immediately after having granted a poll, the returning officer shall cause to be posted up with all reasonable speed, at all places where the proclamation of the election was posted up, and at least eight days before the day of voting, an election notice setting forth the following information:

- (a.) The names of the several candidates;
- (b.) The day and hours of the day on which votes will be received;

(c.) The day, hour and place at which the votes will be counted and the return declared. No. 33 of 1900, s. 18.

**19.** The returning officer shall also cause to be posted up near to the aforesaid election notice copies of form "H" in said Schedule 1, containing information to electors. No. 33 of 1900, s. 19.

Information to electors.

**20.** Where a poll has been granted the returning officer shall forthwith cause to be printed such a number of ballot papers as will be sufficient for the purposes of the election and the number necessary for each polling place shall be bound or stitched in a book of convenient size and in such a manner that the counterfoils shall continue bound or stitched when the ballot papers are detached therefrom.

Ballots to be printed.

(2.) Every ballot paper shall contain the names of the candidates, arranged alphabetically in the order of their surnames, or if there are two or more candidates with the same surname, of their christian names, and the ballot papers may be in the form "H" given in said schedule 1. No. 33, of 1900, s. 20.

What to contain.

**21.** In addition to the ballot papers hereinbefore referred to, the returning officer shall cause to be printed such a number of other ballot papers—hereinafter called "tendered ballot papers"—to be used in the manner hereinafter directed, as will be sufficient for the purposes of the election.

Tendered ballot papers.

**22.** The tendered ballot papers shall be in the same form as the ballot papers hereinbefore referred to, but shall be of a different colour; and upon the back of every tendered ballot paper, and upon the face of the counterfoil attached thereto shall be printed the words, "Tendered Ballot Paper." No. 33 of 1900, s. 22.

Colour of tendered ballot papers.

#### DEPUTY RETURNING OFFICER.

**23.** For the purpose of taking the votes at an election, the returning officer shall by writing over his signature appoint a deputy returning officer for each polling place and shall thereby require the deputy returning officer to open and hold the poll in such division at the time and place fixed in the election notice, and according to the provisions of this Ordinance.

Appointment of deputy returning officer.

(2.) Every deputy returning officer shall, before acting as such, take and subscribe before the returning officer, or any person authorized to administer oaths within the Territory, the oath in form "J" in said schedule 1.

Oath of deputy returning officer.

(3.) The returning officer shall, upon request, furnish each candidate, or his agent, with a list of the deputy re-

List of D.R.O. to be for-

warded candidate.

turning officers throughout the District. No. 33 of 1900, s. 23.

Election materials to be supplied deputy returning officers.

**24.** The returning officer shall cause to be supplied to each deputy returning officer, at least one day before polling day, the books, ballots, ballot boxes, pencils, and other material necessary under this Ordinance to the taking of a poll, and shall take the receipt of the deputy returning officer therefor.

Transmission of material.

(2.) The articles above mentioned may be sent by special messenger, who shall act for the returning officer and for whose actions the returning officer shall be responsible, as though said actions were performed by himself.

Provision if not received at opening of poll.

(3.) In case any of the copies of proclamation, notices, statements or other forms or articles (such as poll books, ballots, ballot boxes, envelopes, pencils, or other materials required under the provisions of this Ordinance) are not available, or are likely not to be available for use at the time and place required by this Ordinance, it shall be the duty of the returning officer, election clerk, deputy returning officer or poll clerk (as the case may be) to provide such copy of the necessary proclamations, notices, statements or other forms or articles (such as poll books, ballot boxes, ballots, envelopes, pencils or other material) as may be required at the time and place in which he is required to act under the provisions of this Ordinance, as nearly as may be according to the directions given in this Ordinance. No. 33 of 1900, s. 24.

Poll clerk duties and oath.

**25.** The deputy returning officer shall, before the hour for opening the polls on the election day, appoint, over his signature, a poll clerk to assist him in taking the votes, or to act in his stead if necessary, with all the powers and liabilities of the deputy returning officer, who, before acting as such, shall take the oath in form "K" in said schedule 1, before the deputy returning officer, the returning officer, or any person authorized to administer oaths within the Territory.

D.R.O. and poll clerk to be constables.

(2.) Each deputy returning officer and poll clerk appointed under this Ordinance shall be a constable during the day of polling. No. 33 of 1900, s. 25.

Place for polling.

**26.** The deputy returning officer shall prepare a polling place suitable for the purposes of this Ordinance within the building mentioned in the proclamation of the returning officer, if that is practicable and if not, then as near thereto as may be; and shall truly inform any elector, inquiring of him, the locality of such polling place. No. 33, of 1900, s. 26.

Proceedings at opening of poll.

**27.** The deputy returning officer, or his poll clerk shall, within five minutes before the time appointed for opening

the poll, publicly and audibly announce the time of day, and shall show the ballot box to the candidates, their agents or scrutineers, or, in their absence, to any electors present who may claim to act for any of the candidates, so that they may see that it is empty; and he shall then in their presence lock the box and place his seal upon it in such a manner as to prevent its being opened without breaking the seal; and shall allow the persons permitted hereunder to remain in the outer room of the polling place to affix their seals; and he shall then place the box in view of all those present, and shall keep it locked and sealed.

Ballot boxes to be inspected and sealed.

(2.) After locking and sealing the ballot box, he shall then, in the presence of the candidates, their agents or scrutineers, or in their absence, in presence of any electors present, who claim to act for any of the candidates, enter in the poll book any objections made to the hour of opening, or to the place of polling, or to the arrangements of the polling place, demanded to be entered either by a candidate, or his agent, or by any elector. No. 33 of 1900, s. 27.

Objections to be entered in poll book.

#### POLLING PLACE.

**28.** The polling place shall have an outer room suitable for the accommodation of the persons or things required for taking the vote under this Ordinance, and opening therefrom, an inner room in which the voter may mark his ballot, screened from all observation. Provided, that where it is difficult or impossible to secure two rooms, as required, a single room divided by a screen or curtain, so that the interior of the two parts shall be completely hidden from each other, shall be sufficient. No. 33 of 1900, s. 28.

Outer and inner rooms.

Division of room by screen.

**29.** In the outer room shall be kept the poll book and ballot box.

Poll book and ballot box to be kept in outer room

(2.) The poll book shall be open to inspection on demand, by any candidate, agent, or scrutineer, for a reasonable time, for the purpose of checking an entry.

Inspection of poll book.

(3.) The ballot box shall be kept in a conspicuous position during the voting so that the scrutineers may see the ballots as they are dropped in; and it shall not, during such voting, be touched by any person, except the deputy returning officer, or poll clerk acting for him, and only touched by him in such manner that the candidates, their scrutineers or agents, can observe it if present. No. 33 of 1900, s. 29.

Position of ballot box.

**30.** Except as hereinafter provided, no person shall have access to the inner room but the voter who is engaged in marking his ballot. No. 33 of 1900, s. 30.

Persons who may have access to inner room.

**31.** In the said inner room of the polling place there shall be a table suitable for use in marking ballots; there shall be posted on the walls a copy of the information to

Contents of inner room.

electors provided in form "H" in said schedule 1, and a copy of the election notice provided in section 18 of this Ordinance. No. 33 of 1900, s. 31.

#### AGENTS AND SCRUTINEERS.

Agent of candidate at polling place.

**32.** Every candidate shall be entitled to be represented at each polling place by an agent who shall produce to the deputy returning officer his appointment as agent signed by the candidate, or in case of his absence from the Territory, by two of the electors nominating such candidate, which shall be filed by the deputy returning officer.

Appointment of scrutineers.

(2.) The agent so appointed shall have the right to appoint, over his signature, one or more, but not exceeding two, scrutineers on behalf of his principal. No. 33 of 1901, s. 32.

Persons who may remain in outer room of polling place.

**33.** In addition to the deputy returning officer and his poll clerk, each candidate, his agent and one of his scrutineers, or in the absence of the agent, the two scrutineers, an interpreter, if one is required, during the time for which his services are required and no longer, a peace officer, if his services are required, and not otherwise, and the voter actually engaged in voting, and no others, shall be permitted to remain in the outer room of the polling place. No. 33 of 1900, s. 33.

Where elector may vote.

**34.** An elector may vote at any polling place; but no elector shall vote at more than one polling place. No. 33 of 1900, s. 33.

#### VOTING.

Procedure where elector presents himself to vote.

**35.** When a person claiming to be entitled to vote, presents himself for the purpose of voting, the deputy returning officer shall, without unnecessary delay, cause him to be admitted to the outer room of the polling place, and shall further proceed as follows:

(1.) He shall ask from the person desirous of voting:

(a.) His full name,

(b.) His occupation,

(c.) His place of residence; and shall,

(2.) Cause the answers, which must be made in a voice audible to the scrutineers in the polling place, unless the person is dumb, to be entered in their proper places in the poll book, which shall be kept in form "L" in said schedule 1.

(3.) The name of each voter or person tendering a vote shall be numbered consecutively. No. 33 of 1900, s. 35.

Voter to take oath M.

**36.** Every voter shall, before receiving a ballot paper, take and subscribe the oath of qualification set forth in form "M" in said schedule 1. No. 33 of 1900, s. 36.

**37.** The deputy returning officer shall also, on the request of a scrutineer, or person acting as such, require any person tendering a vote to take and subscribe the oath contained in form "N" in said schedule 1 after it has been read to him in an audible voice. No. 33 of 1900, s. 37.

Voter may be required to take oath N.

**38.** All oaths taken and subscribed under sections 36 and 37 shall be filed by the deputy returning officer, who is hereby authorized to administer the same. No. 33 of 1900, s. 38.

Oaths to be filed with D. R. O.

**39.** If a person who desires to vote refuses or fails to take and subscribe either of the oaths aforesaid when required to do so, the poll clerk shall write after the entry of his name and place of residence in the poll book, the words, "Refused oath Form M"—designating the oath refused by him—and the name of the person at whose request he was required to take such oath, and the person so refusing or failing to take such oath shall at once leave the polling place and not enter it again, and shall not be allowed to vote at that polling place. No. 33 of 1900, s. 39.

Refusal to take oath.

**40.** If the person required to subscribe is unable to sign his name, he shall make his mark which shall be certified by the signature of the deputy returning officer. No. 33 of 1900, s. 40.

Signature by marks man.

**41.** If the person desiring to vote is unable to understand the English language, or to swear to the oath form "M" in said schedule 1, the deputy returning officer shall enter a remark to that effect opposite, his name in the poll book, and shall allow him to retire from the polling place until a competent interpreter can be procured, who shall, after taking the oath provided in form "T" in said schedule before the deputy returning officer, interpret the proceedings to each voter in whose case he is employed.

Interpreter may be employed.

(2.) When an interpreter is employed, his name shall be entered in the poll book with the particulars of the case in which he acted, and any objections that may be made by any of the scrutineers or persons acting as such. No. 33 of 1900, s. 41.

Entry in poll book.

**42.** Where the proper entries respecting the person so claiming to vote have been made in the poll book in the manner prescribed, the deputy returning officer shall sign his name or initials upon the back of the ballot paper and upon the counterfoil; and he shall not put upon the said ballot paper any figure or mark other than his name or initials.

Initialling of ballot by D. R. O.

(2.) The deputy returning officer shall, if required by any candidate present or his agent, exhibit the name or initials

D. R. O. to show initials if asked.

signed by such deputy returning officer upon the back of the ballot paper before handling the ballot paper to the voter.

Voter may decline to receive ballot paper not initiated.

(3.) Any person desiring to vote may decline to receive a ballot paper which has not the name or initials of the deputy returning officer signed upon it.

(4.) The ballot paper shall be detached from the counterfoil and delivered to such person. No. 33 of 1900, s. 42.

No. to be written on counterfoil.

**43.** The counterfoil shall be retained in the book by the deputy returning officer, who shall write or otherwise mark upon the counterfoil the number prefixed to the name of such person in the poll book. No. 33 of 1900, s. 43.

D. R. O. to explain mode of voting.

**44.** The deputy returning officer may, and upon request shall, either personally or through his clerk, explain to the person offering to vote as concisely as possible the mode of voting. No. 33 of 1900, s. 44.

Directions to voter.

**45.** Upon receiving from the deputy returning officer the ballot paper so prepared as aforesaid, the person receiving the same shall, forthwith, proceed into the compartment provided for the purpose, and shall then and therein mark his ballot paper in the manner mentioned in form "H" in said schedule 1, by placing a cross "X" on the right hand side opposite the name of the candidate or candidates not exceeding the number of candidates to be elected for whom he desires to vote, or at any other place within the division which contains the name of such candidate or candidates; and he shall then fold the ballot paper across so as to conceal the names of the candidates and the mark or marks upon the face of such paper and so as to expose the initials of the deputy returning officer, and leaving the compartment shall, without delay, and without showing the front to any one, or so displaying the ballot paper as to make known to any person the name of the candidate or candidates for or against whom he has marked his vote, deliver the ballot paper so folded to the deputy returning officer, who shall, without unfolding the same, or in any way disclosing the names of the candidates or the mark or marks made by the elector, verify his own initials and at once deposit the same in the ballot box in the presence of all persons entitled to be present, and then present in the polling place; and the voter shall forthwith leave the polling place. No. 33 of 1900, s. 45.

No one but voter allowed in inner compartment.

**46.** While the voter is in a balloting compartment for the purpose of marking his ballot paper, no other person shall be allowed to enter the compartment or be in any position from which he can observe the mode in which the voter marks his ballot paper. No. 33 of 1900, s. 46.



**47.** No person who has received a ballot paper or tendered ballot paper from the deputy returning officer shall take the same out of the polling place, and any person having so received a ballot paper, who leaves the polling place without first delivering the same to the deputy returning officer in the manner prescribed, shall thereby forfeit his right to vote, and the deputy returning officer shall make an entry in the poll book in the column for remarks to the effect that such person received a ballot paper but took the same out of the polling place or returned the same declining to vote, as the case may be, and in the latter case the deputy returning officer shall immediately write the word "Declined" on the ballot paper and shall preserve it to be returned to the returning officer No. 33 of 1900, s. 47.

Ballot paper not to be taken out of polling place.

**48.** If a person representing himself to be a particular elector whose name already appears in the poll book as having voted or as having refused to sign a statement, applies to vote, unless the deputy returning officer is aware that the person who already presented himself to vote in that name had a right to do so, and that the person now presenting himself to vote in the same name has also a right to do so, or if directed to do so by any candidate, agent or scrutineer, he shall require him to sign statement provided in form "M" of said schedule 1, and shall enter his name and residence in the poll book, and shall give him a ballot paper as provided in section 42 and shall before receiving from him his marked ballot paper, serve him with a notice in form "O" of said schedule, and the deputy returning officer shall cause a similar notice to be served on the person who has previously voted or applied to vote in that name. No. 29 of 1902, s. 12.

Person tendering vote under name already voted.

**49.** When a person voting has taken and subscribed the oath in form "M" in said schedule 1, the deputy returning officer shall, if so requested by any person acting as scrutineer of any candidate, serve such person with a notice in the form "O" in said schedule, to appear at a time and place to be named in the notice to answer to a charge of having voted contrary to the provisions of this Ordinance; and shall give such notice to the person or persons so requiring such notice to be served.

Procedure.

(2) The said notice may be given on behalf of one or more candidates.

(3) The time appointed in such notice for such appearance shall not be less than two days after the polling day.

(4) After serving the notice provided in the preceding subsections, the deputy returning officer shall :

- (a.) Receive the ballot of the person desiring to vote ;
- (b.) Place it in an envelope ;
- (c.) Securely seal the envelope ;

(d.) Write upon it the name and place of residence of the person and his number as it appears in the poll book, the name and number of the polling place and his own name in full; and shall then,

(e.) Deposit it in the ballot box.

(5) The poll clerk shall enter in the poll book (in the next line below the particulars hereinbefore provided regarding the voter) a statement of:—

(a.) His having been served with such notice;

(b.) The name of the person or persons at whose request the notice was served;

(c.) The name of the candidate or candidates on whose behalf he or they were acting; and

(d.) The place, day and hour when the person is required to appear. No. 33 of 1900, s. 49.

Incapacitated person how to vote.

**50.** In case of an application by a person claiming to be entitled to vote who is incapacitated by blindness or other physical cause, or by inability to read, from marking his ballot paper, the deputy returning officer shall in the plain view of the candidates or their agents or scrutineers (if present) cause the vote of such person to be marked on a ballot paper for the candidate or candidates directed by such person and shall cause the ballot paper to be placed in the ballot box; and shall make a statement of the fact including the name of the candidate or candidates for whom the vote was cast opposite the voter's name on the poll book. No. 33 of 1900, s. 50.

Ballot paper spoiled before used.

**51.** A person claiming to be entitled to vote who has inadvertently dealt with his ballot paper in such a way that it cannot conveniently be used as a ballot paper on delivering to the deputy returning officer the ballot paper so inadvertently dealt with and proving the fact of the inadvertence to the satisfaction of the deputy returning officer shall be given another ballot paper in the place of the ballot paper so delivered up, and the deputy returning officer shall retain the spoiled ballot paper to be returned to the returning officer. No. 33 of 1900, s. 51.

#### CLOSE OF THE POLL.

Time of close of poll.

**52.** At the hour of five o'clock in the afternoon the deputy returning officer shall declare the poll closed and shall not allow any more votes to be polled, except the vote of the person who may be in some part of the act of voting at that hour.

Sealing of ballot box.

(2.) Immediately after the last ballot, as above provided, has been placed in the ballot box the deputy returning officer shall fill up and securely seal the opening in the lid of the box through which the ballots were inserted. No. 33 of 1900, s. 52.

## COUNT BY DEPUTY RETURNING OFFICER.

**53.** Immediately after the closing of the poll the deputy returning officer shall enter in a book a certificate that his entries in the poll book are correct and shall also enter any objections that the candidates or their agents or scrutineers may desire to have entered as to the conduct of the poll or as to its hour of closing.

Entry of objections.

(2.) The deputy returning officer shall then open the ballot box and examine the ballot papers to ascertain if they are the ballot papers which he supplied, and such examination shall be made and completed before opening any of the ballot papers. If the number of ballot papers in the box exceeds the number of persons who voted, he shall without opening the ballot papers, examine the backs thereof, so far as it may be necessary to see his name and initials, and shall reject any papers not having thereon his name or initials. After such examination is completed to the extent necessary, he shall proceed to examine the ballot papers, or the ballot papers not rejected as the case may be, in order to count up the votes given for each candidate.

Opening of ballot box and papers.

(3.) Every ballot paper which has not been supplied by the deputy returning officer or on which votes are given to more than the number of candidates to be elected, or on which anything in addition to the initials or name of the deputy returning officer on the back is written or marked, by which the voter can be identified, shall be void and shall not be counted.

What ballot papers not to be counted.

(4.) The deputy returning officer shall make a note in the book of any objection made by a candidate, or by his agent, or by any elector present to any ballot paper found in the ballot box, and shall decide any question arising out of the objection, and the decision of the deputy returning officer shall be final, subject only to reversal on a recount or on petition questioning the election or return.

Objections to ballots to be noted in poll book.

(5.) Every objection to a ballot paper shall be numbered and a corresponding number shall be placed on the back of the ballot paper, and shall be initialed by the deputy returning officer.

Objections to be numbered.

(6.) The deputy returning officer shall indorse "Rejected" on every ballot paper which he may reject as invalid, and shall indorse "Rejection objected to" if any objection be made to his decision.

Rejected ballot papers.

(7.) The deputy returning officer shall then count up the votes given for each candidate upon the ballot papers not rejected, and make up a written statement as set out in form "L," in said schedule 1, of the number of votes given to each candidate and of the number of ballot papers rejected and not counted by him, and the number of those rejected shall be entered in said poll book under the several heads following:

Votes to be counted.

Statement to be entered in poll book.

(a.) Number of papers rejected as wanting signature or initials of the deputy returning officer ;

(b.) Number of papers rejected as voting for more than the number of candidates to be elected.

(c.) Number of papers rejected as having a writing or mark by which voters could be identified.

(d.) Number of papers rejected as unmarked or void for uncertainty ;

And the said statement shall also show the total number of persons who have voted at such polling place, and shall forthwith be signed by the deputy returning officer and poll clerk and such of the candidates or their agents as may be present and desire to sign it. No. 33 of 1900, s. 53.

Only two agents to be present.

**54.** No more than two agents or scrutineers for a candidate shall be entitled to be present at the same time at the counting of the votes. No. 33 of 1900, s. 54

D. R. O. to sign certificate in poll book.

**55.** Every deputy returning officer shall, at the close of the poll certify over his signature in the poll book in full words, as indicated in form "L" aforesaid, the total number of persons who have voted at the polling place at which he has been appointed to preside. No. 33 of 1900, s. 55.

D. R. O. to give the number of votes polled to candidates.

**56.** At the close of the poll the deputy returning officer on being requested to do so, shall deliver to each of the candidates or their agents, or in the absence of the candidates or agents, to the electors present representing the candidates respectively, a certificate of the number of votes given for each candidate, and of the number of rejected ballot papers, and he shall also forthwith make out the ballot paper account in the form required by section 59 of this Ordinance. No. 33 of 1900, s. 56.

D. R. O. to seal up ballots.

**57.** Every deputy returning officer, at the completion of the counting of votes, after the close of the poll, shall, in the presence of the agents of the candidates make up into separate packets, sealed with his own seal, and the seals of such agents of the candidates as desire to affix their seals and marked upon the outside with the proper letter of the alphabet and a short statement of the contents of the packet, as in this section mentioned, the date of the day of the election, the name of the deputy returning officer, and the name and number of the polling place :

(a.) The used ballot papers which have not been objected to and have been counted.

(b.) The ballot papers which have been objected to but which have been counted ;

(c.) The rejected ballot papers ;

(d.) The unused ballot papers and the counterfoils of the ballot papers ;

- (e.) The spoiled ballot papers ;
- (f.) The tendered ballot papers ;
- (g.) The ballot papers given to voters who afterwards returned the same declining to vote.

(2.) After all the oaths have been taken and subscribed and all the entries made in the poll book as by this Ordinance required, the deputy returning officer shall in the presence of the candidates or their agents inclose the said poll book in a separate packet and write thereon the words "Poll Book," and also the date of the election, the name of the deputy returning officer and the name and number of the polling place. No. 33 of 1900, s. 57.

**58.** The deputy returning officer shall forthwith deliver the packets personally to the returning officer ; and if he be unable to do so, owing to illness or other cause, he shall deliver the packets to a person chosen by him for the purpose of delivering the same to the returning officer and shall mention on the outside of the cover of each of the packets the name of the person to whom the same had been so delivered, and shall take a proper receipt therefor, and the person so chosen shall, after having delivered the said packet to such returning officer, make oath before him to the effect of form "Q" in said schedule 1. No. 33 of 1900, s. 58.

D. R. O. to deliver packets to returning officer.

**59.** The poll book shall contain a statement made by the deputy returning officer showing the number of ballot papers entrusted to him, and accounting for them under the heads of (1) counted; (2) rejected; (3) unused; (4) spoiled; (5) tendered ballot papers; (6) ballot papers given to voters who afterwards returned the same declining to vote; and (7) ballot papers taken from the polling place; which statement shall be made in form "R" in said schedule 1, and in this Ordinance referred to as the "Ballot paper account." No. 33 of 1900, s. 59.

Poll book to contain statement.

**60.** No returning officer or deputy returning officer shall grant, make or enter into a scrutiny of the votes given at an election. No. 33 of 1900, s. 60.

Returning officer not to grant scrutiny.

#### COURT OF REVISION.

**61.** At the time and place mentioned in the notice served upon any voter as provided in section 49 of this Ordinance (which time shall be as soon as may be, and the place the building used as polling place, or other building as near thereto as may be) the deputy returning officer sitting with a Justice of the Peace shall hear and dispose of any objections to the right of any vote of which notice was given during the polling day, as provided in sections 48 and 49.

D. R. O. and J. P. to hear objections.

Court of  
Revision.

(2.) The deputy returning officer sitting with such Justice of the Peace as above provided shall constitute a Court of Revision within the meaning of this Ordinance. No. 33 of 1900, s. 61

Powers of  
Court of  
Revision.

**62.** The Court of Revision shall, for the purposes set forth in the next preceding section, have all the powers of a Court of Record as to compelling the attendance of witnesses, and their examination, the production of books and documents, and the taking of evidence under oath at any sittings held by it, and such court shall have generally, for the purposes aforesaid all the powers of any Court of Record in the Territory. No. 33 of 1900, s 62.

Compelling  
attendance of  
witness.

Production of  
documents.

**63.** The Court of Revision or either of the members thereof shall, on the application of any person who is supporting or opposing any objection, complaint or application which is to be considered at the court or sittings hereinbefore provided for, issue a summons in the form "S" in said schedule 1, directed to any person required by such applicant as a witness thereat, commanding such person to attend at such court or sittings and also commanding such person to bring any papers or articles in the possession or power of such person as may be required, and to give evidence at such court or sittings relating to any matter connected with any such objection, complaint or application; and, in the event of such person not so attending after being served with such summons and paid or tendered his proper witness fees according to the scale allowed in tariff "A" in section 2 of said schedule, may, on due proof of the service of the summons and of the payment or tender of the proper witness fees and on receiving from the person causing the witness to be summoned the fees for committing and conveying such witness to prison, commit such witness to the common jail or other lawful place of imprisonment for a term not exceeding one month, and the fees for such commitment and conveyance shall be the same as when a person is committed to prison under a summary conviction.

Deposit to  
pay witness  
fees.

(2.) Before any summons is issued requiring the attendance of a witness at the Court of Revision the person desiring the attendance of such person shall furnish the deputy returning officer with such sum of money as will be sufficient to pay the fees of the said witness as provided in the said tariff. No. 33 of 1900, s. 63.

Right of voter  
to fees.

**64.** The person whose right to have voted, if the subject of objection, shall not be paid witness fees until the court decides that he had a right to vote, and such witness fees shall be paid to the deputy returning officer at or before the opening of the Court of Revision by the person or persons at whose request the inquiry is held. No. 33 of 1900, s. 64.

**65.** If the person whose right to vote is the subject of inquiry fails to appear personally or by his agent according to the notice received by him on polling day, his vote shall be disallowed and he shall be liable for the costs of all witnesses summoned in respect of his case. No. 33 of 1900, s. 65. Default of appearance by voter.

**66.** If at any time the person or persons at whose request the inquiry as to the rightfulness of any vote is being held notifies the deputy returning officer over his or their signatures that he or they wish the inquiry as to such vote to cease or in case the witness fees mentioned in section 63 of this Ordinance are not paid to the deputy returning officer as therein provided, the inquiry shall cease forthwith and such person or persons shall pay all fees of witnesses summoned by the Court of Revision and the expenses of summoning such witnesses up to the time at which he or they gave notice that the inquiry should cease, and such vote shall be allowed. No. 33 of 1900, s. 66. Withdrawal of complaint.

**67.** Any of the parties to any such inquiry may appear before the Court of Revision in person or by agent. No. 33 of 1900, s. 67. May appear in person or by agent.

**68.** The question to be determined at any inquiry by the Court of Revision hereby constituted shall be whether any oath taken on polling day under the provisions of this Ordinance by the voter whose vote is the subject of the inquiry is false in whole or in part, and if false in part in what respect it is so false. Questions to be determined by Court.

(2.) If it is proved to the satisfaction of the Court that any voter whose vote is the subject of inquiry has taken any such oath which is false in whole or in part the vote of such voter shall be disallowed; but if it be proved to the satisfaction of such Court that every such oath so taken by such voter is altogether true such vote shall be allowed. When statement is proved false.

(3.) The decision of the Court shall be rendered in open court, and if the members of the court fail to agree it shall be stated in open court. No. 33 of 1900, s. 68. Decision of Court.

**69.** Whenever by reason of the absence of witnesses or other reasonable cause, it is impossible to hold or to conclude the inquiry on the day stated in the notice given on polling day, the Court of Revision shall cause the sitting to be adjourned from day to day until the inquiry is concluded. Provided that the Court, in case the adjournment is asked for on the ground of the absence of material testimony, documentary or otherwise, must be satisfied that the person whose duty it was to procure such testimony has used reasonable diligence to do so. No. 33 of 1900, s. 69. Sittings may be adjourned.

Court to make return of decisions reached.

**70.** The Court shall forthwith, after concluding its labors, make a return of the decisions reached by it on the qualifications of the several voters whose right to vote is the subject of dispute; and if any vote has been disallowed, it shall specify on what ground it has been disallowed; that is, if it has been disallowed on the ground that any oath made by the voter is false, it shall specify in what respect; if on the ground that any such oath is false in part, it shall specify in what particular it is so false, and the Court shall forward such return to the returning officer duly certified by both members of the Court of Revision, together with the poll books and statement pertaining to the election.

Where Court fails to agree Returning Officer to render decision.  
Count by Returning Officer.

(2) In case the members of the Court of Revision fail to agree, the full copy of the evidence certified to by both members of the Court shall be forwarded with the return to the returning officer who shall render a decision.

(3) As soon as may be after the arrival of the returns and at least one day before he commences to count the ballots, the returning officer shall render his decision regarding any ballot upon which the Court of Revision has failed to agree; and shall in said decision, if he disallows the vote state, as in this section prescribed, on what ground he disallows it. No. 33 of 1900, s. 70.

Court or Returning Officer may award costs.

**71.** The Court of Revision, or the returning officer when the decision is made by him, may award costs to or against any party to the application, which costs shall only be for witness fees and expenses of summoning witnesses according to the scale of fees in tariff "A" in section 2, in said schedule 1; and the said costs may be levied by the order of the said Court or the returning officer, as the case may be, by distress in the same manner as distress is leviable upon a warrant issued on a summary conviction. No. 33 of 1900, s. 71.

Expenses of Court.

**72.** The expense of holding the Court of Revision shall be charged as a part of the general expenses of the election. No. 33 of 1900, s. 72.

#### APPEALS.

Examination by candidates of returns of Court of Revision.

**73.** As soon as the returning officer has received from any deputy returning officer the papers mentioned in section 70 of this Ordinance, he shall on demand permit their examination by the several candidates or their agents, and shall furnish to each candidate or his agent a certified copy of any such document that they may demand. No. 33 of 1900, s. 73.

Time for appeal.

**74.** Appeals against the decision of the Court of Revision, or of the returning officer, rendered under said section 70 may be entered with the returning officer by any candidate



or his agent or by any person whose vote has been disallowed at any time up to the hour of commencing the count of the votes by the returning officer, and such appeal shall be entered by notice in writing to the said returning officer ;

Provided that no appeal shall be received by the returning officer unless the sum of \$25 is deposited with him as security for the costs of the prosecution of such appeal. No. 33 of 1900, s. 74.

Security for costs.

#### COUNT BY RETURNING OFFICERS.

**75.** The returning officer shall have the custody of the ballot box from the time it leaves the hands of the deputy returning officer, and shall be subject to the penalty provided in section 121 of this Ordinance if it is opened by himself or any other person until the day and hour appointed for the counting of the notes, or, in case the Court is adjourned under section 76, of this Ordinance until the day and hour of such adjournment. No. 33 of 1900, s. 75.

Custody of ballot box.

**76.** The returning officer at the place and on the day and hour mentioned by him in his announcement on nomination day that a count would be held, shall appear and produce the poll books, statement sheets of the deputy returning officers, statements of the Court of Revision showing the result of the objections made before them to the validity of any votes cast, and the ballot boxes of the several polling places.

Production of books and a time fixed for count.

(2.) If all the returns have not been received from the deputy returning officers on the day appointed, or if there is not one clear day between the day of receipt of the last return of the deputy returning officers, or between the date of the latest decision of the returning officer under the provisions of said section 70, and the day appointed for the count, the returning officer may adjourn the court until a future day, and may again from time to time in the like case, adjourn from day to day until such returns are all in and until a time when one clear day has elapsed between the receipt of the last return of the deputy returning officers, or the last decision of the returning officer under said section 70, whichever may have last happened. No. 33 of 1900, s. 76.

Adjournment of court.

**77.** The returning officer shall be provided with a suitable book to be called a "record book" in which he shall enter the particulars required by this Ordinance to be kept on record. No. 33 of 1900, s. 77.

Record book.

**78.** The returning officer, when the day and hour for counting the votes has arrived, whether according to his announcement on nomination day or in pursuance of any

Recount.

adjournment, shall then appear at the place designated and produce the proper books and material specified in section 76 of this Ordinance and shall begin with polling place Number 1 and shall note in his record book the number of ballots shown by the deputy returning officer's report of the polling places to have been cast ; and he shall then open the ballot box and count the number of ballots contained therein. No. 33 of 1900, s. 78.

Discrepancy  
in number.

**79.** If the number is not the same as that mentioned in the return of the deputy returning officer, he shall make a note of that fact. No. 33 of 1900, s. 79.

Count (1)  
appealed  
ballots.

**80.** He shall then first count and keep separately those ballots regarding which an appeal has been finally entered, entering the names, numbers and full particulars in his record book. No. 33 of 1900, s. 80.

(2) Illegal  
ballots not  
appealed.

**81.** He shall then count and keep separately in a sealed package the ballots which the Court of Revision has decided were illegally cast, which are not subject to appeal, making a full record of the same in his record book, and the said ballots, without being removed from their envelopes, shall be retained by the returning officer to be finally dealt with as hereinafter mentioned. No. 33 of 1900, s. 81.

(3) Good  
ballots.

**82.** He shall then count, without examination, and place in an open vessel the ballots which have been already counted by the deputy returning officer, and shall enter the number in his record book. No. 33 of 1900, s. 82.

(4) Spoiled  
ballots.

**83.** He shall then count the spoiled ballots and enter the number in his record book ; and shall examine them and shall place such as he considers make apparent the intent of the voter, and have been properly initialed by the deputy returning officer, among the ballots already counted by the deputy returning officer and shall enter the number in his record book ; and shall keep separately and place in a securely sealed package those which he considers do not make apparent the intent of the voter, or are not properly initialed, and shall enter the number in his record book. No. 33 of 1900, s. 83.

(5) Ballots  
appealed and  
sustained.

**84.** He shall then open the envelope containing the ballots whose validity has been sustained by the Court of Revision or by himself, and against which no appeal has been entered as provided in section 74 of this Ordinance ; and after opening each such ballot, without examination, and placing it amongst the unobjected ballots, shall enter the facts in his record book. No. 33 of 1900, s. 84.

**85.** The returning officer, after mixing the ballots so that those put in last shall not be distinguishable, shall proceed to open the ballots and count the number cast for each candidate. No. 33 of 1900, s. 85.

Count of votes.

**86.** In case a ballot is so marked that it is difficult or impossible to distinguish for which candidate or candidates it was intended to be counted, it shall be placed with the ballots which do not make apparent the intent of the voter mentioned in section 83 of this Ordinance. No. 33 of 1900, s. 86.

Ballots that are illegibly marked.

**87.** When all the ballots contained in the ballot box have been counted, the returning officer shall announce the result and shall record the same in his record book; and shall proceed to seal up in separate parcels the counted ballots and the spoiled ballots; and these parcels with the ballots still the subject of appeal shall be returned to the ballot box, which the returning officer shall seal so that it cannot be opened without breaking the seal; and the candidates or their agents shall also be permitted to similarly affix their seals. No. 33 of 1900, s. 87.

Announcement of results.

Disposition of ballot papers.

**88.** The returning officer shall then proceed similarly with the ballot box and returns of the second polling place, and so on until all the ballots cast in the electoral district have been disposed of as hereinbefore provided. No. 33 of 1900, s. 88.

Continuation of count.

#### DECLARATION OF ELECTION.

**89.** The returning officer shall then declare elected the candidate, or if there are more than one candidate to be elected, the two candidates for whom the largest number of ballots have been counted, and shall deliver to all the candidates or to the agent of any candidate who may be present, if the candidate is not present, a written statement declaring the said candidate duly elected; and such statement shall specify the number of ballots counted for each candidate, the number of spoiled ballots and the number still the subject of appeal.

Declaration of result of polling.

(2.) In case of a tie the returning officer shall give a casting vote, which shall be entered in his record book. No. 33 of 1900, s. 89.

Procedure in case of tie.

**90.** The returning officer shall then :

(1.) Cause all the ballot boxes, poll books, record books and statements made by the voters to be placed in the custody of the Clerk of the Territorial Court ;

(2.) Hand over to the said clerk all moneys received by him as security for the costs in the prosecution of any

General duties of Returning Officer.

appeals against the decisions of the Courts of Revision or of himself.

(3.) Notify the said clerk of any appeals that have been entered against any decision of the Courts of Revision or of himself.

(4.) Forward to the Territorial Secretary a certificate in writing specifying the names of the candidate or candidates declared by him elected.

Candidate  
deemed  
elected.

(5.) The candidate or candidates so certified as elected shall be deemed to be duly elected until and unless a judge upon appeal or recount as hereinafter provided shall declare another or other candidates elected. No. 33 of 1900, s. 90.

#### HEARING OF APPEALS.

Appeals to  
judge.

**91.** The clerk of the Territorial Court being notified as provided in the next preceding section, shall forthwith, after being so notified, bring such notification before a judge of the court, and such judge shall thereupon appoint a convenient time and place to hear such appeals and direct the clerk to give such notice to the persons interested in such appeals as he may direct and in such manner as he may direct, and the clerk shall give such notice accordingly. No. 33 of 1900, s. 91.

Inquiry by  
judge.

**92.** The judge shall sit at the time and place so appointed and hold an inquiry into the validity of the votes cast regarding which appeals have been entered and shall hear such evidence as may be adduced; and may affirm or reverse the decision of the Court of Revision or of the returning officer, as the case may be, with respect to any such votes; and shall render such judgment with respect to the validity of such votes as such Court or returning officers ought to have rendered.

Powers of  
judge.

(2) The judge sitting in appeal shall be deemed a court and shall have and exercise all the powers and authorities by this Ordinance conferred upon the Court of Revision.

Clerk in  
attendance.

(3.) The clerk of the court shall attend at such sittings and shall administer oaths to the witnesses, and otherwise act as clerk of the court. No. 33 of 1900, s. 92.

Subpœnas to  
be issued by  
clerk.

**93.** All subpœnas issued for the attendance of witnesses before such judge sitting in appeal shall be issued by the said clerk under the seal of the court and shall be deemed to be issued out of such court.

Witness  
failing to obey  
subpœna.

(2.) Any witness being duly served with any such subpœna and being paid or tendered the fees and conduct money provided in tariff B in section 2 in said schedule 1, who fails without reasonable excuse to obey the behests of such subpœna shall be deemed to have committed a contempt of the Territorial Court.

(3.) In case any such contempt is alleged to have been committed application may be made to a judge of the said court sitting in chambers for a writ of attachment against the person alleged to be guilty of such contempt, and such application shall be founded upon such material as chamber applications in such court are usually founded upon; whereupon such judge shall proceed on such application according to the chamber procedure in such court; and if on the return of the chamber summons and hearing the parties and evidence adduced, the judge is of opinion that a contempt has been committed, he shall order an attachment to issue out of such court against the party offending; and such attachment shall issue accordingly and the party shall be dealt with in the same way that he would be dealt with under and by virtue of any writ of attachment if sued out according to the practice of the court.

Attachment  
against such  
witness.

(4.) If the judge is of opinion that no contempt has been committed he shall dismiss the summons with or without costs as he may direct; and any costs that are awarded shall be the same as are awarded by the practice of the court on similar applications. No. 33 of 1900, s. 93.

Judge may  
dismiss sum-  
mons.

Costs.

94. The ballot boxes, poll books, record books, statement of voters, and all material or forms used at or in relation to the polling place at which the vote appealed against was cast shall be subject to the order of the judge during the trial of the appeal. No. 33 of 1900, s. 94.

Election  
material to be  
subject to  
order of judge.

95. The costs to be allowed in the case of such inquiry shall be according to "tariff B" in section 2 of said schedule 1, and shall be taxed by the clerk and shall be chargeable in the first place to the sum placed in the hands of the clerk by the returning officer;

Costs.

Provided that the judge may instead (if the appeal is sustained) order the costs or a portion thereof to be paid by the person whose vote is appealed against. No. 33 of 1900, s. 95.

Proviso.

96. When the sum of \$25 provided for in section 74 of this Ordinance has been applied in costs the judge may from time to time require the deposit by the appellant of a further sum which shall be fixed by him according to the probable expenses of the case; and if such deposit is not paid before continuing the proceedings the appeal may be dismissed with or without costs as the judge directs.

Further  
deposit.

(2.) If, at the conclusion of the appeal a part of the sum or sums deposited remains in the clerk's hands after all orders against it have been paid it shall be returned to the person depositing the same. No. 33 of 1900, s. 96.

Any part of a  
deposit  
remaining  
after appeal  
to be returned.

Withdrawal  
of appeal.

**97.** If at any time the appellant notifies the judge over his signature of his desire to withdraw an appeal, the proceedings in that appeal shall forthwith cease; and the balance of the money deposited by the appellant after payment of the costs of the court up to that time shall be returned to him; and if there is not sufficient balance remaining to pay such costs the judge may in his discretion order the appellant to pay the deficiency to such party as he may by his order direct. No. 33 of 1900, s. 97.

Costs.

#### COUNT OF APPEALED VOTES BY JUDGES.

Duty of judge  
after hearing  
appeals.

**98.** After the judge has concluded his inquiry as to all the appeals regarding the validity of votes cast which have been brought before him and rendered his decision, unless a recount has been demanded, he shall,—

Remove  
appealed  
ballots.

(1.) Open a ballot box containing ballots which have been the subject of appeal before him and remove such ballots only;

Seal up unlaw-  
ful ballots.

(2.) Seal up in an envelope the ballots which he has decided were unlawfully cast;

Open lawful  
ballots.

(3.) Open the envelopes containing the ballots which he has decided were lawfully cast, and taking out the ballots place them together in a vessel without examining them so that they may be mixed together and not distinguishable one from the other;

Count of  
vote.

(4.) Take such ballots out of such vessel; open them and count the ballots which have been cast for each candidate, rejecting only such as do not make apparent the intent of the voter, which ballots so rejected he shall place in a sealed envelope;

Counted  
ballots.

(5.) Return the ballots which he has counted and the envelopes aforesaid to the ballot box and securely lock and seal the same;

Continuation.

(6.) Proceed similarly with each of the ballot boxes of the electoral district containing ballots which have been the subject of appeal;

Record of  
votes.

(7.) Record the number of ballots the objection to which he has sustained, the number cast for each candidate and the number rejected as not having made apparent the intent of the voter;

Count of  
appealed  
ballots.

(8.) Add to the total vote received by each candidate according to the return made by the returning officers, the number of appealed ballots which he has decided have been cast for each candidate:

Previous  
casting vote,  
if any, not to  
be counted in  
first count.

Provided, that if a tie has occurred at the count by the returning officer and the returning officer has given a casting vote, such vote shall not be counted unless a tie occurs again in the count by the judge, in which case the vote of the returning officer shall be counted for the candidate for whom it was cast;

Provided further, that if a tie has not occurred at the count by the returning officer, and does occur at the count by the judge the returning officer shall then forthwith give a casting vote upon being requested to do so by the clerk at the instance of the judge ;

Casting vote to be given by returning officer if requested.

(9.) Declare elected the candidate, or if there are two candidates to be elected, the two candidates who have received the largest number of votes as shown by all the ballots counted by himself and by the returning officer ; and

Declaration of poll.

(10.) Certify in writing to the Territorial Secretary the names of the candidate or candidates declared elected by him upon his count of appealed ballots as herein provided ; and upon such certificate being given, unless a recount is demanded, such declaration shall be final and conclusive to all intents and purposes, subject to the provisions of "The Controverted Elections Ordinance." No. 33 of 1900, s. 98.

Certify result to Territorial Secretary.

Declaration final.

**99.** Any order made by a judge acting on appeal shall be carried out and may be enforced as if it were an order of the Territorial Court. No. 33 of 1900, s. 99.

Enforcement of orders of judge.

#### RECOUNT BY JUDGE.

**100.** Upon any candidate or his agent placing in the hands of the returning officer the sum of \$100, with a demand in writing for a recount of the ballots cast in one or more polling divisions, any judge of the Territorial Court shall, after having disposed of any appeal regarding the validity of ballots that may come before him, on application made to him as hereinafter mentioned, hold a recount.

Demand of recount.

(2.) No application for a recount shall be entertained unless such application is accompanied by \$100 as provided in this section, and is made within fifteen days after the declaration of election by the returning officer if no appeals have been made from the decision of the Court of Revision or returning officer to the judge ; and if any such appeals have been made then within thirty days after the judge has given his decision regarding such appeals.

\$100 to be deposited.

(3.) The money deposited with a demand for a recount shall be disposed of by order of the judge in defraying the necessary expenses of holding the recount ; and the remainder, if any, shall be returned to the person who deposited it.

Disposition of deposit.

(4.) The ballot boxes, poll books, books of record and other materials or forms used at the polling place, respecting which the demand for a recount has been made, shall be subject to the order of the judge during such recount. No. 33 of 1900, s. 100.

Ballot boxes, &c., to be subject to order of judge.

Time and  
place of  
recount.

**101.** Upon the party demanding a recount, or any person on his behalf, satisfying the judge by affidavit, verifying the demand, that a demand for a recount has been served on the returning officer as hereinbefore provided, and that the sum of \$100 has been deposited with such returning officer, as provided in the next preceding section, the judge shall sign an appointment fixing a time and place at which such recount shall be held, and shall, in such appointment, direct upon whom and in what manner such appointment shall be served. No. 33 of 1900, s. 101.

Procedure  
thereat.

**102.** The judge shall attend at the time and place so appointed and upon being satisfied by affidavit that his appointment has been duly served upon the persons directed by him to be served therewith he shall proceed with such recount. Provided, however, that it may be open to any candidate or agent to show by evidence, either *viva voce* or upon affidavit, as the judge may direct, that the demand for a recount was not made or the sum of money was not deposited with the returning officer as provided by section 100 of this Ordinance or was not deposited within the time thereby prescribed; and upon the judge being satisfied that such demand was not so made, or that such money was not so deposited, he shall so find; and shall file with the said returning officer a written finding to that effect signed by him; and thereupon the said recount shall be abandoned. No. 33 of 1900, s. 102.

Proviso,  
if recount not  
properly  
demanded or  
security  
omitted.

Count of  
ballots.

**103.** If the judge proceeds with the recount he shall, in the presence of such of the candidates or their agents appointed as such in writing as may be present, open one of the ballot boxes regarding which a recount has been demanded and shall count the number of ballots contained therein; and shall note the number in a book and shall place the ballots in an open vessel. No. 33 of 1900, s. 103

Examination  
and count of  
ballots.

**104.** The judge shall then proceed to examine and count the ballots for the several candidates as it appears to him to have been the intent of the several voters marking the ballots, rejecting only those by which the voter has not made his intent apparent or which have not been properly initialed. No. 33 of 1900, s. 104.

Illegal ballots

Particulars to  
be recorded.

**105.** The judge shall enter in a suitable book the number of the polling places and the particulars regarding the ballots examined, and shall then return the ballots to the ballot box from which they were taken; and securely lock and seal the same; and shall cause it to be returned to the custody of the clerk of the Territorial Court. No. 33 of 1900, s. 105.

Disposition of  
ballots and  
boxes after  
recount.



**106.** He shall then proceed similarly with each of the other ballot boxes regarding which a recount has been demanded. No. 33 of 1900, s. 106. Other ballot boxes.

**107.** The costs of the recount beyond the amount of the deposit required by section 100 of this Ordinance shall be charged to the general expenses of the election, according to such regulation as to fees and otherwise as may prescribed from time to time by the Commissioner. No. 33 of 1900, s. 113. Costs of recount.  
Election fees.

**108.** The judge shall prepare a statement showing— Statement of judge.

(a.) The total number of ballots which the return of the returning officer and the records of the count of appealed ballots, if such has been held, showed should be counted in the several classes in which they are comprised ;

(b.) The number of ballots actually counted by him ;

(c.) The number rejected ; and

(d.) The number counted for each candidate ;

with a declaration of the election of the candidate, or if there are two candidates to be elected the two candidates receiving the largest number of the votes cast, which candidate or candidates shall forthwith be held duly elected ; and such judge shall thereupon certify in writing to the Territorial Secretary the names of the candidate or candidates declared elected by him on such recount ; and upon certificate being given such declaration shall be final and conclusive to all intents and purposes, subject to the provisions of "The Controverted Elections Ordinance." His certificate

2. In case a candidate declared elected by the judge is other than the one declared elected by the returning officer no penalty or damages shall be incurred by the person at first declared elected by reason of any act done by him as duly elected representative. In case return altered no liability on person first returned.

3. The casting vote of the returning officer, if he has given one, shall not be counted by the judge in such recount unless there is a tie on the said recount, in which case the casting vote of the returning officer shall be counted as having been cast for the candidate for whom it was cast the first time he cast it. In case of a tie

4. If the returning officer has not given a casting vote and the recount of the judge results in a tie, the returning officer shall forthwith on the written request of the judge give a casting vote. No. 33 of 1900, s. 115. Casting vote if required.

#### MICELLANEOUS.

**109.** No candidate shall be permitted to resign after the close of the polling until the question as to which candidate has been elected has been finally determined by virtue of the provisions of this Ordinance. No. 33 of 1900, s. 116. No candidate to resign pending proceedings.

Duty of court to hear proceedings ended.

**110.** When all proceedings in any way affecting the election, including proceedings under "The Controverted Elections Ordinance," if any, are concluded, the clerk of the Territorial Court to whom the ballot boxes, poll books, record books and statements made by voters were delivered under the provisions of section 90 of this Ordinance shall thereupon open the ballot boxes and destroy the ballots therein with fire. No. 33 of 1900, s. 117.

Public notice to be given of candidate returned.

**111.** The Territorial Secretary shall, as soon he can conveniently do so, give public notice of the names of the candidates elected. No. 33 of 1900, s. 118.

#### FEES AND EXPENSES OF RETURNING OFFICERS, ETC.

Fees to officers

**112.** Except as hereinbefore provided, the fees in tariff C in section 2 of said schedule 1, mentioned in respect of the several matters therein contained and no others shall be allowed to the several officers and persons therein mentioned respectively, for the services and disbursements in the said schedule mentioned. No. 33 of 1900, s. 119.

Reasonable expenses for extraordinary services.

**113.** Anything to the contrary in this Ordinance notwithstanding, the Commissioner may direct the payment out of the general revenue fund of such sums, over and above the allowance authorized by the two next preceding sections of this Ordinance, as may be required to pay the expenses reasonably incurred by any person for services rendered under this Ordinance and also reasonable fees and allowances for any extraordinary service rendered by any person thereunder. No. 33 of 1900, s. 120.

#### CORRUPT PRACTICES.

Acts prohibited.

**114.** No person shall directly or indirectly by himself or by any other person on his behalf, do or commit any of the following acts:—

Give, etc., consideration to induce voter to vote or refrain from voting.

(1) Give, lend, or agree to give or lend, or offer or promise any money or valuable security, or promise to procure or endeavour to procure any money or valuable consideration to or for any voter or to or for any other person in order to induce any voter to vote or refrain from voting at any election.

Give place or employment to induce voter to vote.

(2) Give or procure or agree to give or procure, or offer or promise any office, place or employment or promise to procure or endeavour to procure any office, place or employment to or for any voter or to or for any other person in order to induce any voter to vote or refrain from voting at any election.

(3.) Make any gift, loan, offer promise, procurement or agreement as aforesaid to or for any person in order to induce such person to procure or endeavour to procure the return of any person as a member of the Territorial Council or the vote of any voter at any election. Make gift to procure return of person.

(4.) Advance or pay or cause to be advanced or paid any money to or for the use of any other person with the intent that such money or any part thereof shall be expended for any of the purposes mentioned in the preceding parts of this section, or knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended for any of the said purposes. Advance money for above purpose

(5.) Make use of or threaten to make use of any force, violence or restraint, or inflict or threaten the infliction by himself or by or through any other person of any injury, damage, harm or loss, or in any manner practice intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election or by abduction, duress or by any fraudulent device or contrivance impede, prevent or otherwise interfere with the free exercise of the franchise of any voter or thereby compel, induce or prevail upon any voter either to give or refrain from giving his vote at any election. Use threats to induce voter to vote.

(6.) Any person convicted of a breach of this section shall be liable to a penalty not exceeding \$500. No. 33 of 1900, s. 121. Penalty.

**115.** No candidate shall, by himself, or by or with any other person, or by any other ways or means on his behalf at any time, either before or during election, directly or indirectly, give or provide or cause to be given or provided, or be accessory to the giving or providing, or pay wholly or in part any expense incurred for any meat, drink, refreshment, or provision to or for any person in order to be elected, or for being elected, or for the purpose of influencing such person, or any other person, to give or refrain from giving his vote at such election; and any such candidate convicted of contravening this section shall be liable to a penalty not exceeding \$500. No. 33 of 1900, s. 122. Candidate not to pay expenses of voters.

**116.** No candidate shall, nor shall any person on his behalf hire, promise to pay or pay for any horse, team, carriage, or other vehicle to convey any voter or voters to or from the poll, or to or from the neighbourhood thereof at any election, or pay or promise to pay the travelling or other expenses of any voter in going to or returning from any election, and any person convicted of contravening this section shall be liable to a penalty not exceeding \$500. No. 33 of 1900, s. 123. Penalty.

Election shall be voided for illegal acts of candidate.

**117.** If any court, judge or other tribunal sitting or holding an inquiry under "The Controverted Elections Ordinance" reports to the Territorial Secretary that any candidate at an election has by himself or by his agent, whether with or without the actual knowledge and consent of such candidate committed any act in contravention of sections 114, 115 and 116 of this Ordinance the election of such candidate, if he has been elected, shall be an undue election and shall be void and shall be set aside and a new election shall take place to fill the vacancy so created, unless such court, judge, or other tribunal certifies under section 21 of said Controverted Elections Ordinance that another candidate was duly elected at such election in the stead of the candidate whose election is so voided. No. 33 of 1900. s. 24.

Illegal acts of voter.

**118.** No person shall, before or during any election, directly or indirectly, himself or by any other person in his behalf, do or commit any of the following acts:—

Receive consideration to vote.

(1.) Receive, agree, contract or ask for any money, gift, loan or valuable consideration, office, place or employment for himself or any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any election;

Receive money to induce another person to vote.

(2.) Receive or ask for any money or valuable consideration for having voted or refrained from voting or for having induced any other person to vote or refrain from voting at any election;

Hire horse to candidate.

(3.) Hire or offer for hire any horse, team, carriage or other vehicle to any candidate or to any agent of any candidate for the purpose of conveying any voter or voters to or from the polling place or to or from the neighbourhood thereof;

Penalty.

(4.) Any person convicted of a breach of this section shall be liable to a penalty not exceeding \$500. No. 33 of 1900, s. 125.

Failure of officials to carry out duty.

**119.** Any person appointed as returning officer, election clerk, deputy returning officer or poll clerk who wilfully fails to carry out any of the duties imposed upon him by this Ordinance, or who wilfully contravenes any of its provisions shall be liable to a fine not exceeding \$500 and costs or to imprisonment for a term not exceeding one year, or both.

Penalty.

Improper conduct of voter.

(2.) If any person fails to return to the deputy returning officer the ballot paper handed to him by the deputy returning officer, as provided in section 45 of this Ordinance or hands to the deputy returning officer any paper other than the ballot paper as provided in the said section or by any means places or causes to be placed in the ballot box any ballot paper other than as provided in the said section

or by any means takes or causes to be taken from the ballot box any ballot paper except as directed under the provisions of this Ordinance or defaces or destroys any ballot paper after it has been initialed or stamped by the deputy returning officer except as provided in section 51 of this Ordinance shall be liable to the penalty provided in the first part of this section. No. 33 of 1900, s. 126.

Penalty.

**120.** Unless in this Ordinance otherwise provided any other person than those mentioned in the next preceding section who wilfully contravenes any of the provisions of this Ordinance or attempts in any way to hinder its provisions from being carried out, shall be liable to a fine not exceeding \$500 and costs or to imprisonment for a term not exceeding three months, or both. No. 33 of 1900, s. 127.

Improper conduct of other persons.

**121.** If the number of ballots found in the ballot box at any polling place at the count by the deputy returning officer is not the same as the number shown by the poll book of that polling place to have been cast, the deputy returning officer or poll clerk shall, if such discrepancy is due to either of them, be liable to a fine of \$100 and costs or to imprisonment for a term not exceeding three months, or both. No. 33 of 1900, s. 128.

Discrepancy in number of ballots.

Penalty.

**122.** Any person who attempts to violate the secrecy of the ballot by marking a ballot in a peculiar manner or by showing it to anyone after it has been marked, or instigating any voter to peculiarly mark or to show his marked ballot shall be liable to a fine not exceeding \$500 and costs or to imprisonment for a term not exceeding three months, or both. No. 33 of 1900, s. 129.

Violation of secrecy of ballot.

Penalty.

**123.** Everyone who at an election under this Ordinance does any of the following acts, that is to say :

(a.) Applies to vote in the name of some other person, whether such name is that of a person living or dead or of a fictitious person ; or

(b.) Having voted once at any such election, applies again to vote at the same election in his own name, is guilty of an offense and liable to a penalty not exceeding \$500 and costs or imprisonment for a term not exceeding six months, or both. No. 33 of 1900, s. 130.

Voting more than once.

**124.** Penalties under this Ordinance may be recovered on summary conviction before two Justices of the Peace. No. 33 of 1900, s. 131.

Penalty.

**125.** On polling day no intoxicating liquor shall be sold before the hour of six o'clock in the evening, and any person contravening the provision of this section shall be sub-

No liquor to be sold.

ject to a fine not exceeding \$500, with costs, or to imprisonment for a term not exceeding six months, or to both. No. 33 of 1900, s. 133.

SCHEDULE I.

FORM A.

Schedules.

Oath of Returning Officer—Sec. 3.

I, the undersigned,..... returning officer for the Electoral District of. . . . . solemnly swear that I will act faithfully in that capacity without partiality, fear, favour or affection. So help me God.

Returning Officer.

Sworn before me at. .... in the ) Yukon Territory, this. .... } day of....., A.D., 19..... }

Signature of officer administering oath.

FORM B.

Certificate of Returning Officer having taken oath of office —Sec. 3.

I, the undersigned, hereby certify that on the.....day of the month of....., 19....., ..... the returning officer for the Electoral District of..... took and subscribed before me the oath of office in such case required of a returning officer by section 3 of the Ordinance respecting elections.

In testimony whereof I have delivered to him this certificate.

Signature of officer administering oath.

FORM C.

Commission of Election Clerk—Sec. 4.

To .....(set forth his addition and residence.) Know you that in my capacity of returning officer for the Electoral District of.....I have appointed and do

hereby appoint you to be my election clerk to act in that capacity according to law at the election for the said Electoral District, to be holden under the Ordinance respecting elections.

Given under my hand this.....day of..... in the year.....

..... Returning Officer..

FORM D.

Oath of Election Clerk—Sec. 6.

I, the undersigned ..... appointed election clerk for the Electoral District of..... solemnly swear that I will act faithfully in my said capacity as election clerk and also in that of returning officer, if required to act as such, according to law, without partiality, fear favour or affection. So help me God.

..... Election Clerk.

Sworn before me at.....in the } Yukon Territory, this ..... } day of....., A.D., 19..... }

..... Signature of officer administering oath.

FORM E.

Certificate of Election Clerk having taken the oath of office —Sec. 6.

I, the undersigned, hereby certify that on the..... day of.....election clerk for Electoral District of.....took and subscribed before me the oath of office required in such case of an election clerk, by section 6 of the Ordinance respecting elections.

In witness whereof I have delivered to him this certificate under my hand.

..... Returning Officer.

Or signature of any other officer administering oath

FORM F.

Proclamation of Returning Officer—Sec. 9.

PROCLAMATION.

Yukon Territory,  
To wit :

Public notice is hereby given to the electors of the Electora Division of.....aforesaid, that in obedience to the Ordinance respecting elections, I require the presence of said electors at..... (here describe with reasonable certainty the building or place where nomination is to take place) in the .....of.....in said Electoral District, on the.....day of the month of..... 19 ....., from eleven o'clock in the forenoon until twelve o'clock noon for the purpose of nominating one (or two persons as the case may be) to represent them in the Territorial Council of said Yukon Territory; and that in case more than one candidate or two candidates, if two candidates are to be elected, remain in nomination the poll will be opened and held on the.....day of the month of.....19....., from the hour of nine o'clock in the forenoon until the hour of five o'clock in the afternoon, in each of the following polling places, that is to say :

Polling place No. 1—.....—at ..... — (clearly describe the polling station).

(And so continue for all the other polling places in the Electoral District).

Of which all persons are hereby required to take notice and govern themselves accordingly.

.....  
Returning Officer.

FORM G.

Nomination paper—Sec. 11.

We, the undersigned electors of the Electoral District of .....nominate (name, residence and addition of the person nominated and present location, if absent from the Yukon Territory) as a candidate at the election now about to be held of a member (or two members as the case may be) to represent the said District in the



Yukon Territorial Council. (If the persons nominated are absent from the Yukon Territory it must be stated here).

Witness our hands this.....day of.....19.....  
(Signature with residence and additions.)

Signed by the above subscribing electors before me,

.....  
Witness or Witnesses.

I, the said.....  
nominated in the foregoing nomination paper, hereby consent to such nomination.

Signed in the presence of

.....  
Name of Candidate.

.....  
Name of Witness to candidate's signature.

---

FORM H.

Information to Electors--Sec. 19.

The voter is to vote for not more than one, or if there are two candidates to be elected, two candidates.

The voter is to go into the compartment provided and, with the pencil provided in the compartment, place a cross on the right hand side, opposite the name of the candidate or candidates, not exceeding the number to be elected for whom he votes, thus X.

The voter is then to fold up the ballot paper so as to show the name or initials of the deputy returning officer signed on the back, and leaving the compartment shall, without showing the front of the paper to any person, deliver such ballot so folded to the deputy returning officer, and forthwith quit the polling place.

If the voter inadvertently spoils a ballot paper, he may return it to the deputy returning officer, who will, if satisfied of such inadvertence, give him another ballot paper.

If the voter votes for more than the number of candidates to be elected, or places any mark on the paper by which he may be identified, his ballot paper will be void, and will not be counted.

If the voter takes a ballot paper out of the polling place or deposits in the ballot box any other paper than the one given to him by the deputy returning officer, he shall be subject to a fine of \$500 and costs, or imprisonment for any term not exceeding one year, or both.

(In the following form of ballot paper given for illustration, the candidates are John Doe, Richard Roe, Geoffry Stiles and John Stiles, and the voter has marked his ballot in favor of Richard Roe and John Stiles.)

ELECTION FOR THE ELECTO- RAL DISTRICT OF  No. ON POLL BOOK.	1	DOE, John Doe, Forty-Mile, Miner
	2	ROE. Richard Roe, Bouanza Creek, Miner. <span style="float: right;">X</span>
	3	STILES, Geoffrey Stiles, Dawson Advoca- cate.
	4	STILES, John Stiles, White Horse, Mer- chant. <span style="float: right;">X</span>

FORM J

Oath of Deputy Returning Officer—sub-sec. 2, sec. 23.

I, the undersigned.....appointed Deputy Returning Officer for Polling Place No.....of the Electoral District of....., do solemnly swear, or (being one of the persons permitted by law to affirm in civil cases) solemnly affirm, that I will act faithfully in my said capacity of Deputy Returning Officer without partiality, fear, favour, or affection. So help me God.

.....

Deputy Returning Officer.

Sworn before me at ---, in the }  
Yukon Territory, this..... }  
day of....., A.D., 19..... }

.....

Signature of officer administering oath.

FORM K.

Oath of Poll Clerk—Sec. 25.

I, the undersigned,.....appointed Poll Clerk for polling place No.....of the electoral district of..... do solemnly swear, (or if he is one of the persons permitted by law to affirm in civil cases, do solemnly affirm), that I will act faithfully in my capacity of poll clerk and also in that of deputy returning officer if required to act as

such according to law, without partiality, fear, favour or affection. So help me God.

.....

Poll Clerk.

Sworn before me at.....in the }  
Yukon Territory, this ..... }  
day of....., A.D., 19..... }

.....

Signature of officer administering oath.



FORM M.

Oath to be taken before voting—Sec. 36.

I,.....of..... in the Yukon Territory.....do solemnly swear that I am a natural born, (or naturalized), male British subject of the full age of twenty-one years, and that I have continuously resided in the Yukon Territory for a period of not less than twelve months and in this electoral district not less than three months prior to the date of this election and that I have not voted before at this election at this or any other polling place. So help me God.

Sworn before me at....., in the }  
Yukon Territory, this ..... }  
day of....., A.D., 19..... }

.....

Signature of officer administering oath.



FORM M. a

Section 36.

Serment requis avant de voter.

Je,.....de.....dans le Territoire du Yukon, .....jure positivement que je suis sujet Britannique par naissance, (ou par naturalisation,) du sexe masculin ; que j'ai 21 ans accomplis ; que j'ai continuellement résidé dans le Territoire du Yukon depuis au moins 12 mois et dans le district électoral pas moins de trois mois précédant la date de cette élection et que je n'ai pas déjà voté à cette élection, à ce bureau de votation ou à aucun autre.

Que Dieu me soit en aide

.....

Assermenté devant moi, soussigné à....., dans le Territoire du Yukon 1900.

.....

Député Officier Rapporteur.

FORM L—POLL BOOK.—Sec. 35.

Yukon Territory Electoral District of ..... day of ..... A. D. 190  
of the Election held on the..... day of..... A. D. 190

No.	Name of Voter.	Occupation of Voter.	Residence of Voter.	Sworn Form M.	If Oath demanded on behalf of whom.	Write the word "Sworn" or "Refused to Swear" as the case may be.	Write the word "Voted" if Ballot is placed in Ballot Box.	Remarks as to employment of Interpreter, Spoiled Ballot Papers, Blind Persons, &c.	Remarks at opening of poll.
									Remarks as to the conduct of poll, examination of inner room, etc.
									Summary of count of ballots.
									Objected ballots .....
									Spoiled ballots .. .....
									Counted for (each candidate).....
									Total ballots counted..

I, ..... Deputy Returning Officer (or Poll Clerk acting as Deputy Returning Officer) for Polling Place No. ...., hereby certify and declare: That the entries appearing in this poll book are correctly made; That the number of ballots cast at the polling place No. .... on this... day of....., 19, according to the provisions of the Ordinance Respecting Elections was .....; That I have opened the ballot box for the aforesaid polling division in the presence of ..... and have counted the ballots therein and that there were ..... ballots therein; That I have counted the number of objected ballots therein, and that there were ..... such ballots therein; That I have counted the number of unobjected ballots therein and that there were ..... such ballots; That I opened and examined the said unobjected ballots and that ..... were so marked that the intent of the voter using such ballots had not been made plain; That of the unobjected ballots cast by which the intent of the voter had been made plain ..... have been counted as having been cast for ..... one of the candidates at this election (and so on until the unspoiled and unobjected ballots cast have been counted for the candidates for whom they were cast).  
(Signatures)  
Dated at ..... this ..... day of ..... 19

C. D., Deputy Returning Officer.

FORM N.

Oath that voter has received no bribe or other consideration for his vote—Sec. 37.

I, . . . . ., do solemnly swear that I have not received anything nor has anything been promised me, nor have I asked for anything directly or indirectly, either to induce me to vote at this election or for loss of time, traveling expenses, hire of team or for any other service connected therewith, and that in the casting of my vote at this election I am not impelled or influenced by fear or by expectation of favour. So help me God.

Sworn before me at . . . . . in the }
Yukon Territory, this . . . . . }
day of . . . . . A.D. 19 . . . . . }

Signature of officer administering oath.

FORM O.

Notice to appear.—Sec. 49.

To . . . . . Take notice that you are hereby required to appear at (here describe with reasonable certainty the building or place fixed for sitting of the Court of Revision) on . . . . . day of . . . . ., 19. . . . ., at the hour of . . . . . o'clock . . . . . before me and such Justice of the Peace as shall then be sitting with me to answer to a charge of having voted contrary to the provisions of the Ordinance Respecting Elections.

Dated this . . . . . day of . . . . . 19

Deputy Returning Officer.

FORM Q.

Oath by messengers where the deputy returning officer is unable to deliver packet to the returning officer.—Section 58.

I, . . . . . solemnly swear that I am the person to whom . . . . . deputy returning officer for the polling place No. . . . . electoral district of . . . . . delivered the election packets for the said polling place to be delivered to . . . . . returning officer for the said electoral district, in consequence of the said deputy being unable through illness or some other cause to deliver the same personally to the returning officer; that the packets that I

have this day delivered to the said returning officer are all the packets I so received ; that I have not opened any of them, and that they have not been opened by any other person since I have received them from the deputy returning officer. So help me, God.

Sworn before me at ..... in the }  
Yukon Territory, this..... }  
day of ..... A.D., 19..... }

Signature of officer administering oath.

Note.—Where the deponent is one of the persons permitted by law to affirm in civil cases, he may solemnly affirm.

FORM R.

Ballot paper account.—Section 59.

Received from returning officer,  
Ordinary ballot papers.....  
Tendered ballot papers.....  
Manner in which ballot papers dealt with :  
1, No. counted, packets A and B.....  
2, No. rejected, packet C.....  
3, No. unused, packet D.....  
4, No. spoiled, packet E.....  
5, No. tendered ballot papers, packet F.....  
6, No. ballot papers given to voters who afterward returned same declining to vote, packet G....  
7, No. declaration of "inability to read" and "physical incapacity" and all certificates received by deputy returning officer, packet H.....  
8, No. of ballot papers taken from the polling place.-----  
(Signed)

Deputy Returning Officer.

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

Note.—The several "packets" mentioned above are those referred to in section 57 of this Ordinance.

FORM S.

Summons to a witness.—Sec. 63.

You are hereby commanded to appear before us at..... (here describe with reasonable certainty the building or place fixed for the sittings of the Court of Revision) in polling place No.....of the electoral district of ..... on the.....day of .....19....., at the hour of .....o'clock in the.....noon, and so on from day to

day until the charge hereinafter mentioned is tried or otherwise disposed of, to testify and give evidence upon the hearing before us of a charge preferred against one.....of having voted contrary to the provisions of the Ordinance respecting elections.

And you are further commanded to bring with you and produce at the time and place aforesaid all papers and articles in your possession or power in any way relating to said charge or to any matter connected therewith.

Witness our hands (or my hand) this....day of ....19...

.....  
Deputy Returning Officer.

Justice of the Peace.

(This summons may be issued by the deputy returning officer, or by justice of the peace, or both.)

---

FORM T.

Interpreter's Oath—Sec. 41.

I,.....do solemnly swear (or if he is one of the persons permitted by law to affirm in civil cases, do solemnly affirm) that I will well, truly and faithfully interpret all such instructions and information necessary to enable any voter to cast his vote at this election, as I may be directed by the deputy returning officer to communicate to such voter, and that I will not say or communicate anything to any such voter to induce him to vote for or to refrain from voting for any particular candidate. So help me God.

Signature.....

Sworn before me at .. .. in the }  
Yukon Territory, this..... }  
day of....., A.D., 19.... }

.....  
Signature of Deputy Returning Officer.

---

SCHEDULE 1.—SECTION 2.

TARIFF A.—SEC. 63.

For every day necessarily absent from residence in going to, staying at and returning from hearing	
When residence is within four miles of place.....	\$3 00
When over four miles.....	5 00
For every mile necessarily travelled, other than by public conveyance.....	0 25
When public conveyance used; actual fare paid.	

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## TARIFF B.

Schedule of costs to be allowed on inquiry before a Judge of the Territorial Court—Sec. 95.

To the clerk of the court for receiving, filing and entering each appeal and attending judge with notifications and on hearing of appeal and judgment.....	\$3 00
To the clerk for issuing each summons, subpoena or notice.....	1 00
To the clerk all necessary postage.....	—
To the clerk taxing all bills of costs actually taxed...	1 00
To witnesses, the same fees as are allowed in civil cases.....	—
To the solicitor for the party succeeding on each appeal.....	5 00
To be increased in the discretion of the judge to an amount not exceeding \$50.	

## TARIFF C.

Fees for election services.—Sec. 112.

The Returning Officer, where no poll is held....	\$200 00
Election Clerk, where no poll is held.....	50 00
Returning officer, where poll is held.....	500 00
Election Clerk, where poll is held.....	150 00
Deputy Returning Officer.....	25 00
Poll Clerk.....	15 00
Interpreter, each case.....	1 00
Deputy Returning Officer and justice of the peace, sitting as Court of Revision, per day, each.....	15 00
Each officer, for every mile necessarily travelled in discharge of his duties.....	.25
Rent of house for nomination.....	Cost
Rent of house for polling station.....	Cost
Rent of house for court of revision.....	Cost
Rent of house for count by returning officer.....	Cost

## SCHEDULE 2—FORM A.

## WRIT OF ELECTION.

To.....of .....in the electoral district of.....in the Yukon Territory :

Whereas the Commissioner of the Yukon Territory has seen fit under and by virtue of the provisions of the Ordi-



nance respecting elections to order the issue of a writ of election for the said electoral district of... .. addressed to you, whom he has been pleased to select to perform the duties of returning officer;

You are therefore commanded that you do cause election to be made, according to law, of a member (or two members as the case may be) to serve in the Council of the Yukon Territory for the said electoral district of .....; that you do cause the nomination of candidates at such election to be held at ..... in the said electoral district on..... the..... day of..... next; and that you do cause the name (or names) of such member, (or members) when so elected, to be certified to me, on the ..... day of .....

Given under my hand and the seal of said Territory at Dawson in the said Yukon Territory this ..... day of ..... 19....

.....  
Territorial Secretary.

INDORSEMENT.

Received the within writ on the ..... day of ..... 19....

.....  
Returning Officer.

## CHAPTER 4.

### An Ordinance Respecting Controverted Elections.

#### SHORT TITLE.

Short title     **1.** This Ordinance may be cited as "*The Controverted Elections Ordinance.*" N.W.T., c. 4, s. 1.

#### INTERPRETATION.

Interpretation   **2.** In this Ordinance unless the context otherwise requires:

"Judge "       (1) The expression "the judge" means a judge of the Territorial Court.

"Clerk. "       (2) The expression "the clerk" means the clerk of the said court. N.W.T., c. 4, s. 3.

#### PETITIONS.

Time for election petition.     **3.** At any time within one month after the publication by the Territorial Secretary of the notice prescribed by section 118 of the Ordinance respecting elections any defeated candidate or any duly qualified elector of the electoral district in which the election was held may petition against the undue return or undue election of any candidate at such election N.W.T., c. 4, s. 3.

Who may petition.

Form of petition.

Filing.

**4.** Such petition may be in form A in the schedule hereto; and shall within the time prescribed by the last preceding section be filed in the office of the clerk of the Territorial Court, and shall contain the following statements:

- (a.) The right of the petitioner to petition;
- (b.) The holding and result of the election in general terms;
- (c.) In a brief form the facts and grounds relied on to sanction the prayer.

and such petition shall conclude with a prayer that the election may be declared void and set aside, and it also may contain a prayer that some other candidate at the election than the one certified to be elected was duly elected. N.W.T., c. 4, s. 4.

## SECURITY FOR COSTS.

**5.** The petitioner shall at the time he files such petition deposit with the said clerk the sum of \$500 in current bank notes of the Dominion of Canada or other current money as security for the respondent's costs of and incidental to the said petition and the proceedings thereunder. N. W. T. c. 4, s. 5.

Petitioner to give security for costs.

## SERVICE OF PETITION.

**6.** A copy of such petition shall be served on the candidate against whom such petition is filed (herein called the respondent) within twenty days after the same is so filed; and such service may be effected in the way that service of a writ of summons in an ordinary civil action in the said court is effected. N. W. T. c. 4, s. 6.

Respondent to be served with copy of petition.

**7.** Upon the judge being satisfied by affidavit either before or after the time hereinbefore limited for the service of a copy of the petition that every reasonable effort has been made to effect such service and that such service has not been effected, he may *ex parte* extend the time for effecting such service for a period not exceeding ten days and so from time to time until such service has been effected; or the judge may in such case make an *ex parte* order for substitutional service of such petition in such manner as he directs. N. W. T. c. 4, s. 7.

Extension of time for service.

Substitutional service.

## ADDRESS FOR SERVICE.

**8.** The petitioner shall indorse on the petition filed with the clerk and on the copy thereof served on the respondent an address for service (which shall not be more than three miles from such clerk's office) at which all summonses, notices, demands and other papers in the proceedings may be served on him; and in default of so doing such summonses, notices, demands and other papers in the proceedings may be served on him by being filed with the clerk. N. W. T. c. 4, s. 8.

Petitioner to indorse address for service on petition

**9.** The respondent shall within ten days after being served with a copy of the petition as hereinbefore provided file with the clerk a notice in writing specifying an address for service not more than three miles from such clerk's office at which all summonses, notices, demands and other papers in the proceedings may be served on him; and in default of so doing such summonses, notices, demands or other papers may be served on him by being filed with the clerk. N. W. T. c. 4, s. 9.

Respondent to file notice of address for service.

## PRELIMINARY OBJECTIONS.

Respondent may apply to have petition set aside.

**10.** The respondent may at any time within twenty days after the service upon him of the petition apply to the judge to set such petition aside and have it removed from the files of the court on any of the following grounds :

- (a.) That the petitioner is not qualified to file a petition ;
- (b.) That the petition was not filed within the prescribed time ;
- (c.) That the deposit has not been made as provided in section 5 hereof ;
- (d.) That the petition does not on its face disclose sufficient grounds or facts to have the election set aside or declared void ;
- (e.) That service of a copy of such petition has not been made on him as herein prescribed ;

and the judge may (if satisfied that the application is well founded) order the petition to be set aside and removed from the files of the court with or without costs as he may direct ; or (if not so satisfied) may dismiss the application with or without costs as aforesaid. N. W. T. c. 4, s. 10.

## PARTICULARS.

Respondent may apply for further particulars.

**11.** Evidence need not be stated in the petition but the respondent may at any time within twenty days after service upon him of the petition (unless he makes an application under the next preceding section, and if he does then within five days after such application is disposed of if it is refused or dismissed) apply to the judge for particulars or for further and better particulars of the facts and grounds relied on to sustain the prayer of the petition ; and the judge may order such particulars as may be necessary to prevent surprise and to ensure a fair and effectual trial ; and may prescribe the time within which such particulars shall be delivered ; and may in such order direct that in case such particulars are not delivered as prescribed the petitioner shall not be at liberty to give any evidence at the trial with respect to facts and grounds of which particulars are ordered and not delivered. N. W. T. c. 4, s. 11.

## PETITION CLAIMING SEAT ; OBJECTIONS.

Respondent may file statement of objections if seat claimed for other than returned candidate.

**12.** If the petitioner claims the seat for any other candidate than the one certified to be elected the respondent may within twenty days after service upon him of the petition (unless he applies to set aside the petition under section 10 hereof, and if he does then within ten days after such application is disposed of if it is refused or dismissed) file with the clerk a statement in form B in the schedule

hereto, claiming that the seat ought not to be awarded to the candidate for whom it is so claimed because :

- (a.) He is not qualified to be elected a member of the Yukon council;
- (b.) He at the election in question was guilty of some act or acts in contravention of sections 114, 115 or 116 of the Ordinance respecting elections;

and serve a copy of such statement on the petitioner. N. W. T. c. 4, s. 12.

#### SETTING ASIDE OBJECTIONS.

**13.** The petitioner within ten days after service upon him of the said statement may apply to the judge to set such statement aside and have it removed from the files of the court on any of the following grounds :

Petitioner may apply to have statement of objections set aside.

- (a.) That it was not filed within the prescribed time;
- (b.) That it was not served on him as herein prescribed;
- (c.) That it does not on its face disclose sufficient grounds to have the election declared void as against the candidate for whom the seat is claimed;
- (d.) That the petition does not claim the seat for any other candidate;

or if the statement is not served on the petitioner as herein directed he may apply at any time to have it set aside and removed from the files of the court; and the judge may (if satisfied that any application under this section is well founded) order such statement to be set aside and removed from the files of the court with or without costs as he directs; and if not so satisfied he shall dismiss the application with or without costs as he directs. N.W.T., c. 4, s. 13.

#### EVIDENCE; PARTICULARS.

**14.** Evidence need not be stated in such statement but the petitioner may at any time within ten days after service upon him of the said statement (unless he makes an application under section 13 hereof to set the statement aside, and if he does then within five days after such application is disposed of if it is refused or dismissed) apply to the judge for particulars or for further and better particulars of the facts and grounds relied on for the claim that the seat ought not to be awarded to the candidate for whom it is claimed in the petition; and the judge may order such particulars as may be necessary to prevent surprise and to ensure a fair and effectual trial in the same manner and with the same consequence as prescribed in section 11 of this Ordinance. N.W.T., c. 4, s. 14.

Petitioner may apply for further particulars.

## PETITIONS AT ISSUE.

Petition when  
at issue.

**15.** If the said petition is not ordered to be set aside and taken off the files of the court the same shall be deemed to be at issue when all other orders (upon applications hereinbefore authorised to be made) by the judge have been made whether granting or refusing such applications or when the time for making such applications has expired if no such applications have been made. N.W.T., c. 4, s. 15.

Application of  
petitioner for  
time and place  
of trial.

**16.** At any time after the said petition is at issue the petitioner may apply to the judge to appoint a time and place for the trial of the petition; and the judge (on being certified that the petition is at issue) shall appoint a time and place for such trial. N.W.T., c. 4, s. 16.

Application of  
respondent for  
dismissal of  
petition.

**17.** If the petitioner does not within one month after the petition is at issue apply to the judge to appoint a time and place for the trial of the petition the respondent may apply to the judge to dismiss the petition; and the judge may thereupon at the return of the summons (if the application is properly made) either dismiss the petition with costs or appoint a time and place for the trial of the petition. N.W.T., c. 4, s. 17.

## GENERAL.

Petition and  
proceedings  
thereunder  
deemed cause  
in court.

**18.** The said petition and all proceedings thereunder shall be deemed to be a cause in the court in which the said petition is filed, and all the provisions of *The Judicature Ordinance* in so far as they are applicable and not inconsistent with the provisions of this Ordinance shall be applicable to such petition and proceedings; and the tariff of costs for clerks, sheriffs, solicitors and interpreters (whether prescribed by *The Judicature Ordinance* or under its authority) shall be applicable to such proceedings. N.W.T., c. 4, s. 18.

Applications  
to judge in  
chambers.

**19.** Applications to the judge shall be made in chambers and unless authorised to be made *ex parte* shall be made by notice. N.W.T., c. 4, s. 19.

## TRIAL.

Trial

**20.** The judge shall attend at the time and place appointed for the trial and try the matters of the said petition and arising thereout; and such place of trial shall be an open court at which the usual officers of the court shall attend and perform their respective duties as in the case of any other trial in the said court; and such trial may be adjourned from day to day or for such further time as the judge may direct. N.W.T., c. 4, s. 20.

## JUDGE'S REPORT.

**21.** If the judge on such trial finds that the respondent was unduly returned or elected a member of the council by reason of any of the matters alleged in the petition he shall forthwith after the expiration of fourteen days from delivering his judgment (unless his judgment is appealed and application is made for a stay as hereinafter provided) report such finding to the Territorial Secretary; and shall certify in such report for what cause he finds that the respondent was unduly returned or elected; and if the seat is by the petition claimed for another candidate than the respondent and the judge finds at such trial that such other candidate is entitled to the seat, he shall so certify in the said report to the said Territorial Secretary and thereupon such other candidate shall be entitled to the seat in the place and stead of the respondent; but the judge shall not so find or certify that such other candidate is entitled to the seat under any circumstances if he finds that he is not qualified by law to be a member of such council or that at the election in question he was guilty of any acts in contravention of sections 114, 115 or 116 of the Ordinance respecting elections, provided that such want of qualification or acts (as the case may be) have been charged against such candidate in a statement filed under the provisions of section 12 of this Ordinance.

Judge to report to Territorial Secretary.

(2.) If the judge does not in such report certify that another candidate is entitled to the seat the election shall be void and set aside and a writ of election shall be issued to fill the vacancy so created. N.W.T. c. 4, s. 21.

**22.** If the judge at the trial finds that the matters set forth in the petition are not proved to his satisfaction he shall dismiss the petition. N.W.T. c. 4, s. 22.

Dismissal of petition.

## WITHDRAWAL OF PETITIONS.

**23.** The petitioner may at any time withdraw his petition by filing with the clerk a statement in writing that he so withdraws it and serving the respondent with a notice of such withdrawal; and in such case the judge shall on application order the petitioner to pay the respondent's costs of and incidental to the petition and the proceedings thereunder. N.W.T. c. 4, s. 23.

Withdrawal of petition.

**24.** The respondent may at any time withdraw any statement filed by him under section 12 of this Ordinance by filing with the clerk a statement that he so withdraws it and serving the petitioner with a notice of such withdrawal; and in such case the judge shall on application

Withdrawal of statement by respondent

order the respondent to pay the petitioner's costs of and incidental to such statement. N.W.T. c. 4, s. 14.

#### ADMISSION OF UNDUE ELECTION.

Admission of undue election filed by respondent election declared void.

**25.** Unless the seat is claimed for a candidate other than the respondent, the respondent may at any time admit that he was unduly returned or elected by filing with the clerk a statement in writing admitting such fact and serving the petitioner with a notice that such statement has been filed; whereupon the judge shall on application order the respondent to pay to the petitioner his costs of and incidental to the petition; and shall report to the Territorial Secretary that the respondent has admitted that he was unduly returned or elected; whereupon the election shall be void and set aside and a writ of election shall be issued to fill the vacancy so created. N.W.T. c. 4, s. 25.

#### COSTS.

Costs in discretion of judge.

**26.** Except when otherwise provided the costs of the petition and all matters incidental thereto and arising thereout shall be in the discretion of the judge. N.W.T. c. 4, s. 26.

Judge may order costs to be paid out of security deposited.

**27.** If the judge at any time orders costs to be paid by the petitioner, he may (when the petition and all matters arising thereout have been finally determined and disposed of) order such costs to be paid out of the moneys deposited by the petitioner on filing the petition; but nothing in this section shall be construed as preventing the respondent from proceeding at any time to recover any costs that may have been awarded to him according to the ordinary practice of the court, N.W.T. c. 4, s. 27.

#### APPEAL.

Appeal to Territorial Court *en banc*.

**28.** An appeal shall lie to the Territorial Court sitting *en banc* from any order or determination of the judge; and such appeal shall be had and taken and all proceedings relating thereto shall be had and taken and the Territorial Court *en banc* shall deal with such appeal in the same manner as appeals and the proceedings thereunder are had, taken and dealt with under *The Judicature Ordinance*. N.W.T. c. 4, s. 28.

Interlocutory appeals.

**29.** If such appeal is from an order or determination other than any finding or determination under section 21 or 22 of this Ordinance it shall not operate as a stay of proceedings unless so ordered by the judge; and the judge may



for reasonable cause at any time set aside any stay of proceedings he may so order. N.W.T. c. 4, s. 29.

**30.** If such appeal is from any finding or determination under section 21 of this Ordinance the appellant shall (before the expiration of the fourteen days mentioned in that section) apply *ex parte* to the judge for a stay of proceedings; and the judge on being satisfied that notice of the appeal has been duly given shall make an order staying proceedings and shall not forward his report as provided in section 21 until the appeal is finally determined.

Stay of proceedings on appeal from final judgment

(2.) The other party may apply to the judge at any time before the appeal is lodged with the clerk of the Territorial Court to have such stay set aside and the appeal quashed on the ground that the appeal is not being prosecuted with sufficient despatch; and the judge may if satisfied that there has been undue delay in prosecuting such appeal set aside the stay of proceedings and quash the appeal and in that case shall forthwith forward his report to the Territorial Secretary as provided in section 21.

Application to remove stay for delay.

(3.) No order shall be made as provided in the preceding subsection if at the time of the application the appeal has been lodged with the said clerk. N.W.T. c. 4, s. 30.

**31.** When any appeal to the Territorial Court *en banc* is duly lodged with the clerk it shall be proceeded and dealt with according to the practice of such court in appeals in civil causes; and the adjudication and finding of such court on such appeal shall be duly certified by the clerk to the judge appealed from; and if the appeal is from any finding or determination of the judge under section 21 and such finding or determination is affirmed in whole or in part, the judge shall forthwith forward his report to the Territorial Secretary as provided in section 21 and as varied or modified by the order of the court *en banc* if so varied or modified. N.W. T. c. 4, s. 31.

Hearing and adjudication of appeals.

Report to Territorial Secretary.

#### BALLOTS NOT TO BE COUNTED.

**32.** Nothing in this Ordinance contained shall be construed to authorize the judge to count or recount the ballots cast at any election but the count of such ballots and the recount (if any) under the Ordinance respecting elections shall be considered conclusive. N.W.T. c. 4, s. 32.

No count of ballots by judge.

## SCHEDULE.

## FORM A.—SECTION 4.

In the Territorial Court.

Between *A.B.*, Petitioner,  
and  
*C.D.*, Respondent.

The petition of *A.B.*, of (*stating petitioner's residence and occupation*) sheweth :

1. An election was held on the \_\_\_\_\_ day of  
A.D. 19 (*state the date of the general polling day*) for the  
Electoral District of (*state the name of the electoral district*) at  
which *C.D.* and *E.F.* were candidates, and the said *C.D.*  
has been certified to be the person elected at such election.

2. The petitioner was a duly qualified elector at such  
election (*or the petitioner was a defeated candidate at such  
election*).

3. The petitioner says (*state here the facts and grounds on  
which the petitioner relies*).

Wherefore the petitioner prays that it may be declared  
that the election of the said *C.D.* is void and that it be set  
aside and (*if the seat is claimed for another candidate*) that it  
may be declared that the said *E.F.* was duly elected.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 19

*A.B.*

## FORM B.—SECTION 12.

In the Territorial Court,

Between *A.B.*, Petitioner,  
and  
*C. D.* Respondent.

The above named respondent, *C.D.*, says that the seat  
claimed in the petition herein for said *E.F.* ought not to be  
awarded to him because (*here state the grounds and facts on  
which the respondent relies*).

Dated the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 19

*C.D.*

## CHAPTER 5.

### An Ordinance Respecting the Public Service of the Territory.

#### SHORT TITLE.

**1.** This Ordinance may be cited as "*The Yukon Territorial Public Service Ordinance.*" No. 16 of 1902, s. 1. Short title.

#### INTERPRETATION.

**2.** In this Ordinance, unless the context otherwise requires, the expression "head of Department" or "head" means the officer appointed for the time being to take charge of a Department. No. 16 of 1902, s. 2. Interpretation.  
"Head of Department"

**3.** The expression "employee" or "employees" in this and any other Ordinance shall include all persons in the service of the Government of the Territory. No. 16 of 1902, s. 3. "Employee"

#### DIVISION OF THE PUBLIC SERVICE.

**4.** The Commissioner of the Yukon Territory shall be the Chief Executive Officer of the Territory, and the head of every Department of the public service. No. 16 of 1902, s. 4. Commissioner to the Chief Executive Officer.

**5.** The public service of the Territory shall be divided into the following departments: Departments.

- (a.) Department of the Territorial Treasurer;
- (b.) Department of the Territorial Secretary;
- (c.) Department of Public Works and Buildings;
- (d.) Department of Education;
- (e.) License Department; and
- (f.) Health Department. No. 16 of 1902, s. 5.

#### MANAGEMENT OF DEPARTMENTS.

**6.** The head of each Department shall oversee and direct the employees of the Department, and shall have general control of the business thereof; and in addition to the duties required of him by any law or Ordinance of the Territory, he shall perform the duties hereinafter provided and such Dnties of head.

other duties as are assigned to him from time to time by the Commissioner. No. 16 of 1902, s. 6.

Acting head may be appointed in absence of head.

**7.** In the absence of any head, the senior officer of the Department shall perform the duties of such head, unless some other person is appointed as acting head of such Department by the Commissioner, and any such person so acting during such absence, shall exercise all the powers vested in the head, as to the control of the other employees of the Department. No 16 of 1902, s. 7.

#### APPOINTMENTS.

Commissioner may appoint acting officer.

**8.** The Commissioner may at any time appoint such officers, clerks and servants as are required for the proper conduct of the business of the Departments, and all appointments shall be made by him upon the application and report of the head of the Department in which the person appointed is to be employed, and their respective duties in all matters not expressly regulated by law shall be such as is assigned to them by order of the Commissioner or of the head of the Department, and all such appointments shall be during pleasure. No. 16 of 1902, s. 8.

Commissioner may appoint acting officer.

**9.** It shall be lawful for the Commissioner to appoint any acting officer or servant of any kind, who shall have all the power and authority of the person for whom he is acting ;

To act in absence of person for whom he acts.

(2.) Such acting head of Department, officer or servant shall act only in the absence from the post of duty or during the illness or other physical disability of the person for whom he acts, or in case of a vacancy in office. No. 16 of 1902, s. 9.

#### SALARIES.

Salaries to be fixed by Commissioner

**10.** All employees in the public service of the Territory shall receive such salaries respectively, as may be assigned to them by order of the Commissioner and voted by the Commissioner in Council. No. 16 of 1902, s. 10.

#### DEPARTMENT OF THE TERRITORIAL TREASURER.

Comptroller to provide over treasury Department.

**11.** The Department of the Territorial Treasurer shall be presided over by the Comptroller of the Yukon Territory, who shall be the head of said Department. No. 16 of 1902, s. 11.

Accounts of territory to

**12.** The accounts of the Territory and of the different Departments of the public service shall be kept in the De-

partment of the Territorial Treasurer in such manner and under such regulations for the fullness and accuracy and as to the measure of oversight and responsibility attached in regard to them to the Treasurer, as the Commissioner by order or (subject to all such orders) the Treasurer may make from time to time. The Treasurer shall supervise all books and records kept by the other Departments, and give such instructions as to the keeping of the same as he considers necessary. No 16 of 1902, s. 12.

**13.** The fiscal year of the Territory shall be the period from the thirtieth day of June in one year to, and including the thirtieth day of June in the next year. No. 16 of 1902, s. 13.

**14.** As soon as practicable after the close of each fiscal year there shall be prepared under the direction of the Treasurer for submission to the Council at its next session a statement of the public accounts for such year showing clearly and fully the several revenues and expenditures of the Territory for the year, the state of the general revenue fund and all trust and special funds under the management of the Territorial Government, and all matters requisite to explain the financial transactions and position of the Territory during and at the close of each year. No 16 of 1902, s. 14.

**15.** The estimates shall contain the statutory appropriations which do not require to be voted upon by the Council year by year, and also the respective amounts required for any service in addition to such statutory appropriations or otherwise (as the case may be) for which a vote of the Council is required to authorize the expenditure of the same. No. 16 of 1902, s. 15.

**16.** All expenditure of public moneys shall be made by official cheque on a chartered bank, such cheque being signed by the Treasurer and countersigned by the Commissioner or some person appointed by him. No. 16 of 1902, s. 16.

#### DEPARTMENT OF THE TERRITORIAL SECRETARY.

**17.** The Department of the Territorial Secretary shall be presided over by the Territorial Secretary for the time being, who shall be the head of said Department. No. 16 of 1902, s. 17.

**18.** The powers, duties and functions of the Territorial Secretary are as follows :

- (a.) He shall be the Clerk of the Yukon Council ;
- (b.) He shall be the keeper of the seal of the Territory ; and shall issue all letters patent, commissions and other docu-

be kept by  
Treasurer.

Fiscal year

Public  
accounts to be  
made out at  
end of year.

Estimates,  
what to  
contain.

Expenditure  
to be made  
by cheque.

Territorial  
Secretary.

Duties of  
Territorial  
Secretary.

ments under the said seal and countersign the same, and all commissions under the seal shall run in His Majesty's name ;

(c.) He shall be the keeper of all registers, archives and documents of the Territory. No 16 of 1902, s. 18.

Territorial  
Secretary to  
be Registrar.

**19.** The Territorial Secretary shall be the Registrar of the Territory ; and as such shall register all instruments of summons, commissions, letters patent, writs and other instruments and documents issued under the seal of the Territory ; and his signature shall be proof of the fact that such registers, archives, instruments of summons, commissions, letters patent, writs and other instruments and documents exist and are lawfully in his possession ; and any copy (signed by him) of any document shall be equivalent to the original instrument itself in any court in the Territory, and every document or copy of document purporting to bear his signature shall be deemed so to do until proof of the contrary. No. 16 of 1902, s. 19.

#### FEEES.

Fees for  
registering  
documents.

**20.** The Commissioner may from time to time make a tariff of fees which shall be paid for the issuing and registering of commissions, letters patent, licenses and other instruments and documents, and for the delivery of certified copies thereof or of certified extracts from the registers and archives in the Territorial Secretary's Department as hereinbefore mentioned ; and the said Territorial Secretary shall account to the Territorial Treasurer for all moneys received in virtue of such tariff or of any Ordinance in force in the Territory, in such manner as is prescribed by law or by the Commissioner, as the case may be. No. 16 of 1902, s. 20.

#### DEPARTMENT OF WORKS AND BUILDINGS.

Superinten-  
dent of Works  
to be head of  
Department  
of Works.

**21.** The Department of Works and Buildings shall be presided over by an officer to be called the Superintendent of Works, and said Department shall have charge of all public works and buildings which may be constructed out of public funds. No. 16 of 1902, s. 21.

Officers.

**22.** The officers of said Department shall be :

- (a.) Superintendent of Works ;
- (b.) Inspector and Accountant ;
- (c.) Engineer ; and,
- (d.) Clerk of Works. No. 16 of 1902, s. 22.

Powers of Su-  
perintendent  
of Works  
supervise all  
business.

**23.** The powers, duties and functions of the Superintendent of Works are as follows :

- (a) He shall have the supervision of all matters of business which may come under the jurisdiction of the Depart-

ment, initiate expenditures on new works or buildings and attend to their maintenance and repair. He shall have no power to authorize any expenditure until he has reported to the Commissioner, Report.

1. The necessity of such expenditure ;
2. The particular service it will render ;
3. A statement of the estimated cost ; and,
4. Such other particulars as he may be able to give in connection with the same, and the Commissioner has approved of such expenditure ;

(b.) He shall certify to all bills or accounts for the construction, maintenance or repair of public works or buildings, the materials supplied for the same, the employees' salaries or wages and any other accounts which may be rendered in connection with the same ; Certify accounts.

(c.) He shall keep proper records of all works authorized, and put in writing any memorandum concerning any changes or matter in connection with the Department ;

(d.) He shall have the custody of all plans of buildings and roads in course of construction, and also of all buildings which are the property of the Government ; and

(e.) He shall make a report once each week to the Commissioner. No. 16 of 1902, s. 23.

**24.** The Superintendent of Public Works with the approval of the Commissioner shall have power to enter into any contract with any person or corporation that may be necessary or advisable in carrying out the provisions of any Ordinance of the Territory but no deeds, contracts or writings shall hereafter be deemed to be binding on the Department nor shall be held to be acts of the Commissioner unless signed by him and the Superintendent of Works. No 16 of 1902, s. 24. With approval of commissioners to enter into contract.

**25.** The Superintendent of Works, when any public work is being carried out by contract, and in other cases, may require that security be given to and in the name of His Majesty for the due performance of the work within the amount and time specified for the completion of the work ; and in all cases where it seems to the Superintendent of Works not to be expedient to let such work to the lowest bidder, it shall be his duty to report the fact and obtain the authority of the Commissioner previous to passing by such lowest tender, but no sum of money shall be paid to the contractor nor shall any work be commenced on any contract until the contract has been signed by all the parties therein named, or until any security required has been given. No. 16 of 1902, s. 25. Security to be taken.

**26.** In case a contractor for the construction of, or in connection with, a public work let under contract with the Commissioner, or any sub-contractor in the construction of If contractor fails to pay workmen

superintendent may.

any such public work, makes default in payment of the wages of any foreman, workman or labourer employed on such work, or in payment of any sum due by the contractor or sub-contractor for labour done by such foreman, workman or labourer, or by any team employed on the work, if the claim for such wages or sum is filed in the office of the Superintendent of Works not later than two months after the same becomes due and satisfactory proof thereof is furnished to him, he may, with the approval of the Commissioner, cause such claims to be paid to the extent of any moneys or securities at the time of the filing of the said claim in the hands of the Territorial Treasurer for securing the performance of the contract. No. 16 of 1902, s. 26.

Provisions to apply to previous contracts.

**27.** The next preceding section shall apply to contracts heretofore entered into, as well as contracts hereafter entered into, but without prejudice to the claims of other persons who may, before the date of the passing of this Ordinance have acquired liens upon the contract money. No. 16 of 1902, s. 27.

#### LICENSE DEPARTMENT.

License Department.

**28.** The License Department shall be divided into two branches; one branch shall be presided over by the Chief Inspector of Licenses and the other by the Chief Preventive Officer. No. 16 of 1902, s. 28.

Duties of Chief Inspector.

**29.** The Chief Inspector of Licenses, in addition to performing the duties required of him by the Liquor License Ordinance, shall have charge of, and issue all licenses which may be issued under any Ordinance of the Territory upon being notified by the Territorial Treasurer that the necessary fee for the same has been paid. He shall also report to the Commissioner upon all matters affecting applications for licenses, and make a recommendation on the same whenever required to do so by Ordinance or by direction of the Commissioner. He shall also see that all decisions of the Commissioner affecting his branch of the License Department are enforced, and prosecute all infractions of the law. No. 16 of 1902, s. 29.

Duties of Chief Preventive Officer.

**30.** The Chief Preventive Officer, in addition to performing the duties required of him by the Ordinance respecting the Importation of Liquor, shall prosecute all infractions against said Ordinance, and see that all decisions of the Commissioner affecting his branch of the License Department are carried into effect. No. 16 of 1902, s. 30.

#### DEPARTMENT OF EDUCATION.

Department of Education.

**31.** The Department of Education shall be presided over by the Superintendent of Schools. No. 16 of 1902, s. 31.



**32.** The Superintendent of Schools, in addition to performing the duties required of him by the School Ordinance, shall perform the following duties : Supt. of Schools.

(a.) He shall prepare a recommendation for submission to the Commissioner setting forth all facts in connection with any expenditure required in the public schools of the Territory, and shall make a recommendation as to what action should be taken on the same ; and, To make recommendation to Commissioner

(b.) He shall certify to all accounts for expenditure in connection with the public schools of the Territory, and to the accounts for the salaries of the school teachers, as well as the other officers under him. No. 16 of 1902, s. 32. To certify accounts.

#### HEALTH DEPARTMENT.

**33.** The Medical Health Officer, appointed under the Health Ordinance, shall be the head of the Health Department. No. 16 of 1902, s. 33. Health Department.

**34.** The Medical Health Officer, in addition to performing all duties required of him by the Ordinances of the Territory, shall report at least once each month to the Commissioner regarding the general health of the Territory, making therein such recommendations as he considers necessary to improve the health of the Territory, or to prevent the spread of disease therein. No. 16 of 1902, s. 34. Duties of Medical health officer.

#### GENERAL.

**35.** No money shall be expended by the head of any Department unless authorized by Ordinance and the said expenditure has been approved by the Commissioner. No. 16 of 1902, s. 35. Accounts to be approved by Commissioner.

**36.** The head of a Department shall satisfy himself as to the necessity of all moneys applied for by officers, workmen or employees of his Department, for travelling or other expenses, and if he approves of the same, shall make a requisition upon the Treasurer for the amount required, and after approval thereof by the Commissioner, the Treasurer shall issue a cheque therefor. No. 16 of 1902, s. 37. Head of Department to approve of requisitions.

**37.** All accounts incurred by the head or any official of any Department for materials supplied or work done, shall be certified to by the official receiving the materials, or in charge of the work performed, that the said materials have been supplied or work performed, and that the charges therefor are fair and reasonable, before the same shall be approved of by the head of the Department, and the Treasurer shall obtain the approval of the Commissioner thereto before the same shall be paid. No. 16 of 1902, s. 38. Accounts to be certified.

Commissioner  
to fix hours of  
attendance.

**38.** The Commissioner may regulate the hours of attendance of the employees in any Department; and when the public service demands (in case of pressure or urgency) that additional time be given, such additional time as the head of any Department requires shall be given by all the clerks and employees without additional compensation. No. 16 of 1902, s. 39.

Commissioner  
may transfer  
employees.

**39.** The Commissioner may transfer any clerk or employee from one Department to another or assign any duties to any clerk or employee temporarily or otherwise. No. 16 of 1902, s. 40.

No extra  
allowances to  
be made.

**40.** No allowance or compensation shall be made for any extra services whatsoever which any clerk or employee is required to perform. No. 16 of 1902, s. 41.

Head of  
Department  
may suspend  
employee.

**41.** The head of a Department may, subject to the approval of the Commissioner, suspend from the performance of his duty or from the receipt of his salary any employee guilty of improper conduct or negligence in the performance of his duties; and may subsequently remove such suspension; but no person shall receive any salary or pay for the time during which he was under suspension. No. 16 of 1902, s. 42.

## CHAPTER 6.

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

#### SHORT TITLE.

**1.** This Ordinance may be cited as "*The Vital Statistics Ordinance.*" N.W.T. c. 14, s. 1. Short title.

#### INTERPRETATION.

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

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

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

3. The expression "occupier" where used in sections 8 and 12 of this Ordinance shall be construed to include the master, governor, keeper, warden or superintendent of a gaol, prison, penitentiary, lunatic asylum, poor asylum, hospital or other public or private charitable institution. N.W.T., c. 14, s. 2. "Occupier."

#### ADMINISTRATION.

**3.** The Commissioner may direct this Ordinance to be administered by the head of any department; and in the absence of any such direction the Ordinance shall be administered by the Territorial Secretary. N.W.T. c. 14, s. 3. Administration by Territorial Secretary.

#### REGISTRATION DIVISIONS—REGISTRARS.

**4.** For the purposes of this Ordinance the Commissioner shall establish divisions for the registration of births, marriages and deaths occurring within the limits of such divisions and shall appoint registrars therefor. N.W.T., c. 14, s. 4. Registration divisions. Registrars.

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

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

(3.) In case of the termination of the appointment of any registrar by death, resignation or otherwise, all such forms and other matters pertaining to his duties under this Ordinance in his possession or that of his representative shall be forthwith delivered to his successor. N.W.T. c. 14, s. 5.

Monthly returns.

**6.** Each registrar shall within the first week of each month in every year transmit to the department duly certified under his hand the forms containing the original entries of all births, marriages or deaths reported to him during the previous month. N.W.T. c. 14, s. 6.

Registrar's fees.

**7.** Each registrar shall receive a fee to be paid out of the general revenue fund of the Territory of twenty-five cents for each birth, marriage or death reported to him and duly returned to the department as herein provided. N.W.T. c. 14, s. 7.

#### REGISTRATION OF BIRTHS.

Persons to register births

**8.** The father of any child born in the Territory or (in case of his death or absence) the mother or (in case of the death or inability of both parents) any person standing in the place of the parents or if there is no such person then the occupier of the house or tenement in which to his knowledge the child was born or the nurse present at the birth shall within one month from the date of the birth give notice thereof to the registrar of the division in which the child was born, giving as far as possible the particulars required in form A in the schedule to this Ordinance with such additional information as is required by the head of the department from time to time. N.W.T. c. 14, s. 8.

Registration of illegitimate children.

**9.** In registering the birth of an illegitimate child, it shall not be lawful for the name of any person to be entered as the father unless at the joint request of the mother and of the person acknowledging himself to be the father; and in all cases of the registration of the birth of illegitimate children the registrar shall write the word "Illegitimate" in the column set apart for the name of the child and immediately under the name if any. N.W.T. c. 14, s. 9.

Alterations.

**10.** When the birth of any child has been registered and the name (if any) by which it was registered has been altered or (if it was registered without a name) when a name is given it, the parent or guardian of the child or other person procuring such name to be altered or given may within two years next after the date of the birth deliver to the de-

partment a certificate signed by the clergyman or person who performed the rite of baptism upon which the name was given or altered or (if the child is not baptised) signed by the father, mother or guardian of the child or other person procuring the name of the child to be given or altered; and the necessary additions or alterations shall be made in the margin of the form containing the original entry without making any alteration in the original entry. N.W.T. c 14, s. 10.

#### REGISTRATION OF MARRIAGES.

**11.** Every clergyman, minister, or other person authorized by law to celebrate marriages shall be required to report every marriage he celebrates to the registrar of the division within which the marriage is celebrated within one month from the date of the marriage with the particulars required by form B in the schedule to this Ordinance; and in order to better enable the clergyman, minister or other person to make the report as aforesaid he shall be furnished (on demand) by the registrar of the division in which he resides with blank forms containing the particulars required by said form B. N. W. T. c. 14, s. 11.

Officiating  
clergyman to  
report.

#### REGISTRATION OF DEATHS.

**12.** The occupier of the house or tenement in which a death takes place or (if the occupier is the person who has died then) some one of the persons residing in the house in which the death took place or (if the death has not taken place within a house then) any person present at the death or having any knowledge of the circumstances attending the same or the coroner attending any inquest held on such person shall supply to the registrar of the division in which the death took place according to his or her knowledge or belief all the particulars required to be registered touching such death, according to form C in the schedule to this Ordinance. N. W. T. c. 14, s. 12.

Who shall  
register  
deaths.

**13.** Every registrar shall (immediately upon registering any death or as soon thereafter as he is required so to do) without fee or reward deliver to any person requiring the same for the purpose of burial a certificate according to form D in the schedule to this Ordinance that the particulars of such death have been duly registered. N. W. T. c. 14, s. 13.

Certificate of  
registration.

**14.** Every clergyman, minister or other person who buries or performs any funeral or religious service for the burial of any dead body (unless he has received a certifi-

Clergyman to  
register  
deaths, if not

registered  
before burial.

cate under the hand of the registrar of the division in which the death took place according to form D in the schedule to this Ordinance that the particulars of the death have been duly registered) shall within one month make a return of such death according to form C in the schedule to this Ordinance to the registrar of the division in which the death took place. N. W. T. c. 14, s. 14.

Doctor to  
report cause  
of death.

**15.** Every duly qualified medical practitioner who was last in attendance during the last illness of any person shall within one month after having notice or knowledge of the death of such person transmit to the registrar of the division in which the death took place a certificate under his signature of the cause of death according to form E in the schedule to this Ordinance; and it shall be the duty of every such medical practitioner to apply to the said registrar for blank forms for that purpose; and upon the receipt of the certificate from the medical practitioner by the registrar he shall attach the same to the form as provided in form C in the schedule hereto containing the particulars of such death. N. W. T. c. 14, s. 15.

Cemetery  
caretakers to  
report burials  
unless previ-  
ously regis-  
tered.

**16.** Every superintendent, caretaker or owner of any cemetery or burial ground whether public or private permitting any dead body to be interred in the grounds over which he has charge (unless he receives a certificate under the hand of the registrar of the division in which the death took place that the particulars of the death have been duly registered) shall give to the registrar within seven days after the burial a written notice under his hand stating according to his knowledge, information and belief the name and residence of the deceased and the date and place at which the death and burial took place. N. W. T. c. 14, s. 16.

#### PENALTY FOR DEFAULT OF REGISTERING.

Penalty for  
neglect of  
registration.

**17.** If any person required by this Ordinance to report births, marriages, deaths or burials, refuses or wilfully neglects to do so within the time named, such person shall be guilty of an offence and on summary conviction thereof forfeit and pay a sum not less than \$1 nor more than \$50; and it shall be the duty of registrars to prosecute all such persons so neglecting or refusing to make the required reports within the limits of their respective divisions; but nothing contained in this section shall prevent persons other than registrars from prosecuting defaulters. N. W. T. c. 14, s. 17.

## CORRECTION OF ERRORS—SUBSEQUENT REGISTRATION.

**18.** If it is discovered that any error has been made in the entry of any birth, marriage or death then (upon the same being reported to the proper registrar) it shall be his duty to inquire into the same and if satisfied that an error has been committed it shall be lawful for him to make the necessary alteration in the margin of the form containing the original entry without any alteration in such original entry; and if the original entry of such birth, marriage or death has been transmitted to the department, he shall report to the department according to the facts of the case so as to secure the correction of such erroneous entry in the margin of the form containing the original entry. N. W. T. c. 14, s. 18.

Correction of erroneous entry, etc.

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

Registration after two years.

(2) After the expiration of two years after the date of any birth, marriage or death, the particulars of such birth, marriage or death shall not be registered except with the written authority of the head of the department and the fact of such authority having been given shall be entered in the column set apart for remarks in the registration form. N. W. T. c. 14, s. 19.

## RETURNS.

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

Vital statistics returns to be kept in department.

Fees for search and certificate.

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

Proviso.

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

(3) Such certified extracts shall be evidence of the entry and *prima facie* evidence of the facts therein stated in any court. N.W.T, c. 14, s. 20.

#### REGULATIONS.

Commissioner  
may make  
rules.

**21.** The Commissioner may from time to time make such further rules, orders and regulations as are required for the purpose of effectually obtaining the information required by this Ordinance. N. W. T. c. 14, s. 21.

#### PENALTIES AND PROSECUTIONS.

Penalty for  
false state-  
ment.

**22.** Any person who knowingly or wilfully makes or causes to be made a false statement touching any of the particulars required to be reported and entered under this Ordinance shall be guilty of an offence and liable on summary conviction thereof to a penalty of \$25. N. W. T. c. 14, s. 22.

Place of  
offence  
hereunder.

**23.** For the purpose of proceedings under this Ordinance or any order or regulation made thereunder, every offence against this Ordinance or any such order or regulation shall be deemed to have been committed and every cause of complaint under this Ordinance or any such order or regulation shall be deemed to have arisen either in the place in which the same actually was committed or arose or in any place in which the person charged or complained against happens to be. N.W.T. c. 14, s. 23.



## SCHEDULE.

## FORM A,—SECTION 8.

No.....of 19

## REGISTRATION OF BIRTH.

Registration Division of

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

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

Given under my hand at            the            day of 19<sup>1902</sup><sub>19</sub>  
*Informant.*

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

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

## FORM B,—SECTION 11.

No.....of 19

## REGISTRATION OF MARRIAGE.

Registration Division of

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

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

Given under my hand at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 19

*Officiating Clergyman.*

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

Given under my hand at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 19

*Registrar.*

## FORM C,—SECTION 12.

No.....of 19

## REGISTRATION OF DEATH.

Registration Division of

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

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

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

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

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

FORM D,—SECTION 13.

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

Given under my hand at \_\_\_\_\_ this \_\_\_\_\_ day of  
 19 \_\_\_\_\_  
*Registrar.*

FORM E,—SECTION 15

Registration Division of \_\_\_\_\_

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

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

Given under my hand at \_\_\_\_\_ this \_\_\_\_\_ day  
 of \_\_\_\_\_, 19 \_\_\_\_\_  
*M.D.*

## CHAPTER 7.

An Ordinance respecting the Inspection of Steam Boilers and the Examination of Engineers Operating the Same.

### SHORT TITLE.

1. This Ordinance may be cited as "*The Steam Boiler Ordinance.*" N.W.T., c. 17, s. 1. Short title.

### INTERPRETATION.

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

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

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

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

4. The expression "inspector" means any inspector of steam boilers appointed by the Commissioner of the Yukon Territory under the provisions of this Ordinance. N.W.T., c. 17, s. 2. "Inspector." "Commissioner."

### INSPECTION OF STEAM BOILERS.

3. The Commissioner of the Yukon Territory may appoint an inspector or inspectors of steam boilers for the Territory for the purpose of carrying out the provisions of this Ordinance and may fix the remuneration to be paid such inspector or inspectors. N.W.T., c. 17, s. 3. Appointment of inspectors.

4. No person holding the office of inspector under the provisions of this Ordinance shall be either directly or indirectly interested in the sale of boilers or steam machinery. N.W.T., c. 17, s. 4. Inspectors to have no interest in sale of boilers or steam machinery.

Oath of office  
to be taken.

**5.** Every inspector appointed under the provisions of this Ordinance shall before entering upon the performance of his duties take and subscribe an oath that he will faithfully and impartially perform the duties of his office. N. W. T. c. 17, s. 5.

Duties of  
inspectors.

- 6.** The inspectors appointed under this Ordinance shall—
- (a) Inspect all new steam boilers within their respective districts before the same are used ;
  - (b) Once at least in each year subject all boilers within their district to hydrostatic pressure test ;
  - (c) Satisfy themselves by a thorough examination inside and out and by a hammer test after the hydrostatic pressure that the boilers are well made and of good and suitable material ;
  - (d) See that the openings for the passage of water and steam respectively and all pipes and tubes exposed to heat are of proper dimensions and free from obstruction ;
  - (e) See that the flues are circular in form ;
  - (f) Satisfy themselves that the friction (fire line) of the furnace is at least two inches below the prescribed minimum water line of the boiler ;
  - (g) See that the arrangements for delivering the feed water are such that the boilers cannot be injured thereby ;
  - (h) Satisfy themselves that such boilers and their steam connections may be safely employed without peril to life ;
  - (i) See that the safety valves are of suitable dimensions sufficient in number and properly arranged ;
  - (j) See that the safety valve, weights or springs are properly adjusted so as to allow no greater pressure in the boilers than the amount prescribed by the inspection certificate ;
  - (k) See that the boiler is provided with a sufficient number of gauge cocks and a properly inserted fusible plug so placed as to fuse by the heat of the furnace whenever the water in the boiler falls below its prescribed limits ;
  - (l) Satisfy themselves that adequate and certain provision has been made for an ample supply of water to feed the boiler at all times so that in high pressure boilers the water shall not be less than four inches above crown of flue sheet in upright boilers ;
  - (m) Satisfy themselves that means for blowing out are provided so that mud, sediment or scale may be removed while the boiler is under steam. N.W.T., c. 17, s. 6.

Certain boilers  
exempted

**7.** The provisions of this Ordinance respecting the inspection of boilers shall not apply to any boiler insured and

inspected by any duly incorporated boiler insurance company doing business in Canada if the owner or owners of such boiler shall when required by an inspector appointed under the provisions of this Ordinance produce the certificate of inspection from such company. N.W.T., c. 17, s. 7.

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

Inspectors may enter premises.

(2.) Any person interfering with or obstructing any inspector in the performance of his duties under this Ordinance shall be guilty of an offence and liable on summary conviction to a penalty not exceeding \$100. N.W.T., c. 17, s. 8.

**9.** Every owner of a boiler shall cause it to be inspected at least once in each and every year by an inspector appointed under the provisions of this Ordinance and shall pay to such inspector a fee of \$10 for such inspection, such fee to be forwarded by the inspector to the Territorial Treasurer to be credited to the general revenue fund of the Territory.

Boilers to be inspected annually.

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

Certificate to issue.

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

Production thereof.

(4.) Any one who employs a person to operate a steam boiler who has not a certificate or permit under this Ordinance shall be guilty of an infraction of this Ordinance. N.W.T., c. 17, s. 8.

**10.** In subjecting to hydrostatic tests boilers usually designated as high pressure inspectors shall assume one hundred and twenty-five pounds to the square inch as the maximum pressure allowable as a working pressure for new boilers of forty-two inches diameter, made in the best manner of plates one-fourth of an inch thick of good materials. N.W.T., c. 17, s. 10.

Hydrostatic tests.

**11.** Inspectors shall rate the working pressure of all boilers according to their strength as compared with the standard provided in the next preceding section, but the working pressure allowed in the operation of any boiler shall not exceed three-fourths of the hydrostatic test pressure to which such boiler has been subjected at the time of the inspection. N.W.T., c. 17, s. 11.

Working pressure of boiler.

**12.** In addition to the annual inspection of all boilers required by this Ordinance it shall be the duty of each in-

Owner to repair boiler when required

spector to examine and inspect at any time any boilers which may be reported to him to be in an unsafe condition and to notify in writing the owner or person using such boiler to make such repairs as he deems necessary in order to render such boiler serviceable and safe for use. N.W.T., c. 17, s. 12.

Unsafe boiler not to be used. **13.** Any boiler declared to be unsafe by an inspector shall not be used until such repairs as are ordered by the inspector have been made, and any person operating a boiler declared to be unsafe by an inspector before the repairs ordered by the inspector are completed shall be guilty of an offence and upon summary conviction thereof liable to a penalty of \$100. N.W.T., c. 17, s. 13.

Penalty.

Provision of fusible plug. **14.** Every steam boiler shall be provided with a fusible plug of good Banca tin inserted in the flues, crown sheet or other part of the boiler most exposed to the heat of the furnace when the water therein falls below the prescribed limit so that the plug will fuse and put the fire out. N.W.T., c. 17, s. 14.

Steam gauge. **15.** Every steam boiler shall be provided with a reliable steam gauge of approved make. N.W.T., c. 17, s. 15.

Inspector to have free access for inspection. **16.** The owner or operator of any steam boiler shall allow the inspector free access to the same and shall furnish water and fill the boiler to permit of the hydrostatic test being made and when necessary shall remove any jacket or covering from the boiler as directed by the inspector. He shall also assist the inspector in making his inspection and shall point out any defect that he may know of or believe to exist in the boiler or machinery connected therewith. N.W.T., c. 17, s. 16.

Owner or operator to assist inspector.

Boilers in course of construction or repair may be examined. **17.** Inspectors shall have the right at all reasonable hours to examine boilers in course of construction or undergoing repair and to refuse to grant a certificate of inspection for any boiler found to be improperly constructed or repaired or of which permission to make such inspection has been refused. N.W.T., c. 17, s. 17.

Record to be kept. **18.** Every inspector shall keep a true record of all boilers inspected and all repairs ordered by him, of all boilers condemned by him as unsafe, of all accidents to boilers in his district whether by explosion or otherwise and of all casualties in connection with boilers in his district. N.W.T., c. 17, s. 18.

Annual report. **19.** Every inspector shall render annually on or before the thirty-first day of January in each year a concise report to the Commissioner of all inspections made by him during



the preceding year and of all accidents and casualties that may have happened connected with the operation of steam boilers within his district. N.W.T., c. 17, s. 19.

#### ENGINEERS.

**20.** Any person not holding a final or provisional certificate of qualification as an engineer under this Ordinance who at any time operates any steam boiler or is in charge of any steam boiler while in operation whether as owner or as engineer shall be liable on summary conviction to a penalty of not less than \$10 and not more than \$100. N. W.T., c. 17, s. 20.

Operating  
boilers  
without  
certificate.

Penalty.

**21.** The holder of a certificate of qualification as an engineer from any incorporated body authorized to grant such certificates of qualification for operating steam boilers and engines or from the Dominion or any Provincial government or from any competent authority in any other portion of the British Empire or the United States shall be entitled upon making application to the Commissioner and upon payment of a fee of \$5 to obtain a certificate of qualification as an engineer and to be registered under the provisions of this Ordinance.

Certificates  
to persons  
who hold  
certificates of  
qualification.

(2.) Any person who has upon the date of the passing of this Ordinance been during two years engaged in the operation of any steam boiler or boilers, upon producing a certificate of his uniform good conduct and sobriety from the owner or owners by whom he has been employed (if he is not himself the owner) and also from some responsible person not connected with the business of such owner or owners and a resident in the district in which such boiler or boilers have been so operated, shall be entitled on making application to the Commissioner within six months after the said date and upon payment of \$5 to receive a provisional certificate of qualification for any period not exceeding one year.

Provisional  
certificate.

(3.) The holder of a provisional certificate of qualification may at any time after the issue of such certificate upon the recommendation of any inspector be granted a final certificate of qualification as an engineer and be registered under the provisions of this Ordinance upon payment of a fee of \$5.

Final  
certificate to  
holders of  
provisional  
certificates.

(4.) Before issuing a recommendation for the registration of and issue of a final certificate to the holder of any provisional certificate as provided by subsection 3 of this section, the inspector shall thoroughly examine the holder of such provisional certificate as to his knowledge of the construction, care, and operation of stationary steam boilers and engines and shall satisfy himself of the competency of the holder of such provisional certificate before recom-

Examination  
of holders of  
provisional  
certificate.

mending that he be registered and granted a final certificate under the provisions of this Ordinance.

Cancellation  
of certificate.

(5.) The Commissioner may upon due cause being shown cancel any certificate issued under the provisions of this Ordinance.

(6.) Provided that the provisions of this section shall not apply to boilers and engines used in the working of placer mining claims, in which case a boiler or engine may be operated by any person producing satisfactory evidence of good conduct, sobriety and sufficient experience to an inspector, who on application therefor shall grant a permit to such person to operate such boiler or engine. A fee of \$3 shall be paid to the inspector for every such permit issued by him. N.W.T., c. 17, s. 21. No. 14 of 1891, s. 7.

Appeal from  
inspector.

**22.** Any candidate who considers he has been unfairly dealt with by the inspector may appeal in writing to the Commissioner setting forth such grievance and the Commissioner shall at once cause such charge to be investigated and shall give a decision in the matter which shall be final. N.W.T., c. 17, s. 22.

Certificate to  
be posted or  
produced to  
inspector.

**23.** Every person holding a certificate under this Ordinance shall expose it in some conspicuous place in the engine or boiler room in which he is employed or cause it to be attached to the engine or boiler of which he is in charge and in default shall be liable upon summary conviction to a penalty of not less than \$10 and not more than \$50.

(2.) If such person be employed in charge of a portable engine and boiler he shall produce his certificate for inspection on being required so to do by any inspector.

Absence or  
non-production  
of  
certificate.

(3.) The absence of such certificate or its non-production on demand shall be *prima facie* evidence that the person operating the engine and boiler has no certificate. N.W.T., c. 17, s. 23.

Year's service  
requisite.

**24.** Any person (other than those mentioned in section 21 of this Ordinance) who may desire to qualify for registration and to obtain a certificate entitling him to operate steam boilers and engines connected therewith in the Territory shall serve twelve months as assistant to the holder of a final certificate issued in accordance with the provisions of this Ordinance and at the expiration of such term shall pass an examination before one of the inspectors appointed under this Ordinance to prove that he has the necessary knowledge of the construction, care and operation of stationary steam boilers and engines connected therewith; if the inspector conducting such examination is satisfied as to the knowledge and qualification of the candidate and also as to his having served the term of twelve months as herein provided he shall issue a certificate to

Examination  
to follow.

that effect. Upon filing this certificate with the Commissioner and paying a fee of \$5 the candidate shall be duly registered and granted a final certificate.

(2.) Each candidate examined by an inspector as above <sup>Fee.</sup> provided shall pay such inspector a fee of \$5 for such examination.

(3.) Provided that this section shall not apply to boilers or engines used in the working of placer mining claims, subject to the provisions of subsection 6 of section 21, N.W.T., c. 17, s. 24; No. 14 of 1901, s. 9.

**25.** In case any owner of a steam boiler shows to the satisfaction of an inspector that he is unable by reason of some unforeseen occurrence to immediately secure the services of a duly qualified person to operate such boiler the inspector may grant a permit to any person producing satisfactory evidence of good conduct and sobriety and sufficient experience to operate such boiler for a period of six months from the date of such application and in such case no penalty shall be incurred by reason of operating such steam boiler during the period covered by such permit. <sup>Persons acting in absence of certified engineer.</sup>

(2.) A fee of \$5 shall be paid to the inspector for every such permit issued by him. <sup>Fee for permit</sup> N.W.T., c. 17, s. 25.

#### REGULATIONS AND FORMS.

**26.** The Commissioner of the Yukon Territory may from time to time make such regulations and prescribe such forms as may be deemed necessary for the proper carrying into effect of the provisions of this Ordinance. <sup>Regulations and forms.</sup> N.W.T., c. 17, s. 26.

**27.** The fees payable under this Ordinance shall be paid into the general revenue fund. <sup>Fees.</sup> N.W.T., c. 17, s. 27.

#### PENALTIES.

**28.** Any person guilty of a breach of any of the provisions of this Ordinance for which no provision is herein made shall on summary conviction thereof be liable to a penalty not exceeding \$100. <sup>Penalties.</sup> N.W.T., c. 17, s. 28.

## SCHEDULE.

## FORM A,—SECTION 9

## CERTIFICATE OF INSPECTION OF STEAM BOILER

I hereby certify that I have this day inspected the steam boiler and steam connections owned by \_\_\_\_\_ of \_\_\_\_\_ in the district of \_\_\_\_\_ and described as follows :

and having applied hydrostatic pressure, hammer test and carefully examined the said boiler and connections have found the same in \_\_\_\_\_ condition and therefore authorise a steam pressure of \_\_\_\_\_ pounds as a working pressure for the said boiler and no more.

Dated this \_\_\_\_\_ day of \_\_\_\_\_

A.D., 19 \_\_\_\_\_

This certificate expires on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

Inspector.

## CHAPTER 8.

### An Ordinance respecting Ferries.

#### SHORT TITLE.

**1.** This Ordinance may be cited as "*The Yukon Ferries Ordinance.*" No. 7 of 1899, s. 1. Short title.

#### INTERPRETATION.

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

(1) The term "Ferry" or "Ferries" means any scow, barge or boat used for the purpose of carrying passengers, freight, vehicles, or animals across any river or other body of water; "Ferry."

(2) The term "Licensee" means any person or persons holding a license to operate a ferry in accordance with the provisions of this Ordinance. No. 7 of 1899, s. 2. "Licensee."

#### LICENSES.

**3.** Subject to the provisions of this Ordinance the Commissioner may at any time issue a license to any person or persons for the establishment and operation of a ferry or ferries on any river, stream or other body of water in the Territory, granting the exclusive right to maintain and operate the said ferry or ferries within the limits specified in such license and upon such terms as to him may seem fit. No. 7 of 1899, s. 3. Commissioner to issue licenses.

**4.** No license shall be granted for— Terms of license.

(a) A longer term than one year;

(b) A greater limit than one half mile up and one half mile down the stream, measured along the stream from the point at which the ferry is operated as specified in the license;

(c) Any ferry of which the scow, barge or boat is not of sufficient capacity to carry safely one wagon containing two thousand pounds, together with two horses or other draught animals attached thereto. No. 7 of 1899, s. 4.

**5.** The maximum rate of tolls which may be charged for each crossing by means of a licensed ferry shall be fixed from time to time by the Commissioner, and in every ferry T<sub>0</sub>

license granted the maximum rate of tolls which can be collected shall be specified. No. 7 of 1899, s. 5.

Fee for license.

**6.** The fee to be paid by a licensee on receiving a ferry license as hereinbefore provided shall be \$75. No. 7 of 1899, s. 6.

Hours.

**7.** Licensed ferries shall be run at all hours of the day and night (Sundays included) at which they are required, unless in cases in which loss of life or injury to or loss of property is likely to result therefrom; but in every case in which a ferry is used after nine o'clock in the evening or before six o'clock in the morning, double the rates specified in the license for such ferry may be charged. No. 7 of 1899, s. 7.

No toll to be charged school children and mails.

**8.** Notwithstanding anything contained in this Ordinance, no toll shall be charged for children going to or returning from school, and in no case shall His Majesty's mail be obstructed or charged more than the rates that may be charged according to the terms of the license between the hours of six o'clock in the morning and nine o'clock in the evening. No. 7 of 1889, s. 8.

Licensee may run boat in shallow water.

**9.** If the water in any stream, river or other body of water upon which the license for the operation of a ferry has been issued, becomes too shallow to permit of such ferry being operated, the licensee shall provide and keep a small boat or canoe with which he shall transfer foot passengers and their baggage across such stream, river or other body of water, and for such service the licensee shall be allowed to charge the fees prescribed in his license for like services by means of the ferry. No. 7 of 1899, s. 9.

Licensees to keep approaches in order.

**10.** The immediate approaches to every ferry shall be kept in such order and condition by the licensee as is necessary to make the ferry accessible at all times for loaded vehicles and animals attached thereto without danger or injury. No. 7 of 1899, s. 10.

Ferry not to block ford.

**11.** A ferry on any stream, river, or other body of water that may be fordable at any time, shall not be used to block up or injure such ford or fords or the landing therefrom, nor shall the licensee do any act which will make the ford of any such stream, river, or other body of water, more difficult or dangerous than it would otherwise have been. No. 7 of 1899, s. 11.

License to specify size of scow conditions, &c.

**12.** Every ferry license granted shall specify the kind and size of scow, barge or boat to be used in such ferrying, the limits of the stream, river, or other body of water with-

in which such ferry is to be operated, the period of time covered by such license, the conditions, the non-fulfilment of which shall subject the license to cancellation ; and the provisions, reservations and liabilities provided by this Ordinance shall apply to every such license. No. 7 of 1899, s. 12.

**13.** Every person holding a ferry license shall keep at all times, posted up in a conspicuous place on such ferry, a schedule certified by the Commissioner, showing the authorized ferry rates for the different hours of crossing. No. 7 of 1899, s. 13.

Schedule of fees to be kept posted.

**14.** The Commissioner may from time to time appoint such person as he sees fit to inspect and report on the condition of any ferry, or with reference to the complaint of any person using or desiring to use such ferry ; and if at any time the person or persons holding the ferry license fail to comply with the written instructions of the Commissioner by neglecting to repair any scow, barge or boat used in connection with such ferry, or to provide a new scow, barge or boat in place of any one considered as being unsafe, or by not providing safe and sufficient immediate approaches to such ferry, he or they shall forfeit his or their license, No. 7 of 1899, s. 14.

Commissioner may appoint inspector.

**15.** Any licensee using insulting language to, or ill-treating any person using or desiring to use such ferry, or wilfully injuring any property in transit across such ferry, shall be guilty of an offence, and shall be liable upon summary conviction thereof to a penalty not exceeding \$100, and in default of payment thereof to be imprisoned for any period not exceeding three months, and shall also forfeit his license for such ferry.

Offences.  
Penalty.

(2) Upon any licensee being convicted before a justice of the peace of violating any of the terms or conditions of his license or of this Ordinance, he shall be liable on summary conviction thereof to a penalty not exceeding \$50, and in default thereof to imprisonment for any period not exceeding one month and shall be further liable to forfeit his license under the directions of the Commissioner. No. 7 of 1899, s. 15.

Penalty for violating terms of license.

**16.** No conviction, as provided by the next preceding section, shall be a bar to the ordinary civil suit for damages by the person upon whose complaint the conviction was obtained. No. 7 of 1899, s. 16.

Conviction not to be a bar to civil suit.

**17.** All money received for ferry licenses, fees or bonuses, under this Ordinance, shall be deposited to the credit of the general revenue fund of the Yukon Territory. No. 7 of 1899, s. 17.

Fees received for licenses to go to general revenue fund.

Licensee  
liable for  
damages.

**18.** Every person holding a ferry license shall be liable for all damages that may occur to persons or property, while using such ferry, resulting from any carelessness of such licensee or his agent or from any insufficiency in the strength or suitability of any of the appliances used in connection with the ferry. No. 7 of 1899, s. 18.

Penalty for  
running ferry  
without  
license.

**19.** Any person taking, carrying or conveying, across any stream, river or other body of water, any person or personal property, or any vehicle or animal, in any scow, barge, or boat, or on any raft or other contrivance, for hire or reward, or hindering or interfering with any licensee in any way, shall be guilty of an offence, and upon summary conviction thereof shall be liable to a penalty of not exceeding \$100 for each such offence, and in default of payment to imprisonment for any period not exceeding three months. No. 7 of 1899, s. 19.

Penalty for  
refusing to  
pay tolls.

**20.** If any person using an authorized ferry refuses to pay the authorized toll or rates chargeable for ferrying himself or his property, the licensee of such ferry may forthwith seize any property in the possession of the offender then being ferried and hold the same, and such person shall be guilty of an offence, and upon summary conviction thereof shall be liable to a penalty of \$50, and in default of payment thereof to imprisonment for a period not exceeding two months; and the property so seized shall be liable for payment of the fine and the tolls and the costs of the prosecution, and may be sold under distress warrant to satisfy such charges. No. 7 of 1899, s. 20.



## CHAPTER 9.

### An Ordinance respecting the Public Health.

#### SHORT TITLE.

**1.** This Ordinance may be cited as "*The Yukon Health Ordinance.*" No. 20 of 1902, s. 1. Short note.

#### INTERPRETATION.

**2.** In this Ordinance, unless the context otherwise requires, the expressions hereinafter mentioned shall have and include the following meanings: Interpretation.

(1) "Local Board" means the Board of Health for any city or town; "Local Board."

(2) "Owner" means the person for the time being receiving the rent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee of any other person, or who would so receive the same if such lands and premises were let; "Owner."

(3) "House" includes hospitals, schools, factories and other buildings, huts and tents used for human habitation or work, whether such use is permanent or temporary and whether the same are stationary or movable; "House."

(4) "Street" shall include every highway, road, square, lane, court, alley and passage, whether a thoroughfare or not. No. 20 of 1902, s. 2. "Street."

#### MEDICAL HEALTH OFFICER.

**3.** The Commissioner may appoint a duly qualified medical practitioner of not less than five years' standing in his profession, to act as medical health officer for the Yukon Territory. No. 20 of 1902, s. 3. Commissioner may appoint medical Health Officer.

**4.** The Medical Health Officer with the approval of the Commissioner may from time to time make sanitary regulations for the prevention of infectious and contagious diseases, for the relief of persons suffering therefrom and for the burial of persons who have died thereof, and such orders may be enforced by penalties therein expressed, not to exceed four hundred dollars for any one offence. Such regulations shall be published in the *Yukon Official Gazette*. Medical Health Officer make regulations. Penalty.

and the production of any copy of the *Yukon Official Gazette* containing any such regulation shall be *prima facie* evidence of the making, date and contents thereof. No. 20 of 1902, s. 4.

May make regulations

5. The Medical Health Officer may by such sanitary regulations provide :

for clearing streets and

1. For the frequent and effectual cleansing of the streets, yards and outhouses by the owners or occupiers of houses and tenements adjoining thereto, or by the local health authorities ;

removing nuisances cleaning houses, &c.

2. For the removal of nuisances :

3. For cleansing, purifying, ventilating and disinfecting houses, churches, buildings and places of assembly, railway stations, steamboats, railway carriages and cars, as well as other public conveyances by the owners or the persons having the care thereof ;

preventing spread of disease

4. For regulating, in order to prevent the spread of infectious disease, the entry or departure of boats or vessels running between points in the Yukon Territory at the different ports or places in said Territory and the landing of passengers or cargoes from such boats or vessels, or from railway carriages or cars or scows, and receiving passengers or cargoes on board the same ;

burial of dead

5. For the safe and speedy burial of the dead and the conduct of funerals, for the purpose of preventing the spread of infectious diseases as aforesaid ;

supplying medical aid

6. for supplying medical aid and accommodation and medicine, and such other articles as are deemed necessary for regulating any epidemic, endemic or contagious disease ;

preventing disease

7. For preventing or mitigating such epidemic, endemic or contagious disease in such other manner as to him seems expedient ;

compulsory vaccination

8. For the compulsory vaccination in the Yukon Territory or in any part or section thereof, or in any city or town ;

vaccinating indigents

9. For the expense of the vaccination of such persons as are unable to pay therefor ;

fixing periods of quarantine

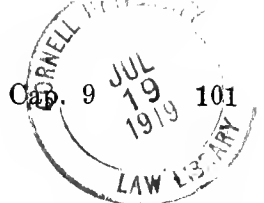
10. For prescribing the periods of quarantine and the formulæ of disinfection ;

enforcing ordinance by local board

11. For securing the enforcement of this Ordinance by local boards. No. 20 of 1902, s. 5.

commissioner may establish quarantine

6. The Commissioner may declare any area or district or any steamboat, boat or vessel running between points in the Yukon Territory in quarantine because of the existence therein or thereon of any contagious or infectious disease, and may appoint any medical practitioner as health officer, and may appoint a sanitary inspector or sanitary inspectors for such district or steamboat during the continuance of such quarantine and may, subject to the provisions of this Ordinance, prescribe their powers, duties and remuneration. No. 20 of 1902, s. 6.



LOCAL BOARDS.

7. In every city or town the Council shall be the Board of Health. No. 20 of 1902, s. 7. Town council be the local board.

8. The Local Board shall have power to make, revoke, renew and alter sanitary orders, rules and regulations, including those set out in the schedule hereto in so far as the same affect the district over which said Local Board has jurisdiction, not inconsistent with any orders, rules or regulations of the Medical Health Officer in relation to any of the following classes of subjects, that is to say : Powers of local board  
May make regulation for

1. For the prevention or mitigation of any infectious, epidemic, endemic or contagious disease prevalent in the city or town, in such manner as is deemed expedient ; Preventing disease

2. For supplying accommodation, medical aid and medicines and such other articles as are deemed necessary ; supplying medical aid

3. For domestic quarantine and for preventing the admission of persons to, or the departure of persons from any infected building, house or place within the city or town and for detaining persons or things and closing up shops, dwelling houses and buildings that have been exposed to infection, for inspection and disinfection until the danger of infection is passed ; domestic quarantine

4. For the cleansing, purifying, ventilating and disinfecting of dwellings, hotels, saloons, schools, churches, public buildings and places of assembly, carriages, cars and boats, and conveyances coming into or landing passengers in the city or town by the owners, occupiers or agents or persons having charge of the same ; cleaning dwellings

5. For the reporting of all cases of disease and the safe and speedy interment of the dead, and the conduct of funerals ; burial of dead

6. For the frequent and effectual cleansing of public and private buildings, yards and outhouses, by the owners, occupiers, tenants or agents of the same ; cleaning building by owners

7. For the removal of nuisances or anything declared by the Local Board to be detrimental to the public health ; removing nuisances

8. For the establishment, management and maintenance of an infectious disease hospital, the isolation of patients out of the hospital and their removal to and detention in the same. establishing infectious disease hospital

9. For the appointment of sanitary police, to be paid by the city or town for the purpose of carrying out and enforcing the regulations and orders of the Local Board ; appointing sanitary police

11. For the doing of any work, matter or thing at the cost and expense of any person or corporation who has been ordered or required by the Local Board to do the same and has neglected or refused to do so, and for collecting and recovering the amount so expended by distress and sale of goods or property of the person or corporation so neglecting or refusing, or by action at law or otherwise. doing work of the cost of person required to do it  
collection of amount by distress

Penalties.

(2.) The Local Board may fix penalties for the violation of any such sanitary orders, rules or regulations not exceeding \$100 and costs for any offence. No. 20 of 1902, s. 8.

#### SANITARY INSPECTORS.

Commissioner  
appoint  
officers.

**9.** The Commissioner may appoint such other officers to be known as sanitary inspectors as he deems necessary to assist the Medical Health Officer in carrying out the provisions of this Ordinance. Every sanitary inspector shall perform such duties under this Ordinance and the regulations made thereunder as may from time to time be required by the Medical Health Officer. No. 20 of 1902, s. 9.

Fix salaries.

**10.** The Medical Health Officer and the sanitary inspectors shall be paid such salaries as may from time to time be fixed by the Commissioner. No. 20 of 1902, s. 10.

#### POWERS OF MEDICAL HEALTH OFFICER.

Powers of  
medical  
Health  
Officer.

**11.** The Medical Health Officer may, in the day time, as often as he thinks necessary, enter into and upon any premises and examine such premises. If upon such examination he finds that the premises are in a filthy or unclean state, or that any matter or thing is there which in his opinion may endanger the public health, he may order the owner or occupant of the premises to cleanse the same and to remove what is so found there. No. 20 of 1902, s. 11.

May enter  
premises.

**12.** The Medical Health Officer may also enter in and upon any house, outhouse or premises, in the day time, or into any car, steamboat, stage or other conveyance at any time, for the purpose of making inquiry and examination with respect to the state of health of any person therein; and may also cause any person found therein infected with a dangerously contagious or infectious disease to be removed to some hospital or other proper place; but no such removal shall take place unless such person can be removed without danger to life, and unless such removal is necessary in order to guard against the spread of such disease to the adjoining house or houses. No. 20 of 1902, s. 12.

May call  
Police to this  
assistance.

**13.** In case the owner or occupant of any house or premises neglects or refuses to obey the orders given by the Medical Health Officer, such officer may call to his assistance all constables and peace officers, and such other persons as he thinks fit, and may enter into such dwelling or premises and cleanse the same, and execute or cause to be executed therein the regulations made under this Ordinance, and remove

therefrom and destroy whatsoever it is necessary to remove or destroy for the preservation of the public health. No. 20 of 1902, s. 13.

**14.** Where, under the provisions of this Ordinance the Medical Health Officer removes any dirt, filth, refuse or other thing which is likely to endanger the public health or to become or cause a nuisance or which is or is causing a nuisance, such dirt, filth, refuse or other thing shall be subject to the disposition of the Medical Health Officer, and the owner of such shall have no claim in respect thereof. No. 20 of 1902, s. 14.

Owner have no claim to filth removed.

**15.** Whenever any physician knows that any person whom he is called upon to visit is infected with small-pox, scarlet fever, diphtheria, typhoid fever, bubonic plague or cholera, such physician shall (subject in case of refusal or neglect to the penalties hereinafter provided) within twenty-four hours give notice thereof to the Medical Health Officer. No. 20 of 1902, s. 15.

Physician to notify health officer of infectious disease.

**16.** The Medical Health Officer within six hours after he shall have received a notice of the existence of scarlet fever, diphtheria, small-pox, cholera or bubonic plague, in any house, shall affix or cause to be affixed by the head of the household or by some other person near the entrance of such house, a card at least twelve inches square stating that such disease exists in said house. No person shall remove such card without the permission of the Medical Health Officer. No. 20 of 1902, s. 16.

Medical health Officer to put up notice.

**17.** Any Medical Health Officer or sanitary inspector may at all reasonable times inspect any animal carcass, meat, poultry, game, flesh, fish, fruit, vegetables, grain, bread, flour milk or other article of food exposed for sale or deposited in any place for the purpose of sale, or for preparation for sale, and intended for food for man, the proof that the same was not exposed or deposited for any such purpose, or was not intended for food for man, resting with the party charged; and if any such animal, carcass, meat, poultry, game, flesh, fish, fruit, vegetables, grain, bread flour, milk or other article of food appears to such Medical Health Officer or inspector to be diseased, or unsound or unwholesome or unfit for food for man, he may seize and carry away the same in order that he may cause it to be destroyed or so disposed of as to prevent it from being exposed for sale or used for food for man;

Medical health Officer may inspect food.

(2.) The person to whom the same belongs, or did belong at the time of exposure for sale, or in whose possession or on whose premises the said food was found, shall be liable to a penalty not exceeding \$100 for every animal, carcass,

Penalty.

or fish, or piece of meat, flesh or fish, or any poultry or game, or for the parcel of fruit, vegetables, grain, bread, flour, or for the milk so condemned, or for every other parcel or package of food; or at the discretion of the convicting justice without the infliction of a fine, to imprisonment for a term not exceeding three months. No. 20 of 1902, s. 17.

May call  
Police to his  
assistance.

**18.** Any Medical Health Officer or sanitary inspector may, when obstructed in the performance of his duty, call to his assistance any constable, or other person he thinks fit, and it shall be the duty of every such constable or other person so called upon to render, such assistance. No. 20 of 1902, s. 18.

May do thing  
at expense  
persons  
required.

**19.** Whenever the Medical Health Officer has any authority to direct that any matter or thing should be done by any person or corporation, he may also, in default of its being done, direct that such matter or thing shall be done at the expense of the person or corporation in default, and may recover the expense thereof with costs by action or distress. No. 20 of 1902, s. 19.

Power of  
health Officer  
in quarantine  
district.

To prevent  
departure of  
persons.

To detain  
persons and  
conveyances.

**20.** Where any steamboat, boat or vessel is quarantined or a quarantine district is established a health officer or sanitary inspector shall have power:

1. To prevent the departure or removal of any person or thing from said steamship, boat, or vessel, or of persons or conveyances from or into any such locality.

2. To detain persons or conveyances who or which have been exposed to infection or contagion for inspection; and may order the cleansing, purifying, and disinfecting thereof and anything contained therein at the expense of the owner, occupier, or the person having the care and control thereof, and may order the detention for this purpose of any steamboat, railway carriage or car and any public conveyance and anything contained therein and any person traveling thereby as long as may be necessary to ensure that all danger of infection is past. No. 20 of 1902, s. 20

#### APPOINTMENT OF LOCAL HEALTH OFFICER.

City may  
appoint local  
health Officer.

**21.** Every city or town may appoint a health officer, and, subject to the provisions of this Ordinance, may prescribe his powers, duties, and remuneration, and the clerk of the council of such city or town shall file a notice of such appointment with the Commissioner within fourteen days thereafter. No. 20 of 1902, s. 21.

Health Officer  
to report.

**22.** Every health officer of a city or town shall before the third day of every month report to the Commissioner in the form A in the schedule to this Ordinance, the number

of cases of contagious or infectious disease and of typhoid fever arising within the limits of such city or town during the preceding month. No. 20 of 1902, s. 22.

**23.** Whenever a disease of a fatal or malignant character is discovered to exist in any house and such house is situated in an unhealthy or crowded place or is in a filthy or neglected state or is inhabited by too many persons, the health officer having jurisdiction in the place in which it is situate may compel the inhabitants of such house to remove therefrom and may place them in some more healthful situation under good shelter until measures can be taken for the immediate cleansing, ventilation, purification or disinfection of such house No 20 of 1902, s. 23.

May compel removal of inhabitant.

#### PRECAUTIONS AGAINST CONTAGION.

##### **24.** Any person who—

1. Having reason to believe that he or any person over whom he has control whether as parent, guardian or master, or captain of a steamboat; or that anything within his possession has become infected and who does or causes or permits to be done any act whereby any other person is or may become exposed to infection, or who refuses or neglects to cause such disinfection of any such person or thing as is herein prescribed; or who,
 

Penalty for refusing to cause disinfection.
2. Being occupant of any infected house causes or permits to enter therein any person who is not a medical practitioner or other necessary attendant on the sick or a person acting under instructions from any health officer; or who,
 

Allowing person to enter infected house
3. Not being an inmate of any infected house or a resident of any quarantined steamboat or district or a medical practitioner or other necessary attendant on the sick, or a person acting under instructions from any health officer, knowingly enters any infected house or steamboat or who,
 

Entering quarantine dist. without permission.
4. Being a physician in attendance on any infected person fails to take such precautions as to disinfection of his person and clothing as are prescribed by the Medical Health Officer; or who,
 

Physician for not disinfecting clothes.
5. Being a nurse or other person charged with the care or nursing of any infected person or of any person ill of typhoid fever refuses or neglects to take such measures respecting the disinfection and disposal of the discharges from any such person as are prescribed by the Medical Health Officer; or who,
 

Nurse not disinfecting.
6. Being owner or tenant of any infected house either by himself or his agent knowingly offers for sale or hire such house or any part thereof without first causing it to be disinfected as prescribed by the Medical Health Officer, and for the purposes of this section a house shall be deemed
 

Owner offering house not disinfected.

to be let for hire to any part of which any person is admitted as a boarder or lodger; or who,

Allowing child in infected house to attend school.

7. Being the parent or guardian of any pupil in attendance at any school residing in any house which has become infected, or the proprietor of any house which has become infected at which any child is boarded or lodged, thereafter allows such pupil to attend any school without first delivering to the teacher of such school a medical practitioner's certificate certifying to the fact that the disinfection prescribed by the Medical Health Officer has been done under his direction both as to the person and clothing of the child and the house at which it is boarded or lodged, shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding \$50 and costs;

Proviso.

Provided that any healthy adult inmate of any house infected with measles or scarlet fever may under the direction of a medical practitioner be disinfected as to his person and clothing as prescribed by the Medical Health Officer and thereupon be allowed to change his place of abode; and,

Provided that any inmate of any infected house may do whatever is necessary to procure medical or other aid in any emergency.

Medical officer may remove patent.

(2.) The medical practitioner in attendance or any health officer may order the removal of any infected person or thing to any hospital, pest house or any insulated building or tent provided for the purpose. No. 20 of 1902, s. 24.

Penalty.

**25.** Any person who knowingly, without permission from the Medical Health Officer or a local board in the place to which such person is brought,

For bringing infect. person into Territory

1. Brings into the Territory any person ill of any infectious or contagious disease, dangerous to the public health, or

Landing vessel in Territory with infected person.

2. Lands in any part of the Territory any person so ill from any vessel or ship, shall be liable to a penalty of not less than one hundred or more than four hundred dollars. No. 20 of 1902, s. 25.

Owner to put up notice of infectious disease.

**26.** When any person becomes sick of small-pox, malignant cholera, diphtheria, typhoid fever, scarlet fever or any infectious disease, in any house, vessel or other place, in the Territory, the proprietor or other person in charge or possession of such house, vessel or place, shall display in some conspicuous place thereon a yellow flag or a placard, not less than twelve inches square, and shall keep the same displayed during the prevalence of any such infectious disease. No. 26 of 1902, s. 26.

Medical practitioner to inspect pre-

**27.** Any medical practitioner attending any person ill of typhoid fever not within the limits of any city or town shall inspect the premises where such person resides and if



he should have reason to believe that the water supply thereof has become contaminated by reason of any cesspool or privy pit being adjacent thereto he shall forthwith notify the owner or occupant of such premises to cause immediate removal of the contents thereof, and the subsequent disinfection and filling up with earth of such cesspool or privy pit.

mises where infect. person resides.

(2) Any medical practitioner refusing or neglecting to comply with the provisions of this section shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding \$10 and costs.

Penalty.

(3.) Any person refusing or neglecting to obey any order or notice given pursuant to the provisions of this section shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding \$10 and costs. No. 20 of 1902, s. 27.

Penalty for neglecting to obey order.

#### PENALTIES.

**28.** Any person who violates any provision of this Ordinance or any regulation made by the Medical Health Officer thereunder, shall be liable for every such offence to a penalty not exceeding \$100 and costs.

Penalty.

(2.) Where any person has been convicted of an offence under this Ordinance, or under any regulation of the Medical Health Officer in force thereunder, and such offence is in the nature of an omission or neglect, or is in respect of the existence of a nuisance or other unsanitary condition, which it is such person's duty to remove, or is in respect of the erection or construction of anything contrary to the provisions of this Ordinance, or of any regulation of the Medical Health Officer in force thereunder, then in case the proper authority in that behalf gives reasonable notice to such person to make good such omission or neglect, or to remove such nuisance or unsanitary condition, or to remove the thing which has been erected or constructed contrary to this Ordinance or to its regulations and default is made in respect thereof, the person offending may be convicted for such default, and shall be liable to the punishment as was, or might have been imposed for the original offence, and so on from time to time as often as after another conviction a new notice is given and the default continues; and in the case of a third or subsequent conviction, it shall not be necessary in the information, conviction or other proceedings to make any reference to any conviction except the first, or to any notice except that in respect of which the proceedings are then being taken. No. 20 of 1902, s. 28.

Penalty for continued offence.

**29.** Any person defacing, destroying or removing any notice provided for by this Ordinance before the disinfection herein provided for has been done shall be guilty of an offence and be liable on conviction thereof to a fine not exceeding \$10 and costs. No. 20 of 1902, s. 30.

Penalty for destroying notice.

Penalty for refusing to obey order of health officer.

**30.** Any person who neglects or refuses to obey any order given to him by a health officer, medical practitioner or sanitary inspector in pursuance of the provisions of this Ordinance shall be guilty of an offence and on summary conviction thereof be liable to a penalty not exceeding \$100 with costs. No. 20 of 1902, s. 31.

Penalty for obstructing health officer.

**31.** Whoever assaults, obstructs, molests or hinders any health officer, constable or other person in the execution of any duty or exercise of any power conferred upon him by this Ordinance shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding \$25 and costs. No. 20 of 1902, s. 32.

#### EXPENDITURE UNDER ORDINANCE.

Payment out of general revenue.

**32.** The Commissioner may order the payment of any fee, allowance or other remuneration for services rendered or supplies furnished under the provisions of this Ordinance out of the general revenue fund. No. 20 of 1902, s. 33.

Payment for necessary and urgent expenditure.

**33.** Where the necessity and urgency for so doing is established to the satisfaction of the Commissioner by reason of the inability of any person or the friends of any person who may be suffering from any infectious or contagious disease to provide for such person the medical aid, accommodation, and such other services or articles necessary to mitigate or prevent the spread of any such disease the Commissioner may in his discretion authorize the Medical Health Officer or any other person to provide such medical aid, accommodation or other service or article as may be required for such person, and the cost of the same may be defrayed out of the general revenue fund. No. 20 1902, s. 34.

#### DISEASE OUTSIDE THE TERRITORY.

Ingress from distr. affected may be proscribed.

**34.** When any part of the Territory becomes exposed to any contagious, infectious or epidemic disease then existing in any place outside the Territory, the Commissioner may declare that such disease exists in such place as aforesaid and proscribe all ingress to the Territory therefrom for a period to be named in such order. No. 20 of 1902, s. 35.

#### GENERAL.

Regulations to be in force.

**35.** The regulations set forth in the schedule to this Ordinance shall be in force throughout the Territory until altered or amended under the provisions of this Ordinance, and it shall be the duty of all constables and peace officers to enforce their observance. No. 20 of 1902, s. 36.

## SCHEDULE.

1. No person shall suffer the accumulation upon his premises, or deposit, or permit the deposit, upon any lot belonging to him, of anything which may endanger the public health, or deposit upon, on or into any street, any manure or other refuse, or vegetable or animal matter or filth. Not to accumulate refuse on premises.
2. No person shall offer for sale as food any diseased animal, or any meat, fruit, fish, vegetables, milk or other article of food which, by reason of disease, adulteration, impurity or any other cause, is unfit for use. Not to offer diseased animal for sale.
3. All privies, privy vaults and cesspools shall be regularly emptied by the occupant of the premises whereon they are situated, at least once a week during the period from June 1st to October 1st. Privies to be cleaned regularly.
4. All putrid and decaying animal or vegetable matter shall be removed from all cellars, building or out-buildings and yards on or before the 1st day of May in each year. Putrid matter to be removed.
5. Every householder and every hotel and restaurant keeper or other person shall dispose of all garbage for the disposal of which he is responsible, either by burning the same, or by placing it in a proper covered receptacle, the contents of which shall be regularly removed as often as twice a week. Garbage to be disposed of
6. Between the 15th day of May and the 1st day of November no hog shall be kept within the limits of any district, except in pens seventy-five feet from any house, with floors kept free from standing water and regularly cleansed. Hogs to be kept in pens.
7. The keeper of every livery or other stable shall keep his stable and yard clean, and shall not permit between the 15th day of May and the 1st day of November, more than two wagon loads of manure to accumulate in or near the same at any one time, except by permission of the Medical Health Officer. Livery stables to be kept clean
8. No animal affected with any infectious or contagious disease shall be brought or kept within any district. No. 20 of 1902. Animal infected with contagious disease not to be exported.

FORM A,—SECTION 22.

REPORT OF CONTAGIOUS AND INFECTIOUS DISEASES.

Attended by Dr ..... of ..... during the month of ..... A.D. 19...

Name of Patient.	Age.	Sex.	Residence.	Disease.	Remarks.

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

.....M.D.

## CHAPTER 10.

### An Ordinance to regulate Public Aid to Hospitals.

#### SHORT TITLE.

**1.** This Ordinance may be cited as "*The Hospitals Ordinance.*" N. W. T., c. 10, s. 1. Short title.

#### INTERPRETATION.

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

**1.** The expression "free patient" means every person admitted to a hospital for actual treatment and stay by or for whom or on whose behalf no money is paid or given or money's worth given for such treatment or stay. "Free patient"

**2.** The expression "partially free patient" means every person admitted to a hospital for actual treatment and stay by or for whom or on whose behalf only part of the cost of such treatment and stay is paid in money or money's worth. N. W. T., c. 20, s. 2. "Partially free patient."

#### GRANTS IN AID OF HOSPITALS.

**3.** Aid from the general revenue fund of the Territory may be given to hospitals named in the schedule to this Ordinance upon the terms and under the provisions of this Ordinance. N. W. T., c. 20, s. 3. Hospitals which may be aided.

**4.** In case of public moneys being appropriated for the purposes of this Ordinance by the Commissioner in Council every such hospital complying with the requirements of this Ordinance and of all orders made by the Commissioner hereunder, shall receive in each year aid from such moneys to the extent and amount following that is to say:— Grants from public moneys.

**1.** Every such hospital shall have and receive 50 cents per day for each day's actual treatment and stay of every patient;

**2.** Every such hospital shall have and receive an additional grant of \$2 per day for each day's actual treatment and stay of every partially free patient admitted to or being within such hospital during the calendar year for which such aid is granted less the number of days represented by any money's worth given for such treatment and stay at the cost of \$4 per day.

**3.** Every such hospital shall have and receive an additional grant of \$2 per day for each day's actual treatment of every free patient admitted to or being within such hospital during the calendar year next preceding that for which such aid is given. N. W. T., c. 20, s. 4.

When appropriation insufficient.

**5.** If in any year the aggregate aid payable under this Ordinance shall exceed the amount of money so appropriated then every such hospital shall only receive such sum as will bear the same proportion to the amount of aid which but for this section it would receive as the amount of money so appropriated bears to such aggregate aid as aforesaid. N. W. T., c. 20, s. 5.

#### RETURNS.

When and how returns to be made.

**6.** The Commissioner may from time to time fix and direct the particulars to be contained in and the form, manner and time of making returns and shall fix and direct the form and manner of the oath, affirmation or declaration required for the verification of any such return and the person or persons by whom such oath shall be made. N. W. T., c. 20, s. 6.

#### INSPECTION OF HOSPITALS.

Inspection of hospitals.

**7.** The Commissioner may from time to time appoint an inspector or inspectors to visit and inspect every such hospital and make all proper inquiries as to the maintenance, management and affairs thereof; and by examination of the registers and by such other means as he or they deem necessary all and every such inspector or inspectors shall particularly satisfy himself or themselves as to the correctness of any returns made under this Ordinance or under any order of the Commissioner in that behalf; upon all which matters he or they shall make a report to the Commissioner. N. W. T., c. 20, s. 7.

#### FALSE RETURNS.

Penalty for making false return.

**8.** Any person who knowingly and wilfully makes or is a party to or procures to be made directly or indirectly any false return either under this Ordinance or any Order of the Commissioner shall on summary conviction incur a penalty of \$500. N. W. T., c. 20, s. 8.

#### EXTENSION TO OTHER HOSPITALS.

Extension of aid to other hospitals.

**9.** The Commissioner may by order direct that any institution similar to those named in the schedule hereto shall be thereafter taken as named in the said schedule; and thereupon and thereafter any such institution shall receive aid under this Ordinance after the manner and to the same extent as the institutions named in the said schedule. N. W. T., c. 20, s. 9

#### SCHEDULE.

The Good Samaritan Hospital, Dawson.  
St. Mary's Hospital, Dawson.

## CHAPTER 11.

### An Ordinance respecting Commissioners to make Inquiries concerning Public Matters.

1. The Commissioner of the Yukon Territory may, when he deems it expedient to cause inquiry to be made into and concerning any matter within the jurisdiction of the Council of the said Yukon Territory, appoint commissioners to make such inquiry and report thereon. No. 24 of 1899, s. 1.

Commissioner may appoint commissioners to enquire into public matters.

2. He may, by the commission by which he appoints them, confer upon the commissioners the power of summoning witnesses before them and to require such witnesses to give evidence on oath, orally or in writing, or on solemn affirmation if they are persons entitled to affirm in civil matters, and to produce such documents and things as the commissioners may deem requisite to the full investigation of the matters into which they are appointed to inquire; and the commissioners shall have the same power to enforce the attendance of witnesses, and to compel them to give evidence, as is vested in any court of record in civil cases. No. 24 of 1899, s. 2.

He may empower commissioners to summon and examine witnesses on oath.

## CHAPTER 12.

### An Ordinance respecting the Removal of Trespassers from Public Property.

Sheriff or  
Police Officer  
to eject  
persons from  
public  
property at  
request of  
Commis-  
sioner.

**1.** The Sheriff of the Yukon Territory, or any member of the North-west Mounted Police force of the Yukon Territory, shall, when required in writing from time to time by the Commissioner of the said Territory, eject all persons and remove all buildings, goods and chattels, whether attached to the realty or not, from

1. Dawson water front on the West side of First avenue in Dawson aforesaid and from the banks and shores of the Yukon river adjoining such waterfront, and

2. From any public street or highway laid out by proper authority in the Yukon Territory, and

3. From any Dominion lands in said Territory and from any lands which were Dominion lands until sold by the Commissioner or by the officer authorized to sell such lands, and which have been sold, and

4. From any public property, and

5. From any portion of such waterfront, banks, shores, street, highway, lands or property designated in such writing, and such Sheriff or member shall deliver possession of the same to His Majesty the King represented in that behalf by the said Commissioner, or to such person or persons as the Commissioner directs. No. 23 of 1901, s. 1.

Other persons  
to assist  
Sheriff.

**2.** Every person shall, when required by the Sheriff, or by the member of said force to whom such writing is directed, assist in such ejection, and every peace officer and member of said force shall, when so required, assist in such ejection and removal. No. 23 of 1901, s. 2.

No action  
against Sheriff  
or Officer.

**3.** No action shall be brought against any Sheriff, member of said force or against any person for any act done in performing or assisting to perform the requirements of such writing. No. 23 of 1901, s. 3.



## CHAPTER 13.

### An Ordinance for the Protection of Miners.

#### SHORT TITLE.

**1.** This Ordinance may be cited as "*The Miners' Protection Ordinance.*" No. 38 of 1901, s. 1. Short title.

#### APPLICATION.

**2.** This Ordinance shall apply to every mine of whatever description within the Yukon Territory. No. 38 of 1901, s. 2. Application.

#### INTERPRETATION.

**3.** In this Ordinance and in any special rules made under the provisions of this Ordinance unless the context otherwise requires:— Interpretation.

1. "Mine" includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven for commencing or opening any such mine, or for searching for or proving minerals, and all the shafts, levels, planes, works, machinery, tramways, railways and sidings both below and above ground, in and adjacent to a mine, and any such shaft, level, and inclined plane of and belonging to the mine; "Mine."

2. "Shaft" includes pit and slope; "Shaft."

3. "Inclined plane" includes slope; "Inclined plane."

4. "Plan" includes a map and section or sections, and a correct copy or tracing of any original plan as so defined; "Plan."

5. "Owner," in relation to any mine means any person or body corporate who is the immediate proprietor, or lessee, or occupier of any mine, or of any part thereof, and does not include a person or body corporate who merely receives a royalty or rent from a mine, or is merely the proprietor of a mine subject to any lease, grant or license for the working thereof, or is merely the owner of the soil, and not interested in the minerals of the mine, but any contractor for the working of any mine or any part thereof shall be subject to this Ordinance in like manner as if he was an owner, but so as not to exempt the owner from any liability; "Owner."

“Agent.”

6. “Agent” in relation to any mine means any person having on behalf of the owner, care or direction of any mine or other part thereof. No. 38 of 1901, s. 3.

#### OFFICERS.

Commission  
may appoint  
Inspector.

4. The Commissioner may from time to time appoint suitable, competent, practical persons to act as Inspectors under this Ordinance and may define the limits of the district within which each such inspector may perform his duties and exercise his powers. No. 38 of 1901, s. 4.

#### DUTIES OF INSPECTOR.

Duties of  
Inspector.

5. It shall be the duty of every Inspector:—

1. To visit and inspect from time to time every mine within the district for which he is Inspector.

2. To ascertain that the provisions of this Ordinance and of any special rules made thereunder are complied with and that the mines are worked with due regard to the safety and protection of the persons employed therein.

3. To investigate every case where

(a.) Loss of life or any personal injury to any person employed in or about any mine in such district occurs by reason of any explosion of gas, powder or other explosive or of any steam boiler, or,

(b.) Loss of life or any serious personal injury to any person employed in or about any such mine occurs by reason of any accident whatever.

4. To report to the Commissioner of the Yukon Territory all information in regard to any such case and to notify the Public Administrator of every case of loss of life with all particulars in regard thereto. No. 38 of 1901, s. 5.

#### INSPECTION.

Power of  
Inspector.

6. The Inspector shall have power to do all or any of the following things, namely—

1. To make such examination and inquiry as is necessary to ascertain whether the provisions of this Ordinance relating to matters above ground or below ground are complied with in the case of any mine;

2. To enter, inspect and examine any mine and every part thereof at all reasonable times by day and night but so as not to impede or obstruct the working of the mine;

3. To examine into and make inquiry respecting the state and condition of any mine or any part thereof, and the ventilation of the mine, and the sufficiency of any special rules for the time being in force in the mine and all matters and things connected with or relating to the

safety of the persons employed in or about the mine or any mine contiguous thereto;

4. To exercise such powers as are necessary for carrying this Ordinance into effect.

(2.) Every person who wilfully obstructs the Inspector in the execution of his duty under this Ordinance, and every owner, agent and manager of a mine who refuses or neglects to furnish to the Inspector the means necessary for making an entry, inspection, examination or inquiry under this Ordinance in relation to such mine, shall be guilty of an offence against this Ordinance. No. 38 of 1901, s. 6.

7. If in any respect (which is not provided against by any express provision of this Ordinance, or by any special rule) the Inspector finds any mine, or any part thereof, or any matter, thing or practice in or connected with any mine, to be dangerous or defective, so as in his opinion to threaten or tend to the bodily injury of any person, the Inspector may give notice in writing thereof to the owner, agent or manager of the mine, and shall state in such notice the particulars in which he considers such mine or any part thereof, or any matter, thing or practice, to be dangerous or defective, and require the same to be remedied; and unless the same is forthwith remedied the Inspector shall report the same to the Commissioner.

Proceeding if Inspector finds mine to be dangerous.

(2.) If the owner, agent or manager fails to comply with the requisition of the notice within ten days from the date of such notice he shall be guilty of an offence against this Ordinance.

(3.) The Commissioner, if satisfied that the owner, agent or manager has taken active measures for complying with the notice but has not with reasonable diligence been able to complete the works, may adjourn any proceedings taken before him for punishing the offence, and if the works are completed within a reasonable time no penalty shall be inflicted.

(4.) No person shall be precluded by any agreement from doing such acts as are necessary to comply with the provisions of this section, or be liable under any contract to any penalty or forfeiture for doing such acts. No. 38 of 1901, s. 7.

8. Where it appears to the Commissioner that a formal investigation of any accident in any mine or of any matter connected with the working of any mine is expedient, the Commissioner may direct the Inspector to hold such investigation, and with respect to any such investigation the following provisions shall have effect:

Commissioner may authorize Inspector to hold investigation of accidents.

1. The Inspector shall make such investigation in such manner and under such conditions as he thinks most effectual for the making of a full investigation.

2. The Inspector for the purposes of the investigation shall have all the powers of a commissioner appointed under Chapter 11 of the Consolidated Ordinances of the Yukon Territory, and all the powers conferred upon the Inspector by this Ordinance and as part thereof or in addition thereto the following powers, viz. :—

(a.) Power to enter and inspect any mine, building or place, the entry or inspection of which appears to the inspector expedient ;

(b.) Power by summons signed by the Inspector to require the attendance of any person and to require of such person such answers or returns to inquiries as the Inspector thinks fit ;

(c.) Power to require the production of any book, paper or document which the Inspector thinks important upon such investigation ;

(d.) Power to administer an oath.

3. Any person attending before the Inspector in obedience to any such summons shall be allowed the fee paid to a witness attending a trial in the Territorial Court.

4. Any person who without reasonable excuse either fails to comply with any summons requiring him to attend before the Inspector upon any such investigation or refuses to produce any document which he is required by the Inspector to produce, or prevents or impedes the Inspector when engaged in such investigation, shall for each offence be liable to a penalty not exceeding four hundred dollars or to imprisonment for a term not exceeding thirty days, and in addition thereto, may be proceeded against in the Territorial Court as for contempt of such court.

5. The Inspector shall make a report of such investigation which the Commissioner shall cause to be made public at such time and in such manner as he thinks fit.

6. Any expense incurred in and about any such investigation shall be paid out of the general revenue fund. No. 38 of 1901, s. 8

#### CORONERS' INQUEST.

Provisions as  
to coroners'  
inquests.

9. With respect to coroners' inquests on the bodies of persons whose deaths may have been caused by explosions or accidents in mines, the following provisions shall have effect :

1. When a coroner holds an inquest on the body of any person whose death may have been caused by an explosion or accident, of which notice is required by this Ordinance to be given to the Commissioner or Inspector, the Coroner, whenever practicable, shall immediately notify the Inspector for the district of his intention to hold such inquest and in the absence, non-arrival or non-attendance of the Inspector, the Coroner shall adjourn such inquest whenever practi-

cable to enable the Inspector or some other properly qualified person appointed by the Commissioner to be present to watch the proceedings.

2. The Coroner at least four days before holding the adjourned inquest shall send to the Commissioner or to the Inspector for the district notice in writing of the time and place of holding such adjourned inquest.

3. The Coroner before the adjournment may take evidence to identify the body and may order the interment thereof.

4. The Inspector or such other person so appointed, and a person appointed by the workmen of the mine at which the explosion or accident occurred shall be at liberty at any such inquest to examine any witnesses, subject, nevertheless, to the order of the Coroner.

5. Where evidence is given at an inquest at which the Inspector or such other person so appointed is not present, of any neglect as having caused or contributed to the explosion or accident, or of any defect in or about the mine appearing to the Coroner or jury, to require a remedy, the Coroner shall send to the Inspector notice in writing of such neglect or defect.

6. Any person having a personal interest in, or employed in, or in the management of the mine in which the explosion or accident occurred, or any relative of the deceased person upon whose body the inquest is to be held shall not be qualified to serve on the jury empanelled on the inquest, or to act as Coroner therein, and it shall be the duty of the constable or other officer not to summons any person disqualified under this provision, and it shall be the duty of the Coroner not to allow any such person to be sworn or to sit on the jury.

7. If, in the opinion of the Inspector, it will lead to a more thorough investigation, and will be more conducive to the ends of justice, he may require the constable or other officer to summons as jurymen not more than three working men employed at any other mine than that at which the explosion or accident occurred, who shall form part of the jury sworn in such inquest.

8. Every person who fails to comply with the provisions of this section shall be guilty of an offence against this Ordinance. No. 38 of 1901, s. 9.

#### EMPLOYMENT OF BOYS.

10. No boy of or above the age of twelve years, and under the age of sixteen years shall be employed either about or allowed to be for the purposes of employment in or about any mine below or above ground for more than forty-eight hours in any one week, or for more than eight hours in any one day except in case of accident or emergency.

Boys not to be employed in mine.

(2.) For the purposes of this section a week shall be deemed to begin at midnight on Saturday night and to end at midnight on the succeeding Saturday night.

(3.) No boy of or above the age of twelve years and under the age of sixteen years shall be permitted to work in or about any mine below or above ground unless he is able to read and write and is familiar with the rules of arithmetic as far as, and including division, and furnishes a certificate to that effect from a duly licensed teacher or from the Inspector of the district in which he is employed.

(4.) Every such teacher and every such Inspector shall without requiring payment of any fee, upon the application of any boy desiring employment, make the necessary examination of the boy and grant him such certificate, if he is found to be entitled to the same, and any such teacher or inspector refusing to make such examination and grant such certificate shall be liable to a penalty not exceeding twenty dollars. No. 38 of 1901, s. 10.

#### PAYMENT OF WAGES.

Wages not to be paid in public houses.

**11.** No wages shall be paid to any person employed in or about any mine at or within any public house, road house or place for the sale of any spirits, beer, wine or other spirituous or fermented liquors. No. 38 of 1901, s. 11.

Contravention of ordinance to be an offence.

**12.** Every person who contravenes or permits any person to contravene the provision of the next preceding section, shall be guilty of an offence against this Ordinance, and in the event of any such contravention by any person whomsoever the owner, agent and manager shall each be guilty of an offence against this Ordinance unless he proves that he had taken all reasonable means to prevent such contravention. No. 38 of 1901, s. 12.

#### SHAFTS.

Shafts to have proper apparatus for raising and lowering men.

**13.** The owner, agent or manager of a mine shall not employ any person in the mine or permit any person to be in the mine for the purpose of employment therein unless the following conditions respecting shafts or outlets are complied with ; that is to say :

1. Proper apparatus for raising and lowering persons at every shaft or outlet shall be kept on the works belonging to the mine, and such apparatus if not in actual use at the shafts or outlets shall be constantly available for use. All buckets, tubs and other vessels in which goods and materials and other things are lowered into or raised from the mine shall be safely attached to the rope, cable or other means by which the same are lowered or raised so as to obviate all danger to persons beneath the same.

2. Every owner, agent or manager who acts in contravention of or fails to comply with this section shall be guilty of an offence against this Ordinance.

Owner neglecting to provide proper apparatus guilty of offence.

3. The Territorial Court or any judge thereof whether any other proceedings have been taken or not, may upon the application of the Crown Prosecutor prohibit by injunction the working of any mine in which any person is employed or is permitted to be for the purpose of employment in contravention of this section or of any other section of this Ordinance, and may award such costs in the matter of the injunction as the court or judge thinks just; but this provision shall be without prejudice to any other remedy permitted by law for enforcing the provisions of this Ordinance.

Court may by injunction prohibit working of mine not having proper apparatus.

4. Written notice of the intention to apply for such injunction in respect to any mine shall be given to the owner, agent or manager of the mine not less than two days before the application is made,

Written notice of intention to apply for injunction to be served on owner.

5. No person shall be precluded by any agreement from doing such acts as are necessary to comply with the provisions of this Ordinance or be liable under any contract to any penalty or forfeiture for doing such acts as are necessary in order to comply with the provisions of this Ordinance. No. 38 of 1901, s. 13.

Acts necessary to comply with ordinance allowed.

14. When in or about any mine whether above or below ground either,

Loss of life or personal injury in mine to be reported to commissioner.

1. Loss of life or any personal injury to any person employed in or about the mine occurs by reason of the explosion of gas, powder or other explosive, or of any steam boiler, or,

2. Loss of life or any serious personal injury to any person employed in or about the mine occurs by reason of any accident whatever, the owner, agent or manager of the mine shall within twenty-four hours next after the explosion or accident send notice in writing of the explosion or accident, and of the loss of life or personal injury occasioned thereby to the Commissioner and to the Inspector for the District, and shall specify in such notice the character of the explosion or accident, and the number of persons killed or injured, and as soon after as possible, and before the end of each year a return of facts relating to such accident or explosion in the form given in the schedule to this Ordinance.

(2.) Where any personal injury of which notice is required to be sent under this section results in the death of the person injured, notice in writing of the death shall be sent to the Commissioner and to the Inspector for the District within twenty-four hours after such death comes to the knowledge of the owner, agent or manager.

Notice of death to be sent to commissioner and inspector within 24 hours.

(3.) Every owner, agent or manager who fails to act in compliance with this section shall be guilty of an offence against this Ordinance. No. 38 of 1901, s. 14.

Failure to send notice an offence.

Notice of change of ownership or opening or closing of mine to be sent to commissioner.

**15. In any case,—**

1. Wherever, any change occurs in the name of the owner, agent or manager of any mine or in the offices of any incorporated company which is the owner of any such mine, or,

2. Where any working is commenced for the purpose of opening any such mine, or,

3. Where any mine is abandoned or the working thereof discontinued, or,

4. Where the working of a mine is recommenced after an abandonment or discontinuance for a period exceeding two months,

the owner, agent or manager of such mine shall give notice thereof to the Commissioner within two months after such commencement, abandonment, discontinuance, recommencement or change ; and if such notice is not given the owner, agent or manager shall be guilty of an offence against this Ordinance, provided that this section shall not apply to placer mines. No. 38 of 1901, s. 15.

ABANDONED MINES.

Abandoned shafts to be fenced.

**16. Where any mine is abandoned or the working thereof discontinued at whatever time such abandonment or discontinuance occurs the owner thereof and every other person interested in the mineral of such mine shall cause the top of the shaft and any side entrance from the surface to be, and to be kept securely fenced for the prevention of accidents.**

Provided that,

1. Subject to any contract to the contrary, the owner of the mine shall, as between himself and any other person interested in the minerals of the mine be liable to carry into effect this section and to pay the costs incurred by any other person interested in the minerals of the mine in carrying this section into effect ; and,

2. Nothing in this section shall exempt any person from any liability under any other Ordinance, act, law or otherwise.

(2) If any person fails to act in conformity with this section he shall be guilty of an offence against this Ordinance. No. 38 of 1901, s. 16.

GENERAL RULES.

Rules.

**17. The following general rules shall be observed as far as is reasonably practicable in every mine:—**

*Rule 1.*

Ventilation.

An adequate amount of ventilation shall be constantly produced in every mine to dilute and render harmless



noxious gases to such an extent that the working places of the shaft levels and workings of the mine shall be in a fit state for working and passing therein.

*Rule 2.*

All entrances to any place in a mine not in actual course of working and extension, shall be properly fenced across the whole width of such entrance so as to prevent persons inadvertently entering the same.

Entrances to mines not working to be fenced.

*Rule 3.*

If at any time it is found by the person for the time being in charge of the mine or any part thereof, that by reason of noxious gases prevailing in such mine or such part thereof or of any cause whatever, the mine or the said part is dangerous, every workman shall be withdrawn from the mine or such part thereof as is so found dangerous, and no workman shall, except in so far as is necessary for inquiring into the cause of danger or for the removal thereof or for exploration be re-admitted into the mine or such part thereof as is so found dangerous until the same is made safe.

Workmen not to work in mines where there are noxious gasses.

*Rule 4.*

The following provisions shall relate to the use of any explosive in a mine :

Explosive.

- (a.) It shall not be stored in a mine ;
- (b.) It shall not be taken into a mine except in a secure case or canister containing not more than six pounds ;
- (c.) A workman shall not have or use at any one time in any one place more than one of such cases or canisters.

*Rule 5.*

Every underground plane on which persons travel where the produce of the mine is carried by cars which are self-acting or worked by an engine, windlass or gin, shall be provided (if exceeding thirty yards in length) with some proper means of communicating distinct and definite signals between the stopping places and the ends of the plane and shall be provided in every case at intervals of not more than twenty yards with sufficient man-holes for places of refuge, and every back or counter balance used for raising or lowering minerals, if exceeding thirty yards in length unless exempted in writing by the Inspector, shall be provided with some proper means of communicating distinct signals between the lower end and between the entrance of every working place thereon for the time being in work and the upper end thereof.

Signals.

*Rule 6.*

Manholes.

(1) Every road on which persons travel underground, where the produce of the mine in transit exceeds ten tons in any one hour over any part thereof and where the load is drawn by a horse or other animal, shall be provided, where there is not standing room of at least two feet, at intervals of not more than twenty-five yards, with sufficient manholes or with places of refuge, and every such place of refuge shall be of sufficient length and of at least three feet in width between the wagons running on the tram road and the side of such road ;

(2) Where the load is drawn by machinery or other mechanical appliances and there is not standing room of at least two feet, there shall be provided at intervals of not more than fifteen yards, sufficient manholes or places of refuge, and every such place of refuge shall be of sufficient length and of at least three feet in width between the wagons running on the tram road and the side of such road ;

(3) Whenever in the opinion of the Inspector the precautions required by this rule with respect to roads over which the produce of the mine is drawn by machinery or other mechanical appliances are not sufficient for the safety of the men travelling thereon, he may require the owner, agent or manager of such mine to provide a separate travelling road.

*Rule 7.*

Manholes to be kept clear.

Every man-hole and every place of refuge shall be kept clear, and no person shall place anything in a man-hole or place of refuge so as to prevent access thereto.

*Rule 8.*

Air shafts to be fenced.

The top of every shaft which for the time being is out of use or used only as an air shaft shall be kept securely fenced.

*Rule 9.*

Where natural strata not safe shafts to be cased.

Where the natural strata are not safe every working or pumping shaft shall be securely cased, lined or otherwise made secure.

*Rule 10.*

Roof and sides of travelling road working places and to be made safe.

The roof and sides of every travelling road and working place shall be made secure and a person shall not unless appointed for the purpose of exploring or repairing travel or work in any such travelling road or working place unless the same is so made secure.

*Rule 11.*

Every working shaft used for the purpose of drawing minerals or for the lowering or raising of persons shall if exceeding fifty yards in depth and not exempted in writing by the Inspector, be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft, and from every entrance for the time being in use, between the surface and the bottom of the shaft to the surface and from the surface to the bottom of the shaft and to every entrance for the time being in use between the surface and the bottom of the shaft.

Working shafts more than 50 yards deep to be provided with guards and signals.

*Rule 12.*

A sufficient cover over head shall be used for every cage or tub employed in lowering or raising persons in any working shaft, except where the cage or tub is worked by a windlass or where persons are employed at work in the shaft or where a written exemption is given by the Inspector.

Cages to have cover.

*Rule 13.*

Single linked chain shall not be used for lowering or raising persons in any working shaft or place except for the short coupling chain attached to the cage or load.

Single linked chains not to be used for cages.

*Rule 14.*

There shall be on the drum of every machine used for lowering or raising persons such flanges or horns, and also if the drum is conical such other appliances as are sufficient to prevent the rope from slipping.

Drums to have flanges.

*Rule 15.*

There shall be attached to every machine worked by steam, water or mechanical power and used for lowering or raising persons an adequate brake and also a proper indicator, in addition to any mark on the rope, showing to the person who works the machine the position of the cage or load in the shaft.

Machines to have brakes.

*Rule 16.*

Every fly-wheel and all exposed and dangerous parts of the machinery used in or about the mine shall be and be kept securely fenced.

Fly-wheels to be fenced.

*Rule 17.*

Every steam boiler shall be provided with a proper steam guage and water guage to show, respectively, the pressure of steam and the height of water in the boiler and with a proper safety valve.

Steam boiler to have proper guage.

*Rule 18.*

Ladders not to be vertical.

A ladder permanently used for the ascent or descent of persons in the mine shall not be fixed in a vertical or overhanging position, but shall be inclined at the most convenient angle which the space in which the ladder is fixed allows; and every such ladder shall have substantial platforms at intervals of not more than twenty yards.

*Rule 19.*

Accommodation to be provided above ground for changing dresses.

If more than twelve persons are ordinarily employed in the mine below ground sufficient accommodation shall be provided above ground near the principal entrance of the mine and not in the engine room or boiler room for enabling the persons employed in the mine to conveniently and with comfort dry and change their dresses.

*Rule 20.*

No person to damage or remove appliances for safety of mine.

No person shall wilfully damage or without proper authority remove or render useless any fence, fencing, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, ladder, platform, steam gauge, water gauge, safety valve or other appliance or thing provided for any mine in compliance with this Ordinance.

*Rule 21.*

Directions for working to be observed.

Every person shall observe such directions as are given with respect to working as are given to him with a view to comply with this Ordinance or any special rules in force under this Ordinance in the mine.

*Rule 22.*

Machinery and appliances to be examined every 24 hours.

A competent person or persons who shall be appointed for the purpose shall once at least in every twenty-four hours examine the state of the external parts of the machinery, and the state of the head gear, working places, levels, planes, ropes, chains and other works of the mine which are in actual use and once at least in every week shall examine the state of the shafts by which persons ascend or descend and the guides or conductors therein.

*Rule 23.*

Miners may appoint two persons to inspect.

Persons employed in a mine may from time to time appoint two of their number to inspect the mine at their own cost and the persons so appointed shall be allowed once at least in every month accompanied if the owner, agent or manager thinks fit, by himself or one or more of the officers of the mine to inspect the shafts, levels, planes, working places, return air-ways, ventilating apparatus, old work-

ings and machinery, and shall be afforded by the owner, agent and manager and all persons in the mine every facility for the purposes of inspection, and shall make a true report of the result of such inspection and such report shall be recorded in the book to be kept at the mine for the purpose and shall be signed by the persons who make the same.

*Rule 24.*

(1.) The majority of the workmen at any mine may appoint a person to examine the seat of any accident resulting in the death or injury of any person.

Miners may appoint person to examine seat of accident.

(2.) Every person who does not comply with or contravenes any of the general rules of this section shall be guilty of an offence against this Ordinance, and in the event of any non-compliance with or contravention of any of such general rules in the case of any mine by any person whomsoever being proved, the owner, agent and manager shall each be guilty of an offence against this Ordinance unless he proves that he had taken all reasonable means to prevent such non-compliance or contravention by publishing and to the best of his power enforcing the said rules as regulations for the working of the mine.

(3.) The Commissioner may from time to time make such additional rules as in his opinion appears necessary to better secure the safety of persons engaged in or about any mine, and non-compliance with or contravention of any rule so made shall be deemed non-compliance with or contravention of a general rule under this section.

*Rule 25.*

Provided that Rules 6, 13, 15, 16, 18, 22 and 23 shall not apply to placer mines. No. 38 of 1901, s. 17.

Certain rules not to apply to placer mines.

NOTICES.

**18.** All notices required by this Ordinance shall be in writing or print or partly in writing and partly in print; and all notices and documents required by this Ordinance to be served or sent by or to the Commissioner or Inspector may be either delivered personally or served and sent by post by prepaid registered letter, and if served or sent by post shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post; and proving such service or sending it shall be sufficient proof that the letter containing the notice was properly addressed and put in the post. No. 38 of 1901, s. 18.

Notices.

## PENALTIES.

## Penalties.

**19.** Every person employed in or about a mine other than an owner, agent or manager who is guilty of any act of omission which in the case of an owner, agent or manager would be an offence against this Ordinance shall be guilty of an offence against this Ordinance.

(2.) Every owner, agent or manager who is guilty of an offence against this Ordinance shall be liable to a penalty not exceeding two hundred dollars.

(3.) If such an offence is committed or continued after notice thereof, given by the Inspector, a further penalty of twenty-five dollars for each violation or for each day that such violation continues after such notice shall be imposed.

(4.) Every person other than an agent, owner or manager who is guilty of an offence against this Ordinance shall be liable to a penalty not exceeding fifty dollars.

(5.) No prosecution shall be instituted against any owner, agent or manager for an offence against this Ordinance except—

(a) by the Inspector, or,

(b) with the consent in writing of the Commissioner, or,

(c) by some person appointed by the Commissioner, or,

(d) by some person employed in or about the mine in respect to which the offence was committed appointed in writing to institute such prosecution by not less than ten persons so employed.

(6.) If it appears that a boy was employed on the representation of the parent or guardian that he was of the age at which his employment would not be a contravention of this Ordinance, and under the belief in good faith that he was of such age, the owner, agent or manager of the mine shall notwithstanding that the boy was not of such age, be exempt from any penalty in respect to such employment, and the parent or guardian shall for the misrepresentation be deemed guilty of an offence against this Ordinance.

(7.) In any prosecution or other procedure against any owner, agent or manager for an offence against this Ordinance such owner, agent or manager shall be discharged if he proves to the satisfaction of the tribunal before which the same is tried that he took all reasonable means to prevent the commission of such offence.

(8.) Any complaint or suit made or brought in pursuance of this Ordinance shall be made or brought within six months from the time when the matter of such complaint or suit came to the knowledge of the prosecutor.

(9.) Where a penalty is imposed under this Ordinance for neglecting to send a notice of any explosion or accident or for any offence against this Ordinance which has occasioned loss of life or personal injury, the Commissioner may, if he

thinks fit, direct such penalty to be paid to or distributed among the persons injured and the relatives of any person whose death has been occasioned by such explosion, accident or offence, or among some of them.

Provided that such persons did not in his opinion occasion or contribute to occasion the explosion or accident and did not commit and were not parties to the commission of the offence.

(10.) Except as in this Ordinance otherwise provided, all penalties imposed in pursuance of this Ordinance shall be paid on receipt of the same into the general revenue fund. No. 38 of 1901, s. 19.

SCHEDULE.

(Section 14.)

Form of Notice of Explosion or Accident.

Name of mine .....  
Date.....  
To the Commissioner of the Yukon Territory and to the Inspector of the District.....

SIRS:—

In pursuance of the Miners' Protection Ordinance I beg to give you notice that an explosion (or accident) has occurred at this mine, of which the following are the particulars...

Place where accident occurred.....  
Date of the accident.....  
Character of the accident.....  
If from explosion, whether of gas, explosive or steam boiler.....  
Number, ages and names of persons killed.....  
Number and names of persons injured seriously.....  
Number and names of persons injured slightly.....  
Number and relation of persons dependent on persons killed.....

I am, sirs,  
Your obedient servant,

.....  
(Signature.)

## CHAPTER 14.

### An Ordinance for the better Regulation of traffic on Highways.

**1.** The expression "highway" means and includes all public wagon roads, streets, lanes and bridges not within the limits of a municipality and the land on each side of public wagon roads to a distance of thirty-three feet from the centre line thereof. No. 9 of 1902, s. 1.

**2.** If a person travelling or being upon a highway in charge of a vehicle drawn by one or more horses, or one or more other animals, meets another vehicle drawn as aforesaid, he shall turn out to the right from the centre of the road, allowing to the vehicle so met one half of the road. No. 9 of 1902, s. 2.

**3.** If a person travelling or being upon a highway in charge of a vehicle as aforesaid, or on horseback, is overtaken by any other vehicle or horseman travelling at a greater speed, the person so overtaken shall turn out to the right and allow the said vehicle or horseman to pass. No. 9 of 1902, s. 3.

**4.** If a person travelling upon a highway in charge of a vehicle or upon horseback, overtakes any other vehicle or horseman, it shall be the duty of such person to turn out to the left, and if he finds it impracticable to turn out as aforesaid, he shall so regulate the speed of his vehicle or horse as to allow the overtaken vehicle or horseman to precede him to some point on the highway where such turning out to the left and a passing can safely be affected. No. 9 of 1902, s. 4.

**5.** If one vehicle is met or overtaken by another and by reason of the extreme weight of the load on either of the vehicles so meeting, or the vehicle so overtaken, the driver finds it impracticable to turn out as aforesaid, he shall immediately stop, and, if necessary for the safety of the other vehicle, and if required so to do, he shall assist the person in charge thereof to pass without damage. No. 9 of 1902, s. 5.



**6.** After the 1st day of January, 1903, it shall be unlawful for any wagon or vehicle carrying a load of more than two thousand pounds weight avoirdupois to be drawn or driven on any of the public highways unless the tires of such wagon or vehicle are at least four inches in width. No 9: of 1902, s. 6.

Wide tires to be used for loads over 2000 lbs.

**7.** It shall be sufficient *prima facie* evidence that any wagon or vehicle has, contrary to the provisions of this Ordinance, carried a load of more than two thousand pounds weight, for any credible witness to state upon oath that to the best of his judgment and opinion, the wagon or vehicle in question, at the time of the alleged infraction of this Ordinance carried a load of more than two thousand pounds weight, and upon such evidence being given the onus shall be cast upon the party charged of disproving that the load exceeded two thousand pounds. No. 9 of 1902, s. 7.

Prima facie proof of offence.

**8.** No person carrying loads on any highway shall use more than one pair of horses for each loaded wagon or vehicle from the 15th day of April to the 31st day of May, both inclusive, and from the 15th day of September to the 30th day of October, both inclusive, except otherwise provided by proclamation. No 9 of 1902, s. 8.

Between certain dates not to use more than one pair horses.

**9.** No person shall allow any water to run on, over or across any highway from any flume, ditch or sluice box owned or used by him unless he conducts the same across said highway by an overhead flume at a sufficient height not to interfere with traffic, or under said road by a culvert, approved of by the Superintendent of Works. No. 9 1902, s. 9.

Not to allow water from sluice box to run across highway.

**10.** No person shall fill up any ditch alongside a highway, and if any person requires to cross a ditch, he shall build a bridge across the same. No. 9 of 1902, s. 10.

No one to fill up ditch.

**11.** No person shall build a dam across any creek running near a highway without putting a waste gate in the same so as to prevent the waters of the creek from flooding the highway. No. 9 of 1902, s. 11.

Not to build dam without waste gate.

**12.** Any person who contravenes or permits the contravention of any of the provisions of this Ordinance shall be deemed guilty of an offence against this Ordinance. No. 9 of 1902, s. 12.

Persons contravening to be guilty of offence.

**13.** The following acts, practices matters and things shall be deemed to be offences against this Ordinance, viz.:

What to be deemed offences.

1. Leaving or keeping a wagon standing upon any highway without leaving a space of eight feet clear on one side of the road.

2. Leaving any portion of the chains, yokes or other harness, or of the cargo or apparatus of any horse or team within five feet of the centre of any highway.

3. Erecting any building or other premises, piling cord-wood, or wilfully placing or keeping any obstruction on any part of any highway, whether by day or night. No. 9 of 1902, s. 13.

Power of  
Justice of the  
Peace.

**14.** Upon being satisfied by information upon oath made before him that there exists any practice, matter or thing constituting an offence against this Ordinance, any Justice of the Peace may issue his warrant under his hand for the removal of the cause of such offence and to do what is necessary to comply with the provisions of this Ordinance, and may entrust the execution of such warrant to any constable or other person, and the person or persons causing the offence aforesaid shall upon summary conviction thereof, be liable to pay, in addition to any other penalty by this Ordinance imposed for such offense, all costs and expenses incurred in and about the removal of the cause of the offence, or to comply with the provisions of this Ordinance as aforesaid, to be recoverable in manner provided for the recovery of penalties. No. 9 of 1902, s. 14.

Penalty.

**15.** Any person guilty of an offence against this Ordinance shall, upon summary conviction thereof before a Justice of the Peace, be liable to a penalty not exceeding \$500.00, and in default of immediate payment to imprisonment for a period not exceeding three months. No 9 of 1902, s. 15.

## CHAPTER 15.

### An Ordinance for the protection of Bridges.

**1.** Every person who rides or drives any animal or vehicle over any bridge or causeway at a pace greater than a walking pace, shall be liable to a penalty not exceeding fifty dollars, and in default of payment, to imprisonment for a term not exceeding thirty days. No. 28 of 1901, s. 1.

Penalty for driving across bridge faster than at a walk.

**2.** Every person who moors, makes fast, or in any way attaches any raft, steamboat, vessel, boat, barge or other floating body to any bridge or to any pier, pile, trestle or abutment of the same shall be liable to a penalty not exceeding one hundred dollars, and in default of payment to imprisonment for a term not exceeding sixty days. No 28 of 1901, s. 2.

Penalty for mooring boats, etc., to bridges.

## CHAPTER 16.

### An Ordinance Establishing A Yukon Official Gazette.

Saturday  
"Yukon Sun"  
Official  
Gazette.

**1.** Until provision is made for the publication of a purely Official Gazette, the "Yukon Sun," published on Saturdays, shall be and is hereby declared to be the Yukon Official Gazette. No. 17 of 1901, s. 1.



## TITLE III.

### RELATING TO THE ADMINISTRATION OF JUSTICE.

#### CHAPTER 17.

#### An Ordinance respecting the Administration of Civil Justice.

##### SHORT TITLE.

**1.** This Ordinance may be cited as "*The Judicature Ordinance.*" N.W.T., c. 21, s. 1. Title.

##### INTERPRETATION OF TERMS.

**2.** In the construction of this Ordinance and the rules of Court, unless there is anything in the subject or context repugnant thereto, the several expressions hereinafter mentioned or referred to have or include the meanings following: Interpretation

1. "Cause" includes any action, suit, or other original proceeding between a plaintiff and a defendant; "Cause."

2. "Action" includes suit and means a civil proceeding commenced by writ or in such other manner as may be prescribed by this Ordinance or by rules of Court; "Action."

3. "Matter" includes every proceeding in the Court not in a cause; "Matter."

4. "Originating summons" means a summons by which proceedings are commenced without writ; "Originating summons."

5. "Plaintiff," "petitioner," "defendant," "party," "person," include bodies politic or corporate holding the relation of plaintiff, defendant or party; "Parties."

6. "Receiver" includes consignee or manager appointed by or under an order of the Court; "Receiver."

7. "Plaintiff" includes any person asking any relief (otherwise than by way of counterclaim as a defendant) "Plaintiff."

against any other person by any form or proceeding, whether the same be taken by action, petition, motion, summons or otherwise ;

- “Petitioner.” 8. “Petitioner” includes every person making any application to the Court, either by petition, motion or summons, otherwise than as against any defendant ;
- “Defendant.” 9. “Defendant” includes every person served with any writ of summons or process, or served with notice of or entitled to attend any proceedings ;
- “Party.” 10. “Party” includes every person served with notice of or attending any proceeding, although not named in the record ;
- “Person.” 11. “Person” includes a body corporate or politic ;
- “Clerk.” 12. “Clerk” or “clerk of the court” includes deputy clerk, and where the context requires it, process issuer ;
- “Sheriff.” 13. “Sheriff” includes deputy sheriff, duly appointed bailiffs, coroner and other person discharging the duties of sheriff in the particular case or for the time being ;
- “Pleading.” 14. “Pleading” includes any petition or summons (other than a writ of summons) and also includes the statement in writing of the claim or demand of any plaintiff and of the defence of any defendant thereto and of the reply of the plaintiff to any counterclaim of a defendant ;
- “Judgment.” 15. “Judgment” includes decree ;
- “Order.” 16. “Order” includes rules ;
- “Affidavit,”  
“Oath.” 17. “Affidavit” or “oath” includes affirmation where authorized by law ;
- “Rule of  
court.” 18. “Rule of Court” or “rules of Court” mean the rules contained in this Ordinance or any rules of Court passed in pursuance or under the authority thereof ;
- “Lunatic.” 19. “Lunatic” includes an idiot or other person of unsound mind.
- “Execution  
creditor.” 20. “Execution creditor” includes an assignee of the execution creditor. N.W.T., c. 21, s. 2.

#### JURISDICTION.

Jurisdiction. **3.** The jurisdiction of the Territorial Court of the Yukon Territory shall be exercised so far as regards procedure and practice in the manner provided by this Ordinance and the rules of Court, and where no special provision is contained in this Ordinance or in the said rules it shall be exercised as nearly as may be as in the Supreme Court of Judicature in England as it existed on the first day of January, 1898. N. W.T., c. 21, s. 3.

Entry and  
trial of suits,  
in what  
district. **4.** If there is a district of a deputy clerk established by Ordinance, suits in which the cause of action arose or the defendant resides in such deputy clerk's district shall be entered in the office of the deputy clerk, and suits in which the cause of action arose or the defendant resides in the

remaining portion of the Territory shall be entered in the office of the clerk of the court, and if in any suit the cause of action arose in the deputy clerk's district and the defendant resides in the other portion of the Territory or *vice versa*, the suit may be commenced in either the clerk's or deputy clerk's office. N.W.T., c. 21, s. 4.

**5.** A judge sitting in chambers, if he announces that he is sitting in Court, shall have, possess, exercise and enjoy all the powers and authorities, rights, privileges, immunities and incidents of the said Court, and any judgment given or decision or determination, or rule, order or decree made by him while sitting as aforesaid in respect of any matter lawfully brought before him, shall be subject to the provisions in this Ordinance relating to appeal to the Court *en banc*. N.W.T., c. 21, s. 5,

Judge in chambers  
Announce-  
ment that  
sitting in  
court.

**6.** In every case in which the Court has authority to order the execution of a deed of conveyance, transfer or assignment of any property, real or personal, the Court may by order vest such real or personal property in such person or persons and in such manner and for such estates as would be done by any such deed, conveyance, assignment or transfer if executed; and thereupon the order shall have the same effect as if the legal or other estate or interest in the property had been actually conveyed by deed or otherwise for the same estate or interest to the person in whom the same is so ordered to be vested, or in the case of a *chose in action* as if such *chose in action* had been actually assigned to such last mentioned person. N.W.T., c. 21, s. 6.

Court may  
make vesting  
orders.

**7.** The Territorial Court presided over by a single judge for the transaction of the business of the Court may sit and act at any such time and place in the Territory as the Commissioner appoints. N.W.T., c. 21, s. 7.

Sittings of  
court.

#### RULES OF LAW.

**8.** In every civil cause or matter commenced in the Territorial Court, law and equity shall be administered by such Court according to the following rules:

1. If any plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim whatsoever asserted by any defendant or respondent in such cause or matter, or to any relief founded upon a legal right, the Court shall give to such plaintiff or petitioner such relief as would be given by the High Court of Justice in England in a suit or proceeding for the same or a like purpose;

Equitable  
estate, right  
or relief  
claimed by  
plaintiff.

Equitable estate, right or relief claimed by defendant.

2. If any defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim asserted by any plaintiff or petitioner in such cause or matter, the said Territorial Court and every judge thereof shall give to every equitable estate, right or ground of relief so claimed and to every equitable defence so alleged, such and the same effect by way of defence against the claim of such plaintiff or petitioner as the High Court of Justice in England would give if the same or like matters had been relied on by way of defence in any suit or proceeding instituted in that Court for the same or like purpose :

Counterclaim and third parties.

3. The said Territorial Court and every judge thereof shall also have power to grant to any defendant, in respect to any equitable estate or right or other matter of equity and also in respect of any legal estate, right or title claimed or asserted by him, all such relief against any plaintiff or petitioner as such defendant has properly claimed by his pleading ; and also all such relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who has been duly served with notice in writing of such claim pursuant to this Ordinance, or any order of the Court as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose and every person served with any such notice shall thenceforth be deemed a party to such cause or matter with the same rights in respect to his defence against such claim as if he had been duly sued in the ordinary way by such defendant ;

Equitable rights appearing incidentally.

4. The said Court and every judge thereof shall recognize and take notice of all equitable estates, titles and rights and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the High Court of Justice in England would have recognized and taken notice of the same in any suit or proceeding duly instituted therein.

Final determination of matters in controversy.

5. The Territorial Court in the exercise of its jurisdiction in every cause or matter pending before it shall have power to grant, and shall grant either absolutely or on such reasonable terms and conditions as to it shall seem just all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them respectively in such cause or matter ; so that as far as possible all matters so in controversy between the said parties respectively may be completely and finally determined and all multiplicity of legal proceedings concerning any such matters avoided. N.W.T , c. 21, s. 8.

Multiplicity of proceedings to be avoided.



9. In the case of lunatics and their property and estates, the jurisdiction of the Court shall, subject to the rules of Court, include that which in England is conferred upon the Lord High Chancellor by Commission from the Crown under the Sign Manual. N.W.T., c. 21, s. 9.

Lunatics.  
Jurisdiction  
of court.

10. The law to be administered in the Territory as to the matters next hereinafter mentioned shall be as follows:

1. No claim of a *cestui que trust* against his trustee for any property held on an express trust or in respect of any breach of such trust shall be held to be barred by any Statute of Limitations.

Express trusts

2. An estate for life without any impeachment of waste shall not confer or be deemed to have conferred upon the tenant for life any legal right to commit waste of the description known as equitable waste unless an intention to confer such right shall expressly appear by the instrument creating such estate.

Equitable  
waste.

3. There shall not be any merger by operation of law only of any estate the beneficial interest in which would not be deemed to be merged or extinguished in equity.

Merger.

4. A mortgagor entitled for the time being to the possession or receipt of the rents and profits of any land as to which no notice of his intention to take possession or to enter into the receipt of the rents and profits thereof shall have been given by the mortgagee may sue for such possession, or sue or distrain for the recovery of such rents or profits or to prevent or recover damages in respect of any trespass or other wrong relative thereto in his own name only unless the cause of action arises upon a lease or other contract made by him jointly with any other person and in that case he may sue or distrain jointly with such other person.

Mortgagors  
of land, rights  
of action of.

5. In case of an assignment of a debt or other *chose in action*, if the debtor, trustee or other person liable in respect of such debt or *chose in action* has had notice that such assignment is disputed by the assignor or any one claiming under him, or of any other opposing or conflicting claims to such debt or *chose in action*, he shall be entitled if he thinks fit to call upon the several persons making claim thereto to interplead concerning the same.

Assignment  
of *chose in  
action*.

Conflicting  
claims.

Interpleader.

6. Stipulations in contracts as to time or otherwise which would not heretofore have been deemed to be or to have become of the essence of such contracts in a Court of Equity, shall receive in the Territory the same construction and effect as they would in equity.

Stipulations  
in contracts as  
to time, etc.

7. Part performance of an obligation either before or after a breach thereof when expressly accepted by the creditor in satisfaction or rendered in pursuance of an agreement for that purpose though without any new consideration shall be held to extinguish the obligation.

Part  
performance  
when  
satisfaction.

8. A mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the Court or

Interlocutory  
mandamus.

Injunction. judge in all cases in which it appears to the Court or  
Receiver. judge to be just or convenient that such order should be  
made and any such order may be made either uncondition-  
ally or upon such terms and conditions as the Court or judge  
thinks just; and if an injunction is asked, either before  
or at or after the hearing of any cause or matter, to prevent  
any threatened or apprehended waste or trespass such in-  
junction may be granted, if the Court or judge thinks fit  
whether the person against whom such injunction is sought  
is or is not in possession under any claim of title or other-  
wise or (if out of possession) does or does not claim a right  
to do the act sought to be restrained under any colour of  
title and whether the estates claimed by both or by either  
of the parties are legal or equitable.

Damages in  
addition to  
or instead of  
injunction or  
specific  
performance.

9. In all cases in which the Court has jurisdiction to en-  
tertain an application for an injunction against a breach of  
any covenant, contract or agreement or against the com-  
mission or continuance of any wrongful act or for the spe-  
cific performance of any covenant, contract or agreement,  
the Court if it thinks fit may award damages to the party  
injured either in addition to or in substitution for such  
injunction or specific performance and such damages may be  
ascertained in such a manner as the Court directs, or  
the Court may grant such other relief as it deems just.

Orders of  
court as  
against  
purchasers.

10. An order of the Court under any statutory or other  
jurisdiction shall not as against a purchaser whether with  
or without notice be invalidated on the ground of want of  
jurisdiction or of want of any concurrence, consent, notice  
or service.

Rules of  
equity to  
prevail.

11. Generally in all matters in which there is any conflict  
or variance between the rules of Equity and Common Law  
with reference to the same matter the rules of Equity shall  
prevail.

Evidence.

12. Subject to the provisions of any Act of the Parliament  
of Canada and of any Ordinance the laws of evidence which  
govern in the administration of civil justice in England  
shall obtain in the Courts.

Minors.

13. Minors may sue for wages in the same way as if of  
full age. N.W.T., c. 21, s. 10.

#### CLERK'S DUTIES.

Clerk's duties.

11. The duties of the clerk shall be:

Hours of  
office.

1. To attend at his office and keep the same open between  
the hours of ten in the forenoon and four in the afternoon on  
all days except Sundays and holidays and except on Satur-  
days and during vacation when the same shall be closed at  
one o'clock in the afternoon.

Official duties.

2. On application of any person by himself or his agent,  
(a) To receive all complaints and other papers required  
to be filed in Court;

(b) To issue all writs of summons, warrants, precepts, writs of execution and other documents rendered necessary or requisite for the effectual disposition of such matters ;

(c) Tax costs, enter judgments and record all judgments and orders pronounced, given and made ;

3. To keep an account of all fines, fees and moneys payable or paid into Court, entering all such amounts in proper approved books in which shall be entered regularly under separate headings all the proceedings taken in any suit, all moneys received and paid out and the persons to whom and by whom the same have been paid which books shall be accessible at all times to suitors and the public ;

Accounts and books.

4. To attend all sittings of the judge in chambers unless his attendance is dispensed with by the judge ; and

Sitting in chambers.

5. To do and perform all such other acts and duties as are [necessary for the due administration of civil justice in the Territory. N.W.T., c, 21, s. 11.

Duties generally.

12. In the absence of the clerk the Court may appoint a suitable person to perform the duties prescribed in the preceding section. N.W.T., c. 21. s. 12.

Absence of clerk.

13. All books, papers, documents and moneys in the possession of the clerk by virtue of or appertaining to his office shall upon his resignation, removal or death immediately become the property of such person as the court appoints as clerk pending the appointment of a new clerk of the court. N.W.T., c. 21, s. 13.

On vacancy. Appointment of substitute. Disposition of books, documents and moneys.

PRACTICE AND PROCEDURE

14. The practice and procedure in the Territorial Court of the Territory shall be regulated by this Ordinance and the rules of Court ; but the judges of the Territorial Court or a majority of them shall have power to frame and promulgate such additional rules of Court not inconsistent with this Ordinance as they from time to time deem necessary or expedient. N.W.T., c. 21, s. 20.

Practice and procedure.

15. Subject to the provisions of this Ordinance and the rules of Court the practice and procedure existing in the Supreme Court of Judicature in England on the first day January, 1898, shall as nearly as possible be followed in all causes, matters and proceedings. N.W.T., c. 21, s. 21.

Rules of court.

16. The rules of Court already made and promulgated by the judges of the Territorial Court are hereby continued in force until repealed, altered or amended by them. N.W.T., c. 21, s. 22.

Existing rules continued.

## RULES OF COURT.

[*The division of these rules into orders and headings is not to affect the interpretation thereof.*]

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### Part I.

#### General Practice and Procedure.

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#### ORDER I.

##### FORM AND COMMENCEMENT OF ACTION.

Commence-  
ment  
of action.

1. Every action except as otherwise provided shall be commenced by writ of summons in form A in the schedule hereto which writ shall be issued by the clerk upon receiving from the plaintiff or his solicitor a *præcipe* therefor in which shall be set forth

Præcipe.

- (a.) The names of the parties to the action ; and
- (b.) Their places of residence temporary or otherwise ; and
- (c.) The residence of the plaintiff's solicitor if such writ is issued by a solicitor. N W.T., c. 21, R. 1.

Statement  
of claim.

2. At the time of the issue of the writ the plaintiff or his solicitor shall leave with the clerk two copies of the plaintiff's statement of claim and of the relief or remedy to which he claims to be entitled ; one of such copies shall be attached to such writ by the clerk and the other shall be filed by him in his office and a copy of such statement of claim shall be attached to each copy of such writ required for service. N W.T., c. 21, R. 2.

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#### ORDER II.

##### WRIT OF SUMMONS.

##### I.—*General.*

Writs to be  
dated.

3. Every writ of summons and also (unless otherwise provided) every other writ shall bear the date of the day on which the same is issued.

(2) If the defendant resides within a distance of ten miles from the clerk's office whence the writ of summons issued, the time stated in such writ for the appearance of the defendant shall be eight days from the service of the writ upon him. Time for return of writ.

(3) If the defendant resides at a distance of more than ten miles from such office, the time stated in such writ for such appearance shall be one additional day for every additional ten miles from such office.

Provided that the judge may by order shorten the time for the return of such writ. N.W.T., c. 21, R. 3. May be shortened.

## II.—*Concurrent Writ.*

4. The plaintiff in any action may at the time of or at any time within twelve months after the issuing of the original writ of summons issue one or more concurrent writ or writs each concurrent writ to show date of the original writ and be marked with the word "concurrent" in the margin and the date of issuing the concurrent writ: Writ concurrent to original.

Provided always that such concurrent writ or writs shall only be in force for the period during which the original writ in such action is in force.

(2.) When after writ is issued it is made to appear that the defendant or one of several defendants is without the Territory on application as is in these rules hereafter provided for service out of the jurisdiction the judge may order a concurrent writ to issue. N.W.T., c. 21, R. 5. Concurrent writ for service *ex juris*.

## III.—*Renewal.*

5. No original writ of summons shall be in force for more than twelve months from the date thereof including the day of such date; but if any defendant therein named has not been served therewith the plaintiff may before the expiration of the twelve months apply to the judge for leave to renew the writ and the judge if satisfied that reasonable efforts have been made to serve such defendant or for other good reason may order that the original or concurrent writ of summons (or both) be renewed for six months from the date of such renewal inclusive and so from time to time during the currency of the renewed writ; and the writ shall in such case be renewed by being marked with the day, month and year of such renewal and shall be so marked by the clerk upon the plaintiff or his solicitor filing the judge's order and presenting to him the said writ; and a writ of summons so renewed shall remain in force and be available to prevent the operation of any statute whereby the time for the commencement of the action may be limited and for all other purposes from the date of the issuing of the original writ of summons. [E. 45.] N.W.T. c. 21 R. 6. Duration of writ.  
Application for renewal.

Evidence of  
renewal and  
commence-  
ment of action

6. The production of a writ of summons purporting to have been renewed in manner aforesaid shall be sufficient evidence of the writ having been so renewed and of the commencement of the action as of the first date of such renewed writ for all purposes. [E. 46.] N.W.T. c. 21, R. 7.

#### IV.—*Lost Writ.*

Copy may be  
sealed.

7. Where a writ of which the production is necessary has been lost the judge upon being satisfied of the loss and of the correctness of a copy thereof may order that such copy shall be sealed and used in lieu of the original writ. [E. 47.] N.W.T. c. 22, R. 8.

#### V.—*Indorsement by Solicitor.*

Indorsement  
on writ by  
solicitor.

8. The solicitor of a plaintiff suing by a solicitor shall indorse on the writ the address of the plaintiff and also his own name or firm and place of business and also, if his place of business is more than three miles from the clerk's office whence the writ issues, another proper place within such three miles to be called his "address for service," where statements of defence, notices, summonses, orders and other documents, proceedings and written communications in the suit may be left for him; and when a plaintiff sues in person he shall indorse on the writ his occupation and place of residence and if his residence is more than three miles from the clerk's office as aforesaid another proper place within such three miles to be called his "address for service," where statements of defence, notices, summonses, orders and other documents, proceedings and written communications in the suit may be left for him. In case of the omission to supply an address for service as aforesaid all papers requiring service may be posted in the clerk's office and in such case be deemed good service. [E. 19 and 20.] N.W.T. c. 21, R. 9.

Plaintiff suing  
in person.

Address for  
service.

Omission to  
supply.

Disclosure  
by solicitor  
whose name is  
indorsed.

9. Every solicitor whose name is signed to or indorsed on any writ of summons shall on demand in writing made by or on behalf of any defendant who has been served therewith or has appeared thereto declare forthwith whether such writ has been issued by him or with his authority or privity and on declaration by such solicitor that the writ was not issued by him or with his authority or privity all proceedings upon the same shall be stayed and no further proceedings shall be taken thereupon without leave of the judge. [E. 42.] N.W.T. c. 21, R. 10.

#### VI.—*Change of Solicitor.*

Notice of  
change of  
solicitor.

10. A party suing or defending by a solicitor may change his solicitor in any cause or matter without an order for that purpose upon notice of such change being filed in the clerk's office in which the cause or matter is proceeding;

but until such notice is filed and a copy thereof served the former solicitor shall be considered the solicitor of the party until the final conclusion of the cause or matter. [E. 44.] N.W.T. c. 21, R. 11.

11. Where a party after having sued or appeared in person has given notice in writing to the opposite party or his solicitor through a solicitor that such solicitor is authorized to act in the cause or matter on his behalf all writs, notices, pleadings, summonses, orders, warrants and other documents, proceedings and written communications which ought to be delivered to or served upon the party on whose behalf the notice is given shall thereafter be delivered to or served upon such solicitor. N.W.T. c. 21, R. 12.

Employment of solicitor after proceeding in person.

### ORDER III.

#### SERVICE OF WRIT OF SUMMONS,

##### I—*General.*

12. Service of a writ of summons may be made by the sheriff, his deputy or bailiff or by any literate person other than a plaintiff but except by order of a judge no fees for service shall in such latter case be allowed. N.W.T. c. 21, R. 13.

Service by whom. Fees.

13. Service of writ of summons shall be effected by copy as follows:

Manner of service.

1. By personal service anywhere in the Territory;

Personal.

2. If the defendant is out of the Territory but has an agent, managing clerk or other representative resident and carrying on his business within the same service of the writ of summons may be made on such agent, managing clerk or other representative;

On representative of absent defendant.

3. Every writ of summons issued against a corporation and all other proceedings in an action against a corporation may be served on the president or other head officer or on the cashier, manager, treasurer, secretary, clerk, agent or other representative, by whatsoever name or title he is known, of such corporation or of any branch or agency thereof in the Territory; and every person who within the said Territory transacts or carries on any business of or for any corporation whose chief place of business is without the said Territory shall for the purpose of being served with a writ of summons or any other proceedings as aforesaid in an action against or at the suit of such corporation be deemed the agent thereof;

Corporation.

4. Service of a writ of summons in an action to recover possession of land may, in case of vacant possession, when it cannot be otherwise effected, by leave of the judge

Recovery of land.

Vacant  
possession.

be made by posting a copy of the writ and statement of claim upon the door of the dwelling house or other conspicuous part of the premises ; [E. 56.]

Husband  
and wife.

5. When husband and wife are both defendants to the action they shall both be served unless the judge otherwise orders ;

Infant  
defendant.

6. When an infant is a defendant to the action service on his father or guardian or if none then upon the person with whom the infant resides or under whose care he is and the public administrator shall unless the judge otherwise orders be deemed good service on the infant :

Provided that the judge may order that service made or to be made on the infant shall be deemed good service ;

Lunatic.

7. When a lunatic or person of unsound mind is a defendant to the action service may be made on the public administrator or as the judge orders. N.W.T., c. 21, R. 14.

### II—*Substitutional Service.*

Substitutional  
service.

14. In any case if it be made to appear to a judge that the plaintiff is from any cause unable to effect prompt personal service the judge may make such order for substituted or other service by advertisement or otherwise as is just. N.W.T., c. 21, R. 15.

Original writ  
served instead  
of copy.

15. In any case if it be made to appear to a judge that the original writ has been served upon the defendant instead of a copy he may order that such service be good service and may in such order dispense with the production of such original. N.W.T., c. 21, R. 16.

### III.—*Indorsement of Service Unnecessary.*

Indorsement  
of service  
unnecessary.

16. It shall not be necessary for the person serving a writ of summons to indorse on the writ the day of the week and month of such service but the writ and statement of claim shall each be marked as an exhibit to the affidavit of service by the person administering the oath. N.W.T., c. 21, R. 17

## ORDER IV.

### SERVICE OUT OF THE JURISDICTION.

Service out of  
jurisdiction,  
when allowed.

17. Service of a writ of summons on a defendant out of the Territory may be allowed by a judge whenever—

1. The whole subject matter of the action is land situate within the Territory (with or without rents or profits) ; or

2. Any act, deed, will, contract, obligation or liability affecting land or hereditaments situate within the Territory is sought to be construed, rectified, set aside or enforced in the action ; or



3. Any relief is sought against any person domiciled or ordinarily resident within the jurisdiction; or

4. The action is for the administration of the estate of any deceased person who at the time of his death was domiciled within the Territory or for the execution (as to property the whole or some part of which is within the Territory) of the trusts of any written instrument of which the person to be served is a trustee which ought to be executed according to the laws of the Territory; or

5. The action is for the recovery of any debt contracted within the jurisdiction or is founded on any breach or alleged breach within the jurisdiction of any contract wherever made which according to the terms thereof ought to be performed within such jurisdiction or is founded on a tort committed within the jurisdiction; or

6. An injunction is sought as to anything to be done within the jurisdiction or any nuisance within the jurisdiction is sought to be prevented or removed whether damages are or are not also sought in respect thereof; or

7. Any person out of the jurisdiction is a necessary or proper party to an action properly brought against some other person duly served within the jurisdiction; or

8. The action is upon a foreign judgment and it is proved to the satisfaction of a judge that the defendant has assets within the Yukon Territory. N.W.T., c. 21, R. 18.

18. Every application for leave to serve such writ of summons on a defendant out of the jurisdiction shall be before writ issued except as hereinbefore provided for and supported by affidavit stating that in the belief of the deponent the plaintiff has a good cause of action and showing in what place or country the defendant is or probably may be found and the grounds on which the application is made; but no such leave shall be granted unless it shall be made sufficiently to appear to the judge that the case is a proper one for service out of the Territory aforesaid. N.W.T., c. 21, R. 19.

19. Any order giving leave to effect such service shall limit a time after such service within which such defendant may enter an appearance, such time to depend on the place or country where or within which the writ is to be served. [E. 68.] N.W.T., c. 21, R. 20.

20. In any such case if it is made to appear to a judge that service as ordered out of the jurisdiction cannot be made and that reasonable efforts (showing them) have been made to effect such service the judge may make an order for substitutional service by advertisement or otherwise as seems proper. N.W.T., c. 21, R. 21.

21. In any case if it is made to appear to the judge that the whereabouts of the defendant is unknown after all

whereabouts  
unknown.

reasonable efforts have been exhausted to ascertain them the judge may in any action affecting land in the Territory or in any other case in which he deems it proper dispense with any order for service out of the jurisdiction and make such order for service of the writ by advertisement or otherwise as he deems proper subject to such terms and conditions as may be necessary to protect the defendant from injustice; but judgment shall not be entered

Judgment by  
default.

on default of appearance in any such case until the judge is satisfied by such proof as he requires of the justice

Proof of claim

of the claim. N.W.T., c. 21, R. 22.

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## ORDER V.

### SERVICE OF OTHER PROCEEDINGS.

Service of  
notices,  
pleadings, etc.

22. Where personal service of any notice, pleading, order, summons, warrant or other document, proceeding or written communication is required the service shall be effected as nearly as may be in the manner prescribed for the personal service of a writ of summons. N.W.T., c. 21, R. 23.

Substitutional  
service of  
notices, etc.

23. Where personal service of any notice, pleading, summons, order, warrant or other document, proceeding or written communication is required and it is made to appear to the court or a judge that prompt personal service cannot be effected the court or the judge may make such order for substituted or other service or for the substitution for service of notice by letter, public advertisement or otherwise as is just. N.W.T., c. 21, R. 24.

Admissions  
of service  
on solicitors.

24. Admissions and acceptances of service of papers and documents purporting to be signed by or on behalf of a solicitor need not be verified by affidavit but shall be accepted as *prima facie* proof. N.W.T., c. 21, R. 25.

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## ORDER VI.

### PARTIES.

#### I.—General.

Plaintiffs  
claiming  
jointly,  
severally or in  
the alternative

25. All persons in whom the right to any relief claimed is alleged to exist may be joined as plaintiffs whether jointly, severally or in the alternative; and judgment may be given for such one or more of the plaintiffs as are found to be entitled to relief for such relief as he or they are entitled to without any amendment, but the defend-

ant though unsuccessful shall be entitled to his costs occasioned by so joining any person who is not found entitled to relief unless the judge in disposing of the costs otherwise directs. [E. 123.] N.W.T., c. 21, R. 26.

26. Where an action has been commenced in the name of the wrong person as plaintiff or where it is doubtful whether it has been commenced in the name of the right plaintiff the judge may if satisfied that it has been so commenced through a *bona fide* mistake and that it is necessary for the determination of the real matter in dispute so to do order any other person to be substituted or added as plaintiff upon such terms as are just. [E. 124.] N.W.T., c. 21, R. 27.

Wrong person  
named as  
plaintiff.

27. Where in any action any person has been improperly or unnecessarily joined as a co-plaintiff and a defendant has set up a counter-claim or set off he may obtain the benefit thereof by establishing his set off or counter-claim as against the parties other than the co-plaintiff so joined notwithstanding the misjoinder of such plaintiff or any proceeding consequent thereon. [E. 125.] N.W.T., c. 21, R. 28.

Misjoinder of  
plaintiff.

Counterclaim.

28. All persons may be joined as defendants against whom the right to any relief is alleged to exist whether jointly, severally or in the alternative; and judgment may be given against such one or more of the defendants as are found to be liable according to their respective liabilities without any amendment. [E. 126.] N.W.T., c. 21, R. 29.

Joinder of  
defendants.

29. It shall not be necessary for every defendant to be interested as to all the relief prayed for or as to every cause of action included in any proceedings against him; but the judge may make such order as appears just to prevent any defendant from being embarrassed or put to expense by being required to attend any proceedings in which he has no interest. [E. 127.] N.W.T., c. 21, R. 30.

Defendant  
need not be  
interested in  
all relief  
claimed.

30. The plaintiff may at his option join as parties to the same action all or any of the persons severally or jointly and severally liable on any one contract including parties to bills of exchange and promissory notes. [E. 128.] N.W.T., c. 21, R. 31.

Joinder of  
persons  
severally  
liable.

31. Where the plaintiff is in doubt as to the person from whom he is entitled to redress he may by leave of the judge on *ex parte* application join two or more defendants to the intent that the question as to which if any of the defendants is liable and to what extent may be determined as between all parties. [E. 129.] N.W.T., c. 21, R. 32.

Plaintiff in  
doubt as to  
person liable.

Trustees, etc., may sue and be sued as representatives. 32. Trustees, executors and administrators may sue and be sued on behalf of or as representing the property or estate of which they are trustees or representatives without joining any of the persons beneficially interested in the trust or estate and shall be considered as representing such persons ; but the judge may at any stage of the proceedings order any such persons to be made parties either in addition to or in lieu of the previously existing parties.

(2) If the plaintiff sues or the defendant is sued in a representative capacity the statement of claim shall show in what capacity the plaintiff or defendant sues or is sued as the case may be. [E. 130.] N.W.T., c. 21, R. 33.

Suit or defence by one person for class. 33. Where there are numerous persons having the same interest in one cause or matter one or more of such persons may sue or be sued or may be authorised by the judge to defend in such cause or matter on behalf or for the benefit of all persons so interested. [E. 131.] N.W.T., c. 21, R. 34.

Misjoinder or nonjoinder not to defeat cause. Striking out or adding parties. 34. No cause or matter shall be defeated by reason of the misjoinder or nonjoinder of parties and the judge may in every cause or matter deal with the matter in controversy so far as regards the rights and interests of the parties actually before him. The judge may at any stage of the proceedings either upon or without the application of either party and on such terms as appear just order that the names of any parties improperly joined whether as plaintiffs or defendants be struck out and that the names of any parties whether plaintiffs or defendants who ought to have been joined or whose presence in the cause is necessary in order to enable the judge to effectually and completely adjudicate upon and settle all the questions involved in the cause or matter be added. Every party whose name is so added as a defendant shall be served with a summons or notice in such manner as the judge may order and the proceedings as against such party shall be deemed to have begun only on the service of such summons or notice. [E. 133.] N.W.T., c. 21, R. 35.

Applications as to parties. 35. Any application to add or to strike out or substitute a plaintiff or defendant may be made to the judge at any time before trial supported by affidavit or at the trial of the action in a summary manner. [E. 134.] N.W.T., c. 21, R. 36.

## II.—Partners.

Suits in firm name. 36. Any two or more persons claiming or being liable as co-partners and carrying on business within the jurisdiction may sue or be sued in the name of the respective firms if any of which such persons were co-partners at the time of the accruing of the cause of action ; and any party to an action may in such case apply by summons to a judge for

a statement of the names and addresses of the persons who were at the time of the accruing of the cause of action co-partners in any such firm to be furnished in such manner and verified on oath or otherwise as the judge directs. Disclosure of names of partners.

(2) Any person carrying on business in the name of a firm apparently consisting of more than one person may be sued in the name of such firm. [E. 137, 648a.] N.W.T., c. 21, R. 37.

37. When a writ is sued out by partners in the name of their firm the plaintiffs or their solicitors shall on demand in writing by or on behalf of any defendant forthwith declare in writing the names and places of residence of all the persons constituting the firm on whose behalf the action is brought; and if the plaintiffs or their solicitors fail to comply with such demand all proceedings in the action may upon an application for that purpose be stayed upon such terms as the Court or a judge directs; and when the names of the partners are so declared the action shall proceed in the same manner and the same consequences in all respects shall follow as if they had been named as the plaintiffs in the writ; but all the proceedings shall nevertheless continue in the name of the firm. [E. 648b.] N.W.T., c. 21, R. 38. Plaintiff firm, demand for names of persons composing. Default in furnishing. Effect when furnished.

38. Where persons are sued as partners in the name of their firm the writ shall be served either upon any one or more of the partners or at the principal place within the jurisdiction of the business of the partnership upon any person having at the time of service the control or management of the partnership business there; and subject to these rules such service shall be deemed good service upon the firm so sued whether any of the members thereof are out of the jurisdiction or not and no leave to issue a writ against them shall be necessary. Service on partnerships.

Provided that in the case of a co-partnership which has been dissolved to the knowledge of the plaintiff before the commencement of the action the writ of summons shall be served upon every person within the jurisdiction sought to be made liable. [E. 648c.] N.W.T., c. 21, R. 39. Proviso when dissolved.

39. When a writ is issued against a firm and is served as directed every person upon whom it is served shall be informed by notice in writing given at the time of such service whether he is served as a partner or as a person having control or management of the partnership business or in both characters. In default of such notice the person served shall be deemed to be served as a partner. [E. 648d.] N.W.T., c. 21, R. 40. Notice of capacity in which person served.

40. Where persons are sued as partners in the name of their firm they shall appear individually in their own Appearance by partners.

names; but all subsequent proceedings shall nevertheless continue in the name of the firm. [E. 648e.] N.W.T., c. 21, R. 41.

Writ served on representative Appearance.

41 Where a writ is served upon a person having the control or management of the partnership business no appearance by him shall be necessary unless he is a member of the firm sued. [E. 648f.] N.W.T., c. 21, R. 42.

Appearance under protest of person served as partner.

42. Any person served as a partner may enter an appearance under protest denying that he is a partner; but such appearance shall not preclude the plaintiff from otherwise serving the firm and obtaining judgment against the firm in default of appearance if no partner has entered an appearance in the ordinary form. [E. 648g.] N.W.T., c. 21, R. 43.

### III.—*Administration and Execution of Trusts.*

Determination of right of unascertained heirs at law, next of kin or class.

43 In any case in which the right of an heir-at-law or the next of kin or a class depends upon the construction which the Court or a judge puts upon an instrument and it shall not be known or shall be difficult to ascertain who is or are such heir-at-law or next of kin or class and the Court or judge considers that in order to save expense or for some other reason it will be convenient to have the questions of construction determined before such heir-at-law, next of kin or class have been ascertained by means of inquiry or otherwise the Court or judge shall appoint the public administrator to represent such heir-at-law next of kin or class and the judgment of the Court or judge in the presence of the public administrator shall be binding upon the heir-at-law, next of kin or class so represented. [E. 154.] N.W.T., c. 21, R. 44.

Administration, rights of residuary legatee and next of kin.

44. Any residuary legatee or next of kin entitled to a judgment or order for the administration of the personal estate of a deceased person may have the same without serving the remaining residuary legatees or next of kin. [E. 155.] N.W.T., c. 21, R. 45.

Persons interested in proceeds of land.

45. Any legatee interested in a legacy charged upon land and any person interested in the proceeds of land directed to be sold and who is entitled to a judgment or order for the administration of the estate of a deceased person may have the same without serving any other legatee or person interested in the proceeds of the estate. [E. 156.] N.W.T., c. 21, R. 46.

Residuary devisees or heirs.

46. Any residuary devisee or heir entitled to the like judgment or order may have the same without serving any co-residuary devisee or co-heir. [E. 157.] N.W.T., c. 21, R. 47.

47. Any one of several *cestuis qui trustent* under any deed or instrument entitled to a judgment or order for the execution of the trusts of the deed or instrument may have the same without serving any other *cestui qui trust*. [E. 158.] N.W.T., c. 21, R. 48.

*Cestuis qui trustent.*

48. In all cases of actions for the prevention of waste or otherwise for the protection of property one person may sue on behalf of himself and all persons having the same interest. [E. 159.] N.W.T., c. 21, R. 49.

Protection of Property.

49. Any executor, administrator or trustee entitled thereto may have a judgment or order against any one legatee, next of kin or *cestui qui trust* for the administration of the estate or the execution of the trusts. [E. 160.] N.W.T., c. 21, R. 50

Executor, administrator, trustee.

50. The Court or a judge may require any person to be made a party to any action or proceeding and may give the conduct of the action or proceeding to such person as he thinks fit and may make such order in any particular case as he thinks just for placing the defendant on the record on the same footing in regard to costs as other parties having a common interest with him in the matters in question. [E. 161.] N.W.T., c. 21, R. 51.

Conduct of proceedings.

Costs.

51. Wherever in any action for the administration of the estate of a deceased person or the execution of the trusts of any deed or instrument or for the partition or sale of any hereditaments a judgment or an order has been pronounced or made affecting the rights or interests of persons not parties to the action the Court or judge may direct that any persons interested in the estate or under the trusts or in the lands shall be served with notice of the judgment or order; and after such notice such persons shall be bound by the proceedings in the same manner as if they had originally been made parties and shall be at liberty to attend the proceedings under the judgment or order. Any person so served may within one month after such service apply to the Court or judge to discharge, vary or add to the judgment or order. [E. 162.] N.W.T., c. 21, R. 52.

Judgments or orders.

Service on persons not parties but interested.

52. It shall not be necessary for any person served with notice of any judgment or order to obtain an order for liberty to attend the proceedings under such judgment or order but such person shall be at liberty to attend the proceedings upon entering an appearance in the clerk's office in the same manner and subject to the same provisions as a defendant entering an appearance. [E. 163.] N.W.T., c. 21, R. 53.

Appearance by.

53. A memorandum of the service upon any person of notice of the judgment or order in any action under the next but one preceding section shall be entered in the clerk's

Entry to be made of service.

Indorsement  
on notice of  
judgment.

office upon due proof by affidavit of such service and notice of a judgment or order served pursuant to such rule shall be entitled in the action and there shall be indorsed thereon a memorandum in the following form :

Take notice that from the time of the service of this notice you (*or as the case may be*, the infant *or* person of unsound mind) will be bound by the proceedings in the above cause in the same manner as if you (*or* the said infant *or* person of unsound mind) had been originally made a party and that you (*or* the said infant *or* person of unsound mind) may on entering an appearance at the clerk's office attend the proceedings under the within mentioned judgment (*or* order) and that you (*or* the said infant *or* person of unsound mind) may within one month after the service of this notice apply to the Court to discharge, vary or add to the judgment (*or* order.) [E. 164 and 165.] N.W.T., c. 21, R. 54.

Service on  
person under  
disability.

54. Notice of a judgment or order on an infant or person of unsound mind not so found by inquisition shall be served in the same manner as a writ of summons in an action. [E. 166.] N.W.T., c. 21, R. 55.

Execution of  
trusts or will.

55. In any cause or matter to execute the trusts of a will it shall not be necessary to make the heir-at-law a party but the plaintiff shall be at liberty to make the heir-at-law a party where he desires to have the will established against him. [E. 167.] N.W.T., c. 21, R. 56.

Parties.

Where no  
legal personal  
representative  
Court may  
dispense with  
or appoint  
representative

56. If in any cause, matter or other proceeding it appears to the Court or a judge that any deceased person who was interested in the matter in question has no legal personal representative the Court or judge may proceed in the absence of any person representing the estate of the deceased person or may appoint some person to represent his estate for all the purposes of the cause, matter or other proceeding on such notice to such person (if any) as the Court or judge thinks fit either specially or generally by public advertisement and the order so made and any order consequent thereon shall bind the estate of the deceased person in the same manner in every respect as if a duly constituted legal personal representative of the deceased had been a party to the cause matter or proceeding. [E. 168.] N.W.T., c. 21, R. 57.

Adminis-  
tration.

Appearance  
at chambers  
in respect  
of creditors'  
claims.

57. In any cause or matter for the administration of the estate of a deceased person no party other than the executor or administrator shall unless by leave of the Court or a judge be entitled to appear either in court or in chambers on the claims of any person not a party to the cause or matter against the estate of the deceased person in respect of



any death or liability. The Court or a judge may direct or give liberty to any other party to the cause or matter to appear either in addition to or in the place of the executor or administrator upon such terms as to costs or otherwise as they or he thinks fit. [E. 169.] N.W.T., c. 21, R. 58.

#### IV.—*Constitutional Questions.*

58. Whenever in any cause, matter or proceeding depending in the Territorial Court any question is raised as to the validity or constitutionality of any Ordinance of the Territory or whenever it is sought to have any Ordinance of the Territory declared or held *ultra vires* the party so raising or intending to raise such a question shall forthwith give notice to the Legal Adviser for the Territory accompanied by a copy of the pleadings or such other documents as may be necessary to clearly indicate the circumstances under which such question arises; and the Legal Adviser or his agent shall be entitled to intervene and to be heard on the argument of such question; and whenever it appears to the Court or judge that any such question arises in any cause, matter or proceeding the Court or judge shall not decide such question until the Legal Adviser is so notified and given an opportunity of being heard by the Court or judge by himself or his agent. N.W.T., c. 21, R. 59.

Questions raised involving validity of Ordinances.

Notice to legal adviser.

#### V.—*Third Party Procedure.*

59. Where a defendant claims to be entitled to contribution or indemnity over against any person not a party to the action he may by leave of the Court or a judge to be obtained *ex parte* issue a notice (hereinafter called the third party notice) to that effect stamped with the seal with which writs of summons are sealed; a copy of such notice shall be filed with the clerk and served on such person according to the rules relating to the service of writs of summons. The notice shall state the nature and grounds of the claim and shall unless otherwise ordered by the Court or a judge be served within the time limited for delivering his defence and therewith shall be served a copy of the statement of claim and a copy of the writ of summons in the action. [E. 170.] N.W.T., c. 21, R. 60.

Notice to third party.

Filing and service.

60. If a person not a party to the action who is served as mentioned in the next preceding rule (hereinfter called the third party) desires to dispute the plaintiff's claim in the action as against the defendant on whose behalf the notice has been given or his own liability to the defendant the third party shall enter an appearance in the action within ten days from the service of the notice. In default of his so doing he shall be deemed to admit the validity of the judgment obtained against such defendant whether ob-

Appearance of third party.

Admission by nonappearance.

tained by consent or otherwise and his own liability to contribute or indemnify as the case may be to the extent claimed in the third party notice :

Leave to appear after default.

Provided always that a person so served and failing to appear within the said period of ten days may apply to the Court or a judge for leave to appear and such leave may be given upon such terms if any as the Court or judge thinks fit [E. 171.] N.W.T., c. 21, R. 61.

Defendant suffering judgment by default.

61. Where a third party makes default in entering an appearance in the action in case the defendant giving the notice suffers judgment by default he shall be entitled at any time after satisfaction of the judgment against himself or before such satisfaction by leave of the Court or a judge to enter judgment against the third party to the extent of the contribution or indemnity claimed in the third party notice :

Rights against third party.

Provided that it shall be lawful for the Court or a judge to set aside or vary such judgment upon such terms as seems just. [E. 172.] N.W.T., c. 21, R. 62.

Plaintiff succeeding Judgment for defendant against nonappearing third party.

62. Where a third party makes default in entering an appearance in the action in case the action is tried and results in favour of the plaintiff the judge who tries the action may at or after the trial order the entry of such judgment as the nature of the case requires for the defendant giving the notice against the third party :

Proviso as to issue of execution.

Provided that execution thereof shall not be issued without leave of the judge until after satisfaction by such defendant of the verdict or judgment against him ; and if the action is finally decided in the plaintiff's favour otherwise than by trial the Court or a judge may on application order such judgment as the nature of the case requires to be entered for the defendant giving the notice against the third party at any time after satisfaction by the defendant of the amount recovered by the plaintiff against him. [E. 173.] N.W.T., c. 21, R. 63.

Third party appearing.

63. If a third party appears pursuant to the third party notice the defendant giving the notice or such third party may apply to the Court or a judge for directions and the Court or judge upon the hearing of such application may if satisfied that there is a question proper to be tried as to the liability of the third party to make the contribution or indemnity claimed in whole or in part order the question of such liability as between the third party and the defendant giving the notice to be tried in such manner at or after the trial of the action as the Court or judge directs ; and if not so satisfied may order such judgment as the nature of the case requires to be entered in favour of the defendant giving the notice against the third party. [E. 174.] N.W.T., c. 21, R. 64.

Application for directions.

64. The Court or judge upon the hearing of the application mentioned in the next preceding rule may if it appears desirable to do so give the third party liberty to defend the action upon such terms as are just or to appear at the trial and take such part therein as is just and generally may order such proceedings to be taken, documents to be delivered or amendments to be made and give such directions as to the Court or judge appears proper for having the question most conveniently determined and as to the mode and extent in or to which the third party shall be bound or made liable by the judgment in the action. [E. 175.] N.W.T., c. 21, R. 65.

What directions may be given.

65. The Court or a judge may decide all questions of costs as between a third party and the other parties to the action and may order any one or more to pay the costs of any other or others or give such directions as to cost as the justice of the case requires. [E. 176.] N.W.T., c. 21, R. 66.

Costs.

66. Where a defendant claims to be entitled to contribution or indemnity against any other defendant to the action a notice may be issued and the same procedure shall be adopted for the determination of such questions between the defendants as would be issued and taken against such other defendant if such last mentioned defendant was a third party; but nothing herein contained shall prejudice the rights of the plaintiff against any defendant in the action. [E. 177.] N.W.T., c. 21, R. 67.

Defendant claiming against codefendant.

67. A plaintiff is not to be unnecessarily delayed in recovering his claim by reason of the questions between defendants in which the plaintiff is not concerned; and the judge is to give such direction as may be necessary to prevent such delay of the plaintiff where this can be done on terms or otherwise without injustice to the defendants. N.W.T., c. 21, R. 68.

Plaintiff not to be delayed by questions between defendants.

#### VI.—*Change of Parties.*

68. A cause or matter shall not become abated by reason of the marriage, death or insolvency of any of the parties if the cause of action survives or continues and shall not become defective by the assignment, creation or devolution of any estate or title *pendente lite*; and whether the cause of action survives or not there shall be no abatement by reason of the death of either party between the verdict or finding of the issues of fact and the judgment; but judgment may in such case be entered notwithstanding the death. [E. 178.] N.W.T., c. 21, R. 69.

No abatement where cause of action continues.

Judgment where death after verdict.

69. In case of the marriage, death or assignment or devolution of the estate by operation of law of any party to a cause or matter the judge may if it is deemed necessary

Adding parties successors in interest.

for the complete settlement of all the questions involved order that the husband, personal representative, trustee or other successor in interest if any of such party be made a party in such manner and on such terms as the judge thinks just and make such order for the disposal of the cause or matter as is just. [E. 179.] N.W.T., c. 21, R. 70.

Continuation  
of action  
where change  
of interest.

70. In case of an assignment, creation or devolution of any estate or title *pendente lite* the cause or matter may be continued by or against the person to or upon whom such estate or title has come or devolved. [E. 180.] N.W.T., c. 21, R. 71.

Adding  
parties where  
change of  
interest.

71. Where by reason of marriage, death or assignment or any other event occurring after the commencement of a cause or matter and causing a change or transmission of interest or liability or by reason of any person interested coming into existence after the commencement of the cause or matter it becomes necessary or desirable that any person not already a party should be made a party or that any person already a party should be made a party in another capacity the judge may order that the proceedings shall be carried on between the continuing parties and such new party or parties in such manner and on such terms as are thought proper. [E. 181.] N.W.T., c. 21, R. 72.

Applications  
*ex parte*.

72. Applications under rules 69 and 71 may be made *ex parte*. N.W.T., c. 21, R. 73.

Service of  
order.

73. An order so obtained shall unless the Court or judge otherwise directs be served upon the continuing party or parties or their solicitors and also upon each such new party unless the person making the application is himself the only new party and the order shall from the time of such service subject nevertheless to the next two following rules be binding on the person served therewith and every person served therewith who is not already a party to the cause or matter shall be bound to enter an appearance thereto within the same time and in the same manner as if he had been served with a writ of summons. [E. 182.] N.W.T., c. 21, R. 74.

Application  
to discharge  
order.

74. Where any person who is under no disability or under no disability other than coverture or being under any disability other than coverture but having a guardian *ad litem* in the cause or matter is served with such order such person may apply to the Court or judge to discharge or vary such order at any time within twelve days from the service thereof. [E. 183.] N.W.T., c. 21, R. 75.

Application  
to discharge  
order.

75. Where any person being under any disability other than coverture and not having a guardian *ad litem* in the cause or matter is served with any such order such person

may apply to the Court or a judge to discharge or vary such order at any time within twelve days from the appointment of a guardian *ad litem* for such party and until such period of twelve days has expired such order shall have no force or effect as against such last mentioned person. [E. 184.] N.W.T., c. 21, R. 76.

76. When the plaintiff or defendant in a cause or matter dies and the cause of action survives but the person entitled to proceed fails to proceed on application of the defendant (or the person against whom the cause or matter may be continued) the judge may order the plaintiff (or the person entitled to proceed) to proceed within a given period and in default of such proceeding judgment may be entered for the defendant, or as the case may be, for the person against whom the cause or matter might have been continued [E. 185.] N.W.T., c. 21, R. 77.

Death of sole plaintiff or defendant.

Omission to proceed with cause.

77. Where any cause or matter becomes abated or in the case of any such change of interest as is by this order provided for the solicitor for the plaintiff or person having the conduct of the cause or matter as the case may be shall certify the fact to the proper officer who shall cause an entry thereof to be made in the procedure book opposite to the name of such cause or matter. [E. 186.] N.W.T., c. 21, R. 78.

Solicitor for plaintiff to give notice of abatement, etc.

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## ORDER VII.

### JOINDER OF CAUSES OF ACTION.

78. A plaintiff may unite in the same action several causes of action; but if it appears to the judge that any such causes of action cannot be conveniently tried or disposed of together he may order separate trials of any such causes of action to be had or may make such other order as is necessary or expedient for the separate disposal thereof or may order any such causes of action to be excluded and consequential amendments to be made. [E. 188 and 196.] N.W.T., c. 21, R. 79.

Uniting causes of action.

Disposal separately.

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## ORDER VIII.

### APPEARANCE.

79. Within the time limited for appearance by the writ of summons or afterwards before the plaintiff has taken any further step in the cause if the defendant or if there be more than one defendant in the action a defendant desires

Entry of appearance by defendant.

- to contest the plaintiff's claim and defend the action he shall by himself or his solicitor enter an appearance in the office of the clerk whence the writ of summons issued and within six days thereafter or such further time as may by order of the judge be allowed for the purpose file in the clerk's office a statement of defence and serve a copy thereof on the plaintiff or his solicitor. N.W.T. c. 4, R. 80.
- Filing and service of defence.
- Indorsement on appearance
- Address for service.
- Service where no appearance or no address for service or false address.
- Recovery of land.
- Appearance by person and defendant.
- Landlord to appear as such
- Party obtaining leave to defend subsequent proceedings.
80. Upon or with every appearance when entered a memorandum in writing shall be indorsed or attached giving the defendant's address or the address of his solicitor if he defends by solicitor; and if the defendant or his solicitor resides over three miles from the clerk's office naming an address within three miles of the clerk's office where documents in the suit requiring service upon him may be left, such place to be known and designated as his "address for service." [E. 80.] N.W.T., c. 21, R. 81.
81. Where no appearance has been entered for a party all orders, notices, papers, documents in or relating to the action may unless otherwise ordered by a judge be served by posting up the same or a copy thereof in the clerk's office; and where the address mentioned in the next preceding rule is not given all such orders, notices, papers and documents may be served in like manner; but if an address is supplied and such address is illusory or fictitious the judge may on application of the plaintiff direct the manner in which such orders, notices, papers and documents may be served. N.W.T., c. 21, R. 82.
82. Any person not named as a defendant in a writ of summons in an action for the recovery of the possession of land, may by leave of the judge appear and defend on filing an affidavit showing that he is in possession of the land either by himself or by his tenant. [E. 95.] N.W.T., c. 21, R. 83.
83. Any person appearing to defend an action for the recovery of the possession of the land as landlord in respect of property whereof he is in possession only by his tenant shall state in his appearance that he appears as landlord. [E. 96.] N.W.T., c. 21, R. 84.
84. Where a person not named as defendant in any writ of summons for the recovery of the possession of land has obtained leave of the judge to appear and defend he shall comply with the provisions of this order in respect of defendants appearing and defending and in all subsequent proceedings be named as a party defendant. [E. 97] c. 21, R. 85.

85. Any person appearing to a writ of summons for the recovery of the possession of land shall be at liberty to limit his defence to a part only of the property mentioned in the writ describing that part with reasonable certainty in his appearance and an appearance where the defence is not limited as above mentioned shall be deemed an appearance to defend for the whole. [E. 98.] N.W.T., c. 21, R. 86.

Defence may be limited to part of property.

86. A defendant before appearing shall be at liberty to apply to a judge to set aside the service of the writ upon him, to discharge or set aside the order authorizing such service or to set aside the writ on the ground of irregularity or otherwise. N.W.T., c. 21, R. 87.

Application to set aside writ or service.

## ORDER IX.

### DEFAULT OF APPEARANCE.

87. Where no appearance has been entered to a writ of summons for a defendant who is an infant or a person of unsound mind not so found by inquisition the plaintiff shall before further proceeding with the action against the defendant apply to the Court or judge for an order that some proper person be assigned guardian of such defendant by whom he may appear and defend the action; but no such order shall be made unless it appears on the hearing of such application that the writ of summons was duly served and that notice of such application was after the expiration of the time allowed for appearance and at least six clear days before the day in such notice named for hearing the application served upon or left at the dwelling house of the person with whom or under whose care such defendant was at the time of serving such writ of summons and also (in the case of such defendant being an infant not residing with or under the care of his father or guardian) served upon or left at the dwelling house of the father or guardian if any of such infant unless the Court or judge at the time of hearing such application shall dispense with such last mentioned service. [E. 101.] N.W.T., c. 21, R. 88.

Default of appearance by infant or person of unsound mind

88. When any defendant fails to appear to a writ of summons and the plaintiff is desirous of proceeding upon default of appearance he shall before taking such proceeding upon default file the writ (or an order dispensing with such filing) with an affidavit of service or of compliance with any order for substitutional service as the case may be. [E. 102.] N.W.T., c. 21, R. 89.

Writ and affidavit of service to be filed.

89. Where the plaintiff's claim is for a debt or liquidated demand only and the defendant fails or all the defend-

Claim liquidated.

ants if more than one fail to appear thereto the plaintiff may after the time limited for appearance has elapsed enter final judgment for any sum not exceeding the sum claimed in the action together with legal interest and costs of suit. [E. 103.] N.W.T., c. 21, R. 91.

Liquidated demand.

Several defendants.

90. Where the plaintiff's claim is for a liquidated demand and there are several defendants of whom one or more appear and another or others of them fail to appear the plaintiff may enter final judgment as in the next preceding rule against such as have not appeared and may issue execution upon such judgment without prejudice to his right to proceed with the action against such as have appeared. [E. 104.] N.W.T., c. 21, R. 91.

Claim, detinue and damages.

Nonappearance.

91. Where the plaintiff's claim is for detention of goods and pecuniary damages or either of them and the defendant fails or all the defendants if more than one fail to appear on application of the plaintiff the judge may assess the value or amount of damages or either of them or order that they shall be ascertained in any way he directs and judgment shall be entered thereupon with costs of suit. [E. 105.] N.W.T., c. 21, R. 92.

Striking out appearing defendants.

92. Where in an action for detention of goods and pecuniary damages or either of them there is more than one defendant and one or more of such defendants have appeared while one or other of the defendants have not the judge on application of the plaintiff may order the striking out of any one or more of the defendants who has or have appeared on payment of costs or otherwise as may be considered just and allow the plaintiff to proceed with his action against the defendant or defendants who has or have not appeared. N.W.T., c. 21, R. 93.

Interlocutory judgment against nonappearing defendants.

93. Where the plaintiff's claim is for detention of goods and pecuniary damages or either of them and there are several defendants of whom one or more appear to the writ and another or others of them fail to appear the plaintiff may sign interlocutory judgment against the defendant or defendants so failing to appear and on application of the plaintiff the value of the goods and the damages or either of them as the case may be shall be assessed as against the defendant or defendants failing to appear at the same time as the trial of the action or issue therein against the other defendant or defendants unless the judge otherwise directs. [E. 106.] N.W.T., c. 21, R. 94.

Claim, detinue and liquidated demand.

94. When the plaintiff's claim is for detention of goods and pecuniary damages or either of them and also for a liquidated demand and any defendant fails to appear to the writ the plaintiff may enter final judgment for the debt or



liquidated demand, interest or costs against the defendant or defendants failing to appear and proceed as mentioned in such of the rules of this order as are applicable. [E. 107.] N.W.T., c. 21, R. 95.

95. In case no appearance is entered in an action for the recovery of land within the time limited for appearance, or if an appearance is entered but the defence is limited to part only the plaintiff shall be at liberty to enter a judgment that the person whose title is asserted in the writ shall recover possession [of the land or of the part thereof to which the defence does not apply with or without costs as the judge orders. [E. 108.]] N.W.T., c. 21, R. 96.

Claim  
Recovery  
of land.

96. When the plaintiff's statement of claim is for mesne profits, arrears of rent or damages for breach of contract and also for the recovery of land he may enter judgment as in the next preceding rule mentioned for the land and may proceed as in the other preceding rules mentioned as to such other claim. [E. 109.] N.W.T., c. 21, R. 97.

Claim, mesne  
profits, rent  
or damages  
and recovery  
of land.

97. Where the action is in respect of a mortgage, lien or charge and the plaintiff claims foreclosure or sale or redemption, or where the action is for the administration of an estate or partition the plaintiff if the defendant does not appear shall be entitled to such a judgment upon such evidence as the judge orders N.W.T., c. 21, R. 98.

Claim :  
foreclosure,  
sale,  
redemption or  
adminis-  
tration.

98. In any other action upon default of appearance by one or more defendants the plaintiff may apply *ex parte* to a judge for an order for judgment and the judge shall order such judgment to be entered as the plaintiff appears entitled to with or without evidence of the truth of the statement of claim (which may be given *viva voce* or by affidavit) in the discretion of the judge. N.W.T., c. 21, R. 99.

Judgment in  
other actions.

99. Any judgment entered upon default of appearance or in delivering any pleading or in compliance with any order may be set aside or varied by the Court or judge upon such terms as are just. N.W.T., c. 21, R. 100.

Setting aside  
judgment by  
default.

100. Where in an action there are several defendants of whom one or more have been served and another or others of them have not the Court or judge may order the striking out of the defendant or defendants not served and allow the plaintiff to proceed with his action against the defendant or defendants served on payment of costs or otherwise as is considered just. N.W.T., c. 21, R. 101.

Where several  
defendants,  
some not  
served.

101. Any order made by the judge under any of the rules of this order and any judgment entered pursuant to such

Setting aside  
or varying

orders or  
judgments.

order may be set aside or varied by the judge or the Court upon such terms as are just. [E. 110.] N.W.T., c. 21, R. 101.

## ORDER X.

### STRIKING OUT APPEARANCE.

Application  
by plaintiff to  
strike out  
appearance  
where claim  
liquidated.

102. Where the action is brought to recover a debt or a liquidated demand and the defendant or one or more of the defendants if there are several defendants has or have appeared the plaintiff or one of the plaintiffs if more than one may on affidavit of himself or of any other person who swears positively to the facts verifying the cause of action and the amount claimed and stating that in his belief there is no defence to the action apply to the judge for leave to enter final judgment for the amount of the claim or the amount so verified as due the plaintiff together with interest (if any) and costs; and the judge may thereupon unless the defendant by affidavit or otherwise satisfies him that he has a good defence to the action on the merits or disclose such facts as are deemed sufficient to entitle him to defend make an order empowering the plaintiff to enter judgment accordingly.

Judgment  
unless defence  
shown.

Unliquidated  
demand  
included.

(2.) If on the hearing of the application under this rule it appears that a cause or causes of action other than for a debt or a liquidated demand have been joined therewith the judge may if he thinks fit forthwith amend the statement of claim by striking out such other cause or causes of action or may deal with such claims for debts or liquidated demands as if no other claim had been joined in the action and allow the action to proceed as respects the cause or causes of action other than for such debt or liquidated demand. [E. 115.] N.W.T., c. 21, R. 103.

Summons.  
Service.  
Affidavits.

103. The application by the plaintiff under the next preceding rule shall be by notice. A copy of the notice and copies of affidavits and exhibits referred to therein (unless service of copies of such exhibits is dispensed with by the judge) shall be served at least four clear days before the notice is returnable. N.W.T., c. 21, R. 104.

Defendant  
may show  
cause.

104. The defendant may show cause against such application by affidavit of himself or some one who swears positively to the facts or by offering to bring into court the amount claimed in the action. If by affidavit such affidavit shall state whether the defence alleged goes to the whole or to part only and if so what part of the plaintiff's claim; and the judge may if he thinks fit order the defendant or whoever makes the affidavit on his behalf or in the case of

a corporation any officer thereof to attend and be examined on oath and to produce any letters, books or documents or copies of or extracts therefrom. [E. 117.] N.W.T., c. 21, R. 105. Cross examination.

105. If it appears that the defence set up by the defendant applies only to a part of the plaintiff's claim or that any part of the claim is admitted the plaintiff may have judgment forthwith for such part of his claim as the defence does not apply to or is admitted subject to such terms (if any) as to suspending execution or otherwise as the judge orders and the defendants may be allowed to defend as to the residue of the plaintiff's claim. [E. 118.] N.W.T., c. 21, R. 106. Defendant admitting or failing to meet application as to part.

106. If it appears to the judge that any defendant has a good defence or ought to be permitted to defend the action and that any other defendant has not such defence and ought not to be permitted to defend the former may be permitted to defend and the plaintiff shall be entitled to have final judgment against the latter and have execution thereon without prejudice to his right to proceed with his action against the former. [E. 119.] N.W.T., c. 21, R. 107. One defendant may be permitted to defend and judgment against other.

107. Leave to defend may be given unconditionally or subject to such terms as to giving security or time and mode of trial or otherwise as the judge thinks fit. [E. 120.] N.W.T., c. 21, R. 108. Conditional leave to defend.

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## ORDER XI.

### PLEADING GENERALLY.

108. Every pleading shall contain and contain only a statement in a summary form of the material facts on which the party relies for his claim or defence as the case may be but not the evidence by which they are to be proved and shall when necessary be divided into paragraphs numbered consecutively. Dates, sums, and numbers shall be expressed in figures and not in words. [E. 200.] N.W.T., c. 21, R. 109. Pleading to state facts only, not evidence.  
Paragraphing. Figures to be used.

109. A defendant in an action may set off or set up by way of counter-claim against the claims of the plaintiff any right or claim whether such set-off or counter-claim sounds in damages or not and such set-off or counter-claim shall have the same effect as a cross action so as to enable the judge to pronounce a final judgment in the same action both on the original and cross claim; but the judge may on application of the plaintiff before trial if in his opinion such set-off or counterclaim cannot be conveniently disposed of Set-off and counterclaim.  
Striking out.

Proceeding with after claim disposed of. in the pending action or ought not to be allowed refuse permission to the defendant to avail himself thereof; and if in any case in which the defendant sets up a counter-claim the action of the plaintiff is stayed, discontinued or dismissed the counterclaim may nevertheless be proceeded with. [E. 199 and 249.] N.W.T., c. 21, R. 110.

Reply to counterclaim. 110. Where a counter-claim is pleaded a reply thereto shall be subject to the rules applicable to statements of defence. [E. 279.] N.W.T., c. 21, R. 111.

Further particulars. 111. A further and better statement of the nature of the claim or defence (or written proceeding requiring particulars) may in all cases be ordered upon such terms as are just; but the order therefor shall not *per se* operate as a stay of proceedings or give any extension of time. [E. 203 and 204] N.W.T., c. 21, R. 112.

Not guilty by statute. 112. Nothing in this Ordinance shall affect the right of any defendant to plead not guilty by statute; but if the defendant so pleads he shall not plead any other defence to the same cause of action without the leave of the judge and every plea of not guilty by statute shall have the same effect as a plea of not guilty by statute has heretofore had. [E. 208.] N.W.T., c. 21, R. 113.

Allegations not denied admitted. 113. Every allegation of fact in any pleading not being a petition or summons if not denied specifically or by necessary implication or stated to be not admitted in the pleading of the opposing party shall be taken to be admitted except as against an infant, lunatic or person of unsound mind not so found judicially. [E. 209.] N.W.T., c. 21, R. 114.

Conditions precedent. 114. Any condition precedent the performance or occurrence of which is intended to be contested shall be distinctly specified in his pleading by the plaintiff or defendant as the case may be; and subject thereto an averment of the performance or occurrence of all conditions precedent necessary for the case of the plaintiff or defendant shall be implied in his pleadings. [E. 210.] N.W.T., c. 21, R. 115.

All grounds of defence or answer to be raised. 115. The defendant or plaintiff as the case may be must raise by his pleadings all matters which show the action or counterclaim not to be maintainable or that the transaction is either void or voidable in point of law and all such grounds of defence or reply as the case may be as if not raised would be likely to take the opposite party by surprise or would raise issues of fact not arising out of the preceding pleadings. [E. 211.] N.W.T., c. 21, R. 116.

Departure. 116. No pleading not being a petition or summons shall except by way of amendment raise any new ground of

claim or contain any allegation of fact inconsistent with the previous pleadings of the party pleading the same. [E. 212.] N.W.T., c. 21, R. 117.

117. It shall not be sufficient for a defendant in his statement of defence to deny generally the grounds alleged by the plaintiff's statement of claim or for the plaintiff in his reply to deny generally the grounds alleged in a defence by way of counter-claim but each party shall deal specifically with each allegation of fact of which he does not admit the truth except damages. [E. 213.] N.W.T., c. 21, R. 118.

Denials must be specific.  
Damages.

118. When a party in a pleading denies an allegation of fact in the previous pleading of the opposite party he shall not do so evasively but answer the point of substance. Thus if it is alleged that he received a certain sum of money it shall not be sufficient to deny that he received that particular amount but he must deny that he received that sum or any part thereof or else set out how much he received. And if an allegation is made with divers circumstances it shall not be sufficient to deny it along with those circumstances. [E. 215.] N.W.T., c. 21, R. 119.

Pleadings must answer point of substance and not be evasive.

119. When a contract, promise or agreement is alleged in any pleading a bare denial of the same by the opposite party shall be construed only as a denial of fact of the express contract, promise or agreement alleged or of the matters of fact from which the same may be implied by law and not as a denial of the legality or sufficiency in law of such contract, promise or agreement whether with reference to the Statute of Frauds or otherwise. [E. 216.] N.W.T., c. 21, R. 120.

Denial of contract.

120. Whenever the contents of any documents are material it shall be sufficient in any pleading to state the effect thereof as briefly as possible without setting out the whole or any part thereof unless the precise words of the documents or any part thereof are material. [E. 217.] N.W.T., c. 21, R. 121.

Effect of documents may be alleged.

121. Whenever it is material to allege malice, fraudulent intention, knowledge or other condition of the mind of any person it shall be sufficient to allege the same as a fact without setting out the circumstances from which the same is to be inferred. [E. 218.] N.W.T., c. 21, R. 122.

Allegation of malice, fraud, knowledge, etc.

122. Whenever it is material to allege notice to any person of any fact, matter or thing it shall be sufficient to allege such notice as a fact unless the form or the precise terms of such notice or the circumstances from which such notice is to be inferred are material. [E. 219.] N.W.T., c. 21, R. 123.

Allegation that person had notice.

- Contract or relation implied from letters, etc.      123. Whenever any contract or any relation between any persons is to be implied from a series of letters or conversations or otherwise from a number of circumstances it shall be sufficient to allege such contract or relation as a fact and to refer generally to such letters, conversations or circumstances without setting them out in detail; and if in such case the person so pleading desires to rely in the alternative upon more contracts or relations than one as to be implied from such circumstances he may state the same in the alternative. [E. 220.] N.W.T., c. 21, R. 124.
- Alternatives.
- Presumptions of law.      124. Neither party need in any pleading allege any matter of fact which the law presumes in his favour or as to which the burden of proof lies upon the other side unless the same has first been specifically denied [E. 221.] N.W.T., c. 21, R. 125.
- Want of form.      125. No technical objection shall be raised to any pleading on the ground of any alleged want of form. [E. 222.] N.W.T., c. 21, R. 126.
- Unnecessary, scandalous or embarrassing matter.      126. The judge may at any stage of the proceedings order to be struck out or amended any matter in any statement or pleading which may be unnecessary or scandalous or which may tend to prejudice, embarrass or delay the fair trial of the action with or without costs to be paid by the party so offending. [E. 223.] N.W.T., c. 21, R. 127.
- Loss of negotiable instrument.      127. In case of any action founded upon a bill of exchange or other negotiable instrument the judge may order that the loss of such instrument shall not be set up provided such indemnity as he approves of is given against the claims of any other person upon such negotiable instrument. N.W.T., c. 21, R. 128.
- Pleadings written or printed.      128. Every statement or pleading may be either printed or written or partly written and partly printed. [E. 205.] N.W.T., c. 21, R. 129.

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## ORDER XII.

### PAYMENT INTO AND OUT OF COURT AND TENDER.

- Payment into court—  
(1) as satisfaction  
(2) with defence denying liability.      129. Where any action is brought to recover a debt or damages any defendant may before or at the time of delivering his defence or at any later time by leave of the Court or a judge pay into court a sum of money by way of satisfaction which shall be taken to admit the claim or cause of action in respect of which the payment is made; or he may with a defence denying liability (except in ac-

tions or counter-claims for libel or slander) pay money into court which shall be subject to the provisions of rule 134 hereof. [E. 255.] N.W.T., c. 21, R. 130.

130. Payment into court shall be signified in the defence and the claim or cause of action in satisfaction of which such payment is made shall be specified therein. [E. 256.] N.W.T., c. 21, R. 131.

Defence to state payment in.

131. With a defence setting up a tender before action the sum of money alleged to have been tendered shall be brought into court [E. 257.] N.W.T., c. 21, R. 132.

Tender before action.

132. If the defendant pays money into court before delivering his defence he shall serve upon the plaintiff a notice specifying both the fact that he has paid in such money and also the claim or cause of action in respect of which such payment has been made; and such notice shall be in the following form:

Payment before delivery of defence, notice to be served.

“Take notice that the defendant has paid into court \$ \_\_\_\_\_, and says that that sum is enough to satisfy the plaintiff’s claim (or the plaintiff’s claim for, &c.)” N.W.T. c. 21, R. 133.

133. In the following cases of payment into court under this section, viz:

Payment out to plaintiff in certain cases.

- (a) When payment into court is made before delivery of defence;
- (b) When the liability of the defendant in respect of the claim or cause of action in satisfaction of which the payment into court is made is not denied in the defence;
- (c) When payment into court is made with a defence setting up a tender of the sum paid;

the money paid into court shall be paid out to the plaintiff on his request or to his solicitor on the plaintiff’s written authority unless the Court or a judge otherwise orders. [E. 259.] N.W.T. c. 21, R. 134.

134. When the liability of the defendant in respect of the claim or cause of action in satisfaction of which the payment into court has been made is denied in the defence the following rules shall apply:

Where defendant denies liability acceptance of sum paid in.

- (a) The plaintiff may accept in satisfaction of the claim or cause of action in respect of which the payment into court has been made the sum so paid in in which case he shall be entitled to have the money paid out to him as hereinafter provided notwithstanding the defendant’s denial of liability whereupon all further proceedings in respect of such claim or cause of action except as to costs shall be

stayed ; or the plaintiff may refuse to accept the money in satisfaction and reply accordingly in which case the money shall remain in court subject to the provisions hereinafter mentioned ;

- (b) If the plaintiff accepts the money so paid in he shall after service of such notice in the form following, viz. :

“ Take notice that the plaintiff accepts the sum of \$                      paid by you into court in satisfaction of the claim in respect of which it is paid in,”

or after delivery of a reply accepting the money be entitled to have the money paid out to himself on request or to his solicitor on the plaintiff's written authority unless the Court or a judge otherwise orders ;

Payment in  
not accepted.

- (c) If the plaintiff does not accept in satisfaction of the claim or cause of action in respect of which the payment into court has been made the sum so paid in but proceeds with the action in respect of such claim or cause of action or any part thereof the money shall remain in court and be subject to the order of the Court or a judge and shall not be paid out of court except in pursuance of an order. If the plaintiff proceeds with the action in respect of such claim or cause of action or any part thereof and recovers less than the amount paid into court the amount paid in shall be applied so far as is necessary in satisfaction of the plaintiff's claim and the balance (if any) shall under such order be repaid to the defendant. If the defendant succeeds in respect of such claim or cause of action the whole amount shall under such order be repaid to him. [E. 260.] N.W.T. c. 21, R. 135.

Proceeding  
with suit.

Payment in  
before defence

Acceptance in  
satisfaction.

Notice thereof

Costs.

Consolidated  
actions.

135. The plaintiff when payment into court is made before delivery of defence may within four days after the receipt of notice of such payment or when such payment is first signified in a defence may before reply accept in satisfaction of the claim or cause of action in respect of which such payment has been made the sum so paid in in which case he shall give notice to the defendant in the form last mentioned and shall be at liberty in case the entire claim or cause of action is thereby satisfied to tax his costs after the expiration of four days from the service of such notice unless the Court or a judge otherwise orders and in case of non-payment of the costs within forty-eight hours after such taxation to sign judgment for his costs so taxed. [E. 261.] N.W.T. c. 21, R. 136.

136. Where money is paid into court in two or more actions which are consolidated and the plaintiff proceeds to



trial in one and fails the money paid in and the costs in all the actions shall be dealt with under this order in the same manner as in the action tried. [E. 262.] N.W.T., c. 21, R. 137.

137. A plaintiff may in answer to a counterclaim pay money into court in satisfaction thereof subject to the like conditions as to costs and otherwise as upon payment into court by a defendant. [E. 263.] N.W.T., c. 21, R. 138. Counterclaim.

138. Money paid into court under an order of the Court or a judge shall not be paid out of court except in pursuance of an order of the Court or judge : Payment out.

Provided that where before the delivery of defence money has been paid into court by the defendant pursuant to an order under the provisions of rule 104 hereof he may (unless the Court or a judge otherwise orders) by his pleading appropriate the whole or any part of such money and any additional payment if necessary to the whole or any specified portion of the plaintiff's claim; and the money so appropriated shall thereupon be deemed to be money paid into court pursuant to the preceding rules of this order relating to money paid into court and shall be subject in all respects thereto. [E 265.] N.W.T. c. 21, R. 139.

139. In any cause or matter in which a sum of money has been awarded to or recovered by an infant or person of unsound mind not so found by inquisition the Court or a judge may at or after the trial order that the whole or any part of such sum shall be paid into court to the credit of an account intituled in the cause or matter; and any sum so paid into court and any dividends or interest thereon shall be subject to such orders as are from time to time made by the Court or a judge concerning the same and may either be invested or be paid out of court or transferred to such persons to be held and applied upon and for such trusts and in such manner as the Court or a judge directs. [E. 269.] N.W.T., c. 21, R. 140. Persons under disability.  
Moneys awarded to or recovered by.

140. Money paid into court or securities purchased under the provisions of the next preceding rule and the dividends or interest thereon shall be sold, transferred or paid out to the party entitled thereto pursuant to the order of the Court or a judge. [E. 270.] N.W.T., c. 21, R. 141. Disposition of moneys or securities.

141. Where a cause or matter is tried by a judge with a jury no communication to the jury shall be made until after the verdict is given either of the fact that money has been paid into court or of the amount paid in. The jury shall be required to find the amount of the debt or damages as the case may be without reference to any payment into court. [E. 275a.] N.W.T., c. 21, R. 142. Jury not to be informed of payment into court.

Investment of funds in court.

142. Cash under the control of or subject to the order of the Court may be invested in Dominion securities upon order of a judge. [E. 271.] N.W.T., c. 21, R. 143.

Banking moneys paid into court.

143. All moneys paid into court shall so soon as received by a clerk or other proper official be deposited in one of the chartered banks of Canada to be named by the judge and shall be placed to a special account and styled "special account;" each deposit to obtain the benefit of such rate of interest as the bank in which the deposit is made agrees and no moneys ordered to be paid out of court shall be withdrawn from the bank in which the same are deposited unless the cheque for withdrawal of the same is countersigned or initialled by the judge. N.W.T., c. 21, R. 144.

Conversion of securities, application for

144. Notice of every application for the purpose of conversion of any securities shall be served upon such persons if any as the Court or judge directs. [E. 272.] N.W.T., c. 21, R. 145.

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### ORDER XIII.

#### MATTERS ARISING PENDING THE ACTION.

Defence or reply to set-off or counter-claim arisen after action.

145. Any ground of defence which has arisen after action brought but before the defendant has delivered his statement of defence and before the time limited for his doing so has expired may be raised by the defendant in his statement of defence either alone or together with other grounds of defence; and if after a statement of defence has been delivered any ground of defence arises to any set-off or counterclaim alleged therein by the defendant it may be raised by the plaintiff in his reply either alone or together with any other ground of reply. [E. 282.] N.W.T., c. 21, R. 146.

Ground of defence or reply arisen after pleading.

146. Where any ground of defence arises after the defendant has delivered his statement of defence or after the time limited for his doing so has expired the defendant may and where any ground of defence to any set-off or counter-claim arises after reply or after the time limited for delivering a reply has expired the plaintiff may within eight days after such ground of defence has arisen or at any subsequent time by leave of the Court or judge deliver a further defence or further reply as the case may be setting forth the same. [E. 283.] N.W.T., c. 21, R. 147.

Further answer may be served.

Confession of defence.

147. Whenever any defendant in his statement of defence or in any further statement of defence as mentioned in the next preceding rule alleges any ground of defence which

has arisen after the commencement of the action the plaintiff may deliver a confession of such defence and may thereupon unless otherwise ordered by the judge have judgment for his costs up to the time such defence was pleaded. [E. 284.] N.W.T., c. 21, R. 148.

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## ORDER XIV.

### RAISING POINTS OF LAW, ETC.

148. Any party shall be entitled to raise by his pleading any point of law and any point so raised shall be disposed of by the judge who tries the cause at or after the trial provided that by consent of the parties or by order of the judge on the application of either party the same may be set down for hearing and disposed of at any time before the trial. [E. 286.] N.W.T., c. 21, R. 148.

Points of law raised by pleading.  
Disposal of.

149. If in the opinion of the Court or judge the decision of such point of law substantially disposes of the whole action or of any distinct cause of action, ground of defence, set-off, counter-claim or reply therein the Court or judge may thereupon dismiss the action or make such order therein as is just. [E. 287.] N.W.T., c. 21, R. 150.

Judgment where point raised disposes of action, etc.

150. The Court or judge may order any pleading to be struck out on the ground that it discloses no reasonable cause of action or answer and in any such case or in case of the action or defence being shown by the pleadings to be frivolous or vexatious the Court or judge may order the action to be stayed or dismissed or judgment to be entered accordingly as is just. [E. 288.] N.W.T., c. 21, R. 151.

Frivolous or vexatious actions.  
Pleading disclosing no cause of action or answer.

151. No action or proceeding shall be open to objection on the ground that a merely declaratory judgment or order is sought thereby and the Court or judge may make binding declarations of right whether any consequential relief is or could be claimed or not. [E. 289.] N.W.T., c. 21, R. 152.

Declaratory judgments.

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## ORDER XV.

### REPLY OR CLOSE OF PLEADINGS.

152. A plaintiff shall deliver his reply if any within eight days after the defence or the last of the defences have been delivered unless the time shall be extended by the Court or judge. [E. 276.] N.W.T., c. 21, R. 153.

Time for reply.

- Pleading subsequent to reply. 153. No pleading subsequent to reply other than a joinder of issue shall be pleaded without leave of the Court or a judge and then shall be pleaded only upon such terms as the Court or judge thinks fit. [E. 277.] N.W.T., c. 21, R. 154.
- Time for. 154. Subject to the next preceding rule every pleading subsequent to reply shall be delivered within eight days after the delivery of the previous pleading unless the time is extended by the Court or judge. N.W.T., c. 21, R. 155.
- Default in reply or subsequent pleading. 155. If the plaintiff does not deliver a reply or any party does not deliver any subsequent pleading within the period allowed for that purpose the pleadings shall be deemed to be closed at the expiration of that period and all the material statements of fact in the pleading last delivered shall be deemed to have been denied and put in issue. [E. 306.] N.W.T., c. 21, R. 156.
- Effect of. 155. If the plaintiff does not deliver a reply or any party does not deliver any subsequent pleading within the period allowed for that purpose the pleadings shall be deemed to be closed at the expiration of that period and all the material statements of fact in the pleading last delivered shall be deemed to have been denied and put in issue. [E. 306.] N.W.T., c. 21, R. 156.
- Close of pleadings. 156. As soon as any party has joined issue upon the preceding pleading of the opposite party simply without adding any further or other pleading thereto or has made default as mentioned in the next preceding rule the pleadings between such parties shall be deemed to be closed. [E. 280.] N.W.T., c. 21, R. 157.

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## ORDER XVI.

### DEFAULT OF PLEADING.

- Claim for debt. 157. If the plaintiff's claim is only for a debt or liquidated demand and the defendant does not within the time allowed for that purpose deliver a defence the plaintiff may at the expiration of such time enter final judgment for the amount claimed with costs. [E. 295.] N.W.T., c. 21, R. 158.
- Default of one or more defendants. 158. When in any such action as in the next preceding rule mentioned there are several defendants if one of them makes default as mentioned in the next preceding rule the plaintiff may enter final judgment against the defendant so making default and issue execution upon such judgment without prejudice to his right to proceed with his action against the other defendants. [E. 293.] N. W.T., R. 159.
- Claim, detinue and damages. 159. If the plaintiff's claim be for detention of goods and pecuniary damages or either of them and the defendant or all the defendants if more than one make default in delivering a defence within the time allowed for that purpose the judge may on application of the plaintiff assess the value of

the goods and amount of the damages or either of them as the case may be or order that they shall be ascertained in any way he directs and judgment shall be entered thereupon with costs of suit. [E. 297.] N.W.T., c. 21, R. 160.

160. When in any such action as in the next preceding rule mentioned there are several defendants if one or more of them make default as in that rule defined the plaintiff may enter an interlocutory judgment against the defendant or defendants so making default and proceed with his action against the others and in such case the value and amount of damages against the defendant making default shall be assessed at the same time with the trial of the action or issues therein against the other defendants unless the Court or a judge otherwise directs. [E. 298.] N.W.T., c. 21, R. 161.

Default of one or more defendants.

161. If the plaintiff's claim is for a debt or liquidated demand and also for detention of goods and pecuniary damages or pecuniary damages only and any defendant makes default in delivering his defence as aforesaid the plaintiff may enter final judgment for the debt or liquidated demand and also enter interlocutory judgment for the value of the goods and the damages or the damages only as the case may be and proceed as mentioned in the next two preceding rules. [E. 299.] N.W. T., c. 21, R. 162.

Claim liquidated demand and debt and damages.

162. In an action for the recovery of land if the defendant makes default in delivering a defence as aforesaid the plaintiff may enter a judgment that the person whose title is asserted in the writ of summons shall recover possession of the land with his costs. [E. 300.] N.W.T., c. 21, R. 163.

Recovery of land.

163. Where the plaintiff's claim is for mesne profits, arrears of rent or double value in respect of the premises claimed or any part of them or damages for breach of contract or wrong or injury to the premises claimed in an action for the recovery of land if the defendant makes default in delivering a defence as aforesaid or if there is more than one defendant some or one of the defendants makes such default the plaintiff may enter judgment against the defaulting defendant or defendants and proceed as provided for in rules 159 and 160 hereof. [E. 301.] N.W.T., c. 26, R. 164.

Claim for mesne profits, arrears of rent or damages.

164. If the plaintiff's claim is for a debt or liquidated demand, the detention of goods and pecuniary damages or for any such matters or for the recovery of land and the defendant delivers a defence which purports to offer an answer to a part only of the plaintiff's alleged cause of action the plaintiff may by leave of the Court or a judge enter judgment final or interlocutory as the case may be for the part unanswered provided that the unanswered part

Where a defence is delivered to part of claim only.

consists of a separate cause of action or is severable from the rest as in the case of part of a debt or liquidated demand; provided also that where there is a counterclaim execution on any judgment as above mentioned in respect to the plaintiff's claim shall not be issued without leave of the Court or a judge. [E. 302.] N.W.T., c. 21, R. 165.

Other actions,  
defendant  
in default.

165. In all other actions than those in the preceding rules of this Order mentioned if the defendant makes default in delivering a defence the opposite party may apply to the Court or a judge for such judgment if any as upon the pleadings he appears to be entitled to; and the Court or judge may order judgment to be entered accordingly or make such other order as is necessary to do complete justice between the parties. [E. 304.] N.W.T., c. 21, R. 166.

Where more  
than one  
defendant.

166. Where in any such action as mentioned in the next preceding rule there are several defendants then if one of such defendants makes such default as aforesaid the plaintiff may either (if the cause of action is severable) set down the action at once on motion for judgment against the defendant so making default or may set it down against him at the time when it is entered for trial or set down on motion for judgment against the other defendants. [E. 305.] N.W.T., c. 21, R. 167

Default by  
parties other  
than plaintiff  
or defendant.

167. In any case in which issues arise in an action other than between plaintiff and defendant if any party to any such issue makes default in delivering any pleading the opposite party may apply to the Court or a judge for such judgment if any as upon the pleadings he appears to be entitled to and the Court or judge may order judgment to be entered accordingly or may make such other order as is necessary to do complete justice between the parties. [E. 307.] N.W.T., c. 21, R. 168.

## ORDER XVII.

### SETTING DOWN FOR TRIAL.

Application  
to set down.

168. After the close of the pleadings the plaintiff may at any time on notice to the defendant apply to the judge for and obtain an order setting down the cause for trial at such time and place as the judge directs; but if such application is not made within three months after the close of the pleadings the defendant on notice may apply for and obtain an order to the like effect or that the plaintiff's action be dismissed out of Court with costs to the defendant; but the judge may instead of dismissing the action at once

order such dismissal to take effect from a future date unless the plaintiff meanwhile proceeds with his action ;

(2) If the plaintiff having obtained an order setting the cause down for trial neglects to set the cause down and proceed to trial in pursuance thereof the defendant may apply to the judge for an order dismissing the action and the judge may thereupon make such order as he deems proper. N.W.T., c.21, R. 169.

Dismissal for want of prosecution.  
Plaintiff neglecting to set down after order made.

169. On the application to set a cause down for trial if the action is for slander, libel, false imprisonment, malicious prosecution, seduction, breach of promise of marriage or if the action arises out of a tort, wrong or grievance in which the damages claimed exceed \$500 or if the action is for debt or founded on contract wherein the amount claimed or the damages sought to be recovered exceed \$1000 or if the action is for recovery of real property and either signify his desire to have the issues of fact therein tried by a judge with a jury or the judge so directs the same shall be tried by a jury. N.W.T., c. 21, R. 170.

Jury in certain cases.

170 The order for setting down a cause for trial by jury shall state by whom the necessary fees to be paid out shall be furnished and the party so named shall deposit with the clerk such sum as said clerk considers sufficient for the payment of jury fees and the expenses of summoning a sufficient number of persons to form the jury and the clerk shall after the trial pay the said jury and summoning fees and if any balance of the money so deposited with him remains unused after paying such fees return such balance to the party who deposited the same. N.W.T., c. 21, R. 171.

Order for trial by jury.

Costs of jury.

171. The jury for the trial of issues of fact in civil causes shall consist of six persons whose verdict shall be unanimous. N.W.T., c. 21, R. 172.

Jury.

172. When a cause has been set down for trial such notice shall be given as the order setting down directs. N.W.T., c. 21, R. 173.

Notice of trial.

## ORDER XVIII.

### DISCONTINUANCE.

173. The plaintiff may at any time before receipt of the defendant's defence or after the receipt thereof before taking any other proceeding in the action, (save any interlocutory application) by notice in writing wholly discontinue his action against all or any of the defendants or withdraw any part or parts of his alleged cause of complaint and there-

Discontinuance or withdrawal of part of claim after defence.

- Costs. upon he shall pay such defendant's costs of the action or if the action is not wholly discontinued the costs occasioned by the matter so withdrawn. Such costs shall be taxed and such discontinuance or withdrawal as the case may be shall not be a defence to any subsequent action. Save as herein otherwise provided it shall not be competent for the plaintiff to withdraw the record or discontinue the action without leave of the Court or judge but the Court or judge may before or at or after the hearing or trial upon such terms as to costs and as to any other action and otherwise as are just order the action to be discontinued or any part of the alleged cause or complaint to be struck out. The Court or judge may in like manner and with the like discretion as to terms upon the application of a defendant order the whole or any part of his alleged grounds of defence or counterclaim to be withdrawn or struck out but it shall not be competent to a defendant to withdraw his defence or any part thereof without such leave. [E. 290.] N.W.T. c. 21, R. 174.
- Subsequent action.
- Discontinuance at other stages.
- Withdrawal of defence or counterclaim.
- Withdrawal after entry for trial. 174. When a cause has been entered for trial it may be withdrawn by either plaintiff or defendant upon producing to the clerk of the court a consent in writing signed by the parties, [E. 291.] N.W.T., c. 21, R. 175.
- Judgment for costs. 175. Any defendant may have judgment for the costs of the action if it is wholly discontinued against him or for the costs occasioned by the matter withdrawn, if the action is not wholly discontinued, in case such respective costs are not paid within two days after taxation. [E. 292.] N.W.T., c. 21, R. 176.
- Stay of subsequent action pending payment. 176. If any subsequent action is brought before payment of the costs of a discontinued action for the same or substantially the same cause of action the Court or judge may if they or he deems proper order a stay of such subsequent action until such costs have been paid. [E. 293.] N.W.T., c. 21, R. 177.

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## ORDER XIX.

### AMENDMENT.

- Amendment of pleadings. 177. The Court or a judge may at any stage of the proceedings allow either party to alter or amend his statement of claim or pleadings in such manner and upon such terms as are just and all such amendments shall be made as are necessary for the purpose of determining the real questions in controversy between the parties. [E. 309.] N.W.T., c. 21, R. 178.



178. The plaintiff may without any leave amend his statement of claim once at any time before the expiration of the time limited for reply and before replying. [E. 310.] N.W.T., c. 21, R. 179. Amendment of claim without leave.

179. A defendant who has set up any counterclaim may without any leave amend such counterclaim at any time before the expiration of the time allowed him for answering the reply. [E. 311.] N.W.T., c. 21, R. 180. Amendment of counterclaim without leave.

180. Where any party has amended his pleading under either of the next two preceding rules the opposite party may within eight days after the delivery to him of the amended pleading apply to the Court or a judge to disallow the amendment or any part thereof and the Court or judge may if satisfied that the justice of the case demands it disallow the same or allow it subject to such terms as to costs or otherwise as are just. [E. 312.] N.W.T., c. 21, R. 181. Disallowance of improper amendment.

181. Where a party has amended his pleadings (unless otherwise ordered) the opposite party shall plead to the amended pleading or amend his pleading within the time he then has to plead or within eight days from the delivery of the amendment whichever shall last expire; and in case the opposite party has pleaded before the delivery of the amendment and does not plead again or amend within the time above mentioned he shall be deemed to rely on his original pleading in answer to such amendment. [E. 313.] N.W.T., c. 21, R. 182. Pleading to amendments.  
Default of.

182. In all cases not provided for by the preceding rules of this Order application for leave to amend may be made by either party to the Court or a judge or to the judge at the trial of the action and such amendment may be allowed upon such terms as to costs or otherwise as are just. [E. 314.] N.W.T., c. 21, R. 183. Leave to amend application.  
Terms.

183. If a party who has obtained an order for leave to amend does not amend accordingly within the time limited for that purpose by the order or if no time is thereby limited then within fourteen days from the date of the order such order to amend shall on the expiration of such limited time as aforesaid or of such fourteen days as the case may become *ipso facto* void unless the time is extended by the Court or a judge. [E. 315.] N.W.T., c. 21, R. 184. Failure to amend after order.

184. Any statement or pleading may be amended by written alterations in the copy which has been delivered and by additions on paper to be interleaved therewith if necessary unless the amendments require the insertion of Manner of amending.

more than 144 words in any one place or are so numerous or of such a nature that the making them in writing would render the document difficult or inconvenient to read in either of which cases the amendment shall be made by delivering a printed or written copy of the document as amended. [E. 316.] N.W.T., c. 21, R. 185.

Marking amended pleading.

185. Whenever any statement or pleading is amended the same when amended shall be marked with the date of the order if any under which the same is so amended and of the day on which such amendment is made in manner following, viz: "Amended \_\_\_\_\_ day of \_\_\_\_\_ pursuant to order of \_\_\_\_\_, dated the \_\_\_\_\_ day of \_\_\_\_\_."  
[E. 317.] N.W.T., c. 21, R. 186.

Delivery of amended pleading.

186. Whenever any statement or pleading is amended such amended document shall be delivered to the opposite party within the time allowed for amending the same. [E. 318.] N.W.T., c. 21, R. 187.

Mistakes in judgments or orders.

187. Clerical mistakes in judgments or orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Court or judge on motion or summons without an appeal. [E. 319.] N.W.T., c. 21, R. 188.

General power to amend.

188. The Court or a judge may at any time and on such terms as to costs or otherwise as the Court or judge thinks just amend any defect or error in any proceedings and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on the proceedings. [E. 320.] N.W.T., c. 21, R. 189.

Costs of amendment.

189. The cost of and occasioned by any amendment shall be borne by the party making the same unless the Court or judge otherwise orders. [E. 321.] N.W.T., c. 21, R. 190.

## ORDER XX.

### DISCOVERY OF DOCUMENTS, ETC.

*Ex parte* order for discovery.

190. The plaintiff shall at the expiration of the time for delivery of defence and the defendant shall after delivery of defence be entitled on application to the judge *ex parte* to an order directing any other party to any cause or matter to make discovery by affidavit of the documents which are or have been in his possession or power relating to any matter in question therein. N.W.T., c. 21, R. 191.

Affidavit of discovery.

191. The affidavit to be made by a party against whom such order as is mentioned in the next preceding rule has

been made shall specify which if any of the documents therein mentioned he objects to produce. [E 355.] N.W.T., c. 21, R. 192. Objections to production.

192. It shall be lawful for the Court or judge at any time during the pendency of any cause or matter to order the production by any party thereto upon oath of such of the documents in his possession or power relating to any matter in question in such cause or matter as the Court or judge thinks right; and the Court may deal with such documents when produced in such manner as appears just. [E. 356.] N.W.T., c. 21, R. 193. Production of documents.

193. Every party to a cause or matter shall be entitled at any time by notice in writing to give notice to any other party in whose pleadings or affidavits reference is made to any document to produce such document for the inspection of the party giving such notice or of his solicitor and to permit him or them to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence in his behalf in such cause or matter unless he satisfies the Court or judge that such document relates only to his own title he being defendant to the cause or matter or that he had some other cause or excuse which the Court or judge deems sufficient for not complying with such notice; in which case the Court or judge may allow the same to be put in evidence on such terms as to costs and otherwise as the Court or judge thinks fit. [E. 357.] N.W.T., c. 21, R. 194. Inspection of documents referred to in pleadings or affidavits.

194. The party to whom such notice is given shall within two days from the receipt of such notice if all the documents therein referred to have been set forth by him in such affidavit as is mentioned in rule 191 hereof or if any of the documents referred to in such notice have not been set forth by him in any such affidavit then within four days from the receipt of such notice deliver to the party giving the same a notice stating a time within three days from the delivery thereof at which the documents or such of them as he does not object to produce may be inspected at the office of his solicitor or in case of banker's books or other books of account or books in constant use for the purpose of any trade or business at their usual place of custody and stating which if any of the documents he objects to produce and on what ground. [E. 359.] N.W.T., c. 21, R. 195. Notice of time and place of inspection.

195. If the party served with notice under the next preceding rule omits to give such notice of a time for inspection or objects to give inspection or offers inspection elsewhere than at the office of his solicitor the judge may on Objections to production.

195. If the party served with notice under the next preceding rule omits to give such notice of a time for inspection or objects to give inspection or offers inspection elsewhere than at the office of his solicitor the judge may on Order for inspection.

application of the party desiring it make an order for inspection at such place and in such manner as he thinks fit; and except in the case of documents referred to in the pleadings or affidavits of the party against whom the application is made or disclosed in his affidavits of documents, such application shall be founded upon an affidavit showing of what documents inspection is sought, that the party applying is entitled to inspect them and that they are in the possession or power of the other party. [E. 360.] N.W.T., c. 21, R. 196.

Discovery or inspection may be reserved.

196. If the party from whom discovery of any kind or inspection is sought objects to the same or any part thereof the judge may if satisfied that the right to the discovery or inspection sought depends on the determination of any issue or question in dispute in the cause or matter or that for any other reason it is desirable that any issue or question in dispute in the cause or matter should be determined before deciding upon the right to the discovery or inspection, order that such issue or question be determined first and reserve the question as to the discovery or inspection. [E. 362.] N.W.T., c. 21, R. 197.

Noncompliance with order for discovery or inspection.

Penalty.

197. If any person fails to comply with any order for discovery or inspection of documents he shall be liable to attachment for contempt of court. He shall also if a plaintiff be liable to have his action dismissed for want of prosecution and if a defendant to have his defence if any struck out and to be placed in the same position as if he had not defended and the party interrogating may apply to that effect and an order may be made accordingly. [E. 363.] N.W.T., c. 21, R. 198.

Service of order.

198. Service of an order for discovery or inspection made against any party on his solicitor shall be sufficient service to found an application for an attachment for disobedience to the order; but the party against whom the application for an attachment is made may show in answer to the application that he has had no notice or knowledge of the order. [E. 364.] N.W.T., c.21, R. 199.

Solicitor neglecting to inform client of order.

199. A solicitor upon whom an order against any party for discovery or inspection is served under the next preceding rule who neglects without reasonable excuse to give notice thereof to his client shall be liable to attachment. [E. 365.] N.W.T., c. 21, R. 200.

## ORDER XXI.

## EXAMINATION FOR DISCOVERY.

200. Any party to an action whether plaintiff or defendant or in the case of a body corporate any one who is or has been one of the officers of such body corporate may without any special order for the purpose be orally examined before the trial touching the matters in question in any action by any party adverse in point of interest and may be compelled to attend and testify in the same manner upon the same terms and subject to the same rules of examination as any witness except as hereinafter provided. N.W.T., c. 21, R. 201.

Examination of parties before trial.

201. A person for whose immediate benefit an action is prosecuted or defended is to be regarded as a party for the purpose of examination. N.W.T., c. 21, R. 202.

Person beneficially interested.

202. The examination on the part of a plaintiff may take place at any time after the statement of defence of the party to be examined has been delivered or after the time for delivering the same has expired; and the examination on the part of a defendant may take place at any time after such defendant has delivered his statement of defence, and the examination of a party to an issue at any time after the issue has been filed. N.W.T., c. 21, R. 203.

When examination may take place.

203. Whenever a party is entitled to examine another party he may procure an appointment therefor from the clerk for the examination as hereafter provided of such party before such clerk, deputy clerk or process issuer at whose office such examination is to be held; and the party to be examined (upon being served with a copy of the appointment and a subpoena and upon payment of the proper fees) shall attend thereon and submit to examination.

Examining officer.

(2.) Such examination shall be held at the office of the clerk, nearest to the place where the party to be examined resides. N.W.T., c. 21, R. 204.

Place of examination. Appointment and subpoena. Conduct money.

204. The party examining shall serve a copy of the appointment upon the solicitor of the party to be examined if he has a solicitor in the cause at least forty-eight hours before the examination. N.W.T., c. 21, R. 205.

Appointment to be served on solicitor.

205. Upon application to the Court or a judge an order may be made for the examination of any party liable to be examined as aforesaid before any other person or in any other place whether within or without the jurisdiction of the Court than those before mentioned and upon service of a copy of the appointment of a person before whom the

Examination before other person or without jurisdiction.

examination is to take place and a copy of the order upon the party to be examined and upon payment of the proper fees he shall attend and submit to examination. A copy of the appointment shall be served upon the solicitor of the party or his agent at least forty-eight hours before the examination. N.W.T., c. 21, R. 206.

Notice to produce books and papers.

206. The party or person to be examined shall if so required by notice produce on the examination all books, papers and documents which he would be bound to produce at the trial under a subpoena *duces tecum*. N.W.T., c. 21, R. 207.

Certified copies of documents.

207. In the event of any witness on his examination, cross-examination or re-examination producing any book, document, letter, paper or writing and refusing for good cause to be stated in his deposition to part with the original thereof then a copy thereof or extract therefrom certified by the examiner to be a true and correct copy or extract shall be attached to the depositions and form part thereof. N.W.T., c. 21, R. 208.

Further examination on party's own behalf, etc.

208. Any party or officer so examined may be further examined on his own behalf or on behalf of the body corporate of which he is or has been an officer in relation to any matter respecting which he has been examined in chief; and when one of several plaintiffs or defendants has been examined any other plaintiff or defendant united in interest may be examined on his own behalf or on behalf of those united with him in interest to the same extent as the party examined. N.W.T., c. 21, R. 209.

Explanatory examination.

209. Such explanatory examination shall be proceeded with immediately after the examination in chief and not at any future period except by leave of the Court or a judge and for the purposes of this and the next preceding rule when the officer of a body corporate has been so examined as aforesaid on behalf of the body corporate the body corporate shall be deemed to be fully represented by such officer. N.W.T., c. 21, R. 210.

Time for.

Conduct of examination, etc.

210. Any party or person examined orally under the preceding rules of this order shall be subject to cross-examination and re-examination; and such examination, cross-examination and re-examination shall be conducted as nearly as may be in the mode in use on a trial. N.W.T., c. 21, R. 211.

Production of documents for inspection of examiner.

211. A party to the action who admits upon his examination that he has in his custody or power any deed, paper, writing or document relating to the matters in question in the cause upon the order of the person before whom he is examined shall produce the same for his inspection and for

that purpose a reasonable time shall be allowed ; but no party shall be obliged to produce any deed, paper, writing or document which is privileged or protected from production. N.W.T., c. 21, R. 212.

212. Either party may appeal from the order of the examiner and thereupon the examiner shall certify under his hand the question raised and the order made thereon. N.W.T., c. 21, R. 213.

Appeal from examiner's order.

213. Any party or person refusing or neglecting to attend at the time and place appointed for his examination or refusing to be sworn or to answer any lawful question put to him by the examiner or by any party entitled so to do or his counsel, solicitor or agent shall be deemed guilty of a contempt of court and proceedings may be forthwith had by attachment. If a defendant he shall be liable to have his defence if any struck out and be placed in the same position as if he had not defended ; and the party examining may apply to the Court or a judge to that effect and an order may be made accordingly. N.W.T., c. 21, R. 214.

Refusal to attend or answer, etc.

Penalty.

214. If the party or person under examination demurs or objects to any question or questions put to him the question or questions so put and the objection of the witness thereto shall be taken down by the examiner and transmitted by him to the office of the court where the pleadings are filed to be there filed ; and the validity of such objection shall be decided by the Court or a judge ; and the costs of and occasioned by such objection shall be in the discretion of the Court or a judge. N.W.T., c. 21, R. 215.

Objections by witness.

Decision as to validity.

215. Subject to rules 217, 218 and 219 hereof the depositions taken upon any such oral examination as aforesaid shall be taken down in writing by the examiner not ordinarily by question and answer but in the form of a narrative expressed in the first person ; and when completed shall be read over to the party examined and shall be signed by him in the presence of the parties or of such of them as think fit to attend. N.W.T., c. 21, R. 216.

Form and completion of deposition.

216. If the party or person examined refuses or is unable to sign the depositions then the examiner shall sign the same ; and the examiner may upon every examination state any special matter to the Court if he thinks fit. N.W.T., c. 21, R. 217.

Witness not signing deposition.

Report of special matter.

217. It shall be in the discretion of the examiner to put down any particular question or answer if there appears to be any special reason for so doing and any question or questions objected to shall at the request of either party be noticed or referred to by the examiner in or upon the deposi-

Question and answer, objections, etc.

Recording in deposition.

tions ; and he shall state his opinion thereon to the counsel, solicitors, agents or parties and if requested by either party he shall on the face of the depositions refer to such statement. N.W.T., c. 21, R. 218.

Deposition taken in shorthand.

218. In case of an examination before the trial or otherwise than at the trial of an action if the examining party desires to have such examination taken in shorthand he shall be entitled to have it so taken at the place of examination except where the Court or a judge sees fit to order otherwise. N.W.T., c. 21, R. 219.

Form and completion of shorthand report.

219. Where an examination in a cause or proceeding is taken by the examiner or any other authorized person in shorthand the examination may be taken down by question and answer ; and in such cases it shall not be necessary for the depositions to be read over to or be signed by the person examined unless the judge so directs where the examination is taken before a judge or in other cases unless any of the parties so desires. N.W.T., c. 21, R. 220.

Certified copy of depositions.

220. A copy of the deposition so taken certified by the person taking the same as correct shall for all purposes have the same effect as the original depositions in ordinary cases. N.W.T., c. 21, R. 221

Filing depositions.

221. Wherever any such examination of any party or witness has been taken before a clerk of the Territorial Court or before any officer or other person authorized or appointed to take the same the depositions taken down by the examiner shall at the request of any party interested and on payment of his fees be returned to and kept in the office of the clerk of the court in which the proceedings are being carried on ; and office copies of such depositions may be given out and the examinations and depositions certified under the hand of the examiner taking the same or a copy thereof certified under the hand of the clerk of the court shall without proof of the signature be received and read in evidence saving all just exceptions. N.W.T. c. 21, R. 222.

Certified copies evidence.

Special report of examiner.

222. Every person taking examinations may and if need be shall make a special report to the Court in which such proceedings are pending touching such examinations and the conduct or absence of any witness or other person thereon or relating thereto ; and the Court shall institute such proceedings and make such order upon such report as justice requires and as may be instituted and made in any case of contempt of court. N.W.T. c. 21, R. 223.

Use of examination at trial.

223. Any party may at the trial of an action or issue or upon any application or motion use in evidence any part of the examination of the opposite parties :



Provided always that in such case the judge may look at the whole of the examination and if he is of opinion that any other part is so connected with the part to be so used that the last mentioned part ought not to be used without such other part he may direct such other part to be put in evidence. N.W.T. c. 21, R. 224.

224. The cost of every examination of parties or of officers of corporations before the trial or otherwise than at the trial of an action shall be costs in the cause but the Court or judge in adjusting the costs of the action shall at the instance of any party inquire or cause inquiry to be made into the propriety of having made any such examination; and if it is the opinion of the Court or judge or the clerk as the case may be that such examination has been had unreasonably, vexatiously or at unnecessary length the costs occasioned by the examination shall be borne in whole or in part by the party in default. The clerk may make such inquiry without any direction. N.W.T. c. 21, R. 225.

Cost of examinations.

## ORDER XXII.

### ADMISSIONS.

225. Any party to a cause or matter may give notice by his pleading or otherwise in writing that he admits the truth of the whole or any part of the case of any other party. [E. 371.] N.W.T. c. 21, R. 226.

Notice of admission of facts.

226. Either party may call upon the other party to admit any document saving all just exceptions; and in case of refusal or neglect to admit after such notice the costs of proving any such document shall be paid by the party so neglecting or refusing whatever the result of the cause or the matter may be unless at the trial or hearing the judge is satisfied that the refusal to admit was reasonable; and no costs of proving any document shall be allowed unless such notice is given except where the omission to give the notice is in the opinion of the judge a saving of expense. [E. 372.] N.W.T. c. 21, R. 227.

Notice to admit documents.

Costs:  
(1) admissions refused  
(2) notice not given.

227. Any party may by notice in writing at any time not later than twelve days before the day fixed for trial call on any other party to admit for the purposes of the cause, matter or issue only any specific fact or facts mentioned in such notice; and in case of refusal or neglect to admit the same within six days after service of such notice or within such further time as may be allowed by a judge the cost of proving such fact or facts shall be paid by the party so neglecting or refusing whatever the result of the cause,

Notice to admit facts.

Costs where admission refused.

matter or issue may be unless at the trial or hearing the judge is satisfied that the refusal to admit was reasonable:

Effect of admission.

Provided that any admission made in pursuance of such notice is to be deemed to be made only for the purposes of the particular cause, matter or issue and not as an admission to be used against the party on any other occasion or in favour of any person other than the party giving the notice:

Admissions. Amendment or withdrawal

Provided also that the judge may at any time allow any party to amend or withdraw any admission so made on such terms as are just. [E. 374.] N.W.T. c. 21, R. 228.

Judgment on admissions.

228. Any party may at any stage of a cause or matter where admissions of fact have been made either on the pleadings or otherwise apply to a judge for such judgment or order as upon such admissions he may be entitled to without waiting for the determination of any other question between the parties and the judge may upon such application make such order or give such judgment as the judge thinks just. [E. 376.] N.W.T. c. 21, R. 229.

Evidence of admissions.

229. An affidavit of the solicitor or his clerk of the due signature of any admissions made in pursuance of any notice to admit documents or facts shall be sufficient evidence of such admissions if evidence thereof is required. [E. 377.] N.W.T. c. 21, R. 230.

Notice to admit or produce.

230. If a notice to admit or produce comprises documents which are not necessary the costs occasioned thereby shall be borne by the party giving such notice. [E. 379.] N.W.T. c. 21, R. 231.

Costs.

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## ORDER XXIII.

### ISSUES, INQUIRIES AND ACCOUNTS.

Issues of fact, preparing and settling.

231. Where in any cause or matter it appears to the Court or judge that the issues of fact in dispute are not sufficiently defined the parties may be directed to prepare issues and such issues shall if the parties differ be settled by the Court or judge. [E. 380.] N.W.T. c. 21, R. 232.

Inquiries and accounts, when and how taken.

232. The Court or a judge may at any stage of the proceedings in a cause or matter direct any necessary inquiries or accounts to be made or taken and may direct the same to be taken by the clerk or other competent person notwithstanding that it appears that there is some special or further relief sought for or some special issue to be tried as to which it may be proper that the cause or matter should proceed in the ordinary manner. [E. 381.] N.W.T., c. 21, R. 233.

233. In cases where the statement of claim is for an account or involves the taking of an account if the defendant either fails to appear or does not after appearance satisfy the judge that there is some preliminary question to be tried the plaintiff may obtain an order directing the taking of proper accounts; and in cases in which the plaintiff in the first instance desired to have an account taken the statement of claim shall request the same. [E. 121.] N.W.T., c. 21, R. 234.

Actions for account.

234. The judge may either by the judgment or order directing an account to be taken or by any subsequent order give special direction with regard to the mode in which the account is to be taken or vouched and in particular may direct that in taking the account the books of account in which the accounts in question have been kept shall be taken as *prima facie* evidence of the truth of the matters therein contained with liberty to the parties interested to take such objections thereto as they are advised. [E. 382.] N.W.T., c. 21, R. 235.

Special directions as to mode of taking account.

235. Where any account is directed to be taken the accounting party unless the judge otherwise directs shall make out his account and verify the same by affidavit. The items on each side shall be numbered consecutively and the account shall be referred to by the affidavit as an exhibit and be filed in Court [E. 383.] N.W.T., c. 21, R. 236.

Account.

Verification.

236. Upon taking of any account the Court or judge may direct that the vouchers shall be produced at the office of the solicitor of the accounting party or at any other convenient place and that only such items as may be contested or surcharged shall be brought before the judge in chambers. N.W.T., c. 21, R. 237.

Production of vouchers.

Contested items.

237. Any party seeking to charge any accounting party beyond what he has by his account admitted to have received shall give notice thereof to the accounting party stating so far as he is able the amount sought to be charged and the particulars thereof in a short and succinct manner. [E. 384.] N.W.T., c. 21, R. 238.

Surcharge.

238. Every judgment or order for a general account of the personal estate of a testator or intestate shall contain a direction for an inquiry as to what parts if any of such personal estate are outstanding or undisposed of unless the Court or judge otherwise directs. [E. 385.] N.W.T., c. 21, R. 239.

Inquiry as to outstanding estate.

239. Where by any judgment or order whether made in Court or by the judge any accounts are directed to be taken

Numbering directions for

account or inquiry.

or inquiries to be made each such direction shall be numbered so that as far as may be each distinct account and inquiry may be designated by a number with such variations as the circumstances of the case requires. [E. 386.] N.W.T., s. 21, R. 240.

Just allowances.

240. In taking any account directed by any judgment or order all just allowances shall be made without any direction for that purpose. N.W.T., c. 21, R. 241.

Expediting proceedings in case of undue delay.

241. If it appears to the judge that there is any undue delay in the prosecution of any accounts or inquiries or in any other proceedings under any judgment or order the judge may require the party having the conduct of the proceedings under any judgment or order or any other party to explain the delay and may thereupon make such order with regard to expediting the proceedings or the conduct thereof or the stay thereof and as to the costs of the proceedings as the circumstances of the case requires; and for the purposes aforesaid any party may be directed to summon the persons whose attendance is required and to conduct any proceedings and carry out any directions which may be given; and any costs of such party so directed shall be paid by such parties or out of such funds as the judge directs. [E. 388.] N.W.T., c. 21, R. 242.

#### *Inquiry and Reference as to Damages.*

Ascertainment of damages.

242. In every action or proceeding in which it appears to the Court or judge that the amount of damages sought to be recovered is substantially a matter of calculation the Court or judge may either fix the amount or direct that the amount for which final judgment is to be entered shall be ascertained by an officer of the Court or other person; and the attendance of witnesses and the production of documents before such officer or other person may be compelled by subpoena; and such officer or other person may adjourn the inquiry from time to time and shall indorse upon the order for referring the amount of damages to him, the amount found by him and shall deliver the order with such indorsement to the clerk of the court and such and the like proceedings may thereupon be had as to taxation of costs, entering judgment and otherwise as in ordinary cases. [E. 481.] N.W.T., c. 21, R. 243.

Where continuing cause of action.

243. Where damages are to be assessed in respect of any continuing cause of action they shall be assessed down to the time of assessment. [E. 482.] N.W.T., c. 21, R. 244.

#### SUMMARY INQUIRIES INTO FRAUDULENT TRANSFERS.

Originating summons.

244. Where a judgment creditor or a person entitled to money under a judgment or order alleges that the debtor or person who is to pay has made a conveyance of his pro-

perty whether real or personal which is void as being made to delay, hinder or defraud creditors or a creditor an originating summons may be issued by the judgment creditor calling upon the judgment debtor or person who is to pay or who has acquired any interest thereunder to show cause why the property embraced in such conveyance or a competent part thereof should not be sold to realise the amount to be levied under the execution. [R.S.O., 1877, c. 49, s. 10.] N.W.T., c. 21, R. 245.

Inquiry into alleged fraudulent conveyances.

245. Where any judgment creditor in an action or a person entitled under a judgment or order as aforesaid alleges that the debtor or person who is to pay is entitled to or has an interest in any property which under the former practice could not be sold under legal process but could be rendered available in an action for equitable execution by sale for satisfaction of the debt, an originating summons may be issued by the creditor calling upon the debtor or person who is to pay and the trustee or other person having the legal estate in the property or the interest therein of the debtor or the person who is to pay to show cause why the property or a competent part of the said property should not be sold to realise the amount to be levied under the execution. [R.S.O., 1877, c. 49, s. 11.] N.W.T., c. 21, R. 246.

For equitable execution.

246. Upon any application under either of the next two preceding rules such proceeding shall be had either in a summary way or by the trial of an issue or by inquiry before an officer of the court or otherwise as the Court or judge deems necessary or convenient for the purpose of ascertaining the truth of the matters in question and whether the property or the debtor's or other person's interest therein is liable for the satisfaction of the execution. [R.S.O. 1877, c. 49, s. 12.] N.W.T., c. 21, R. 247.

Issue or inquiry.

247. Where in a summary way or upon the trial of an issue or as the result of any inquiries under the next three preceding rules any property or the interest of any debtor or other person therein is found liable to be sold an order shall be made by the Court or judge declaring what property or what interest therein is liable to be sold and directing the sale thereof according to the usual practice. [R.S.O., 1877, c. 49, s. 14.] N.W.T., c. 21, R. 248.

Order for sale.

248. Pending any such issue or inquiry an interim injunction order may be issued or a receiver appointed to prevent the transfer or other disposition of the property. N.W.T., c. 21, R. 249.

Interim injunction or receiver.

## ORDER XXIV.

## SPECIAL CASE.

Special case  
by consent.

249. The parties to any cause or matter at any stage of the cause or matter or without any previous proceedings having been instituted may concur in stating the questions of law arising therein in the form of a special case for the opinion of the Court. Every such special case shall be divided into paragraphs numbered consecutively and shall concisely state such facts and documents as may be necessary to enable the Court to decide the questions raised thereby. Upon the argument of such case the Court and the parties shall be at liberty to refer to the whole contents of such documents and the Court shall be at liberty to draw from the facts and documents stated in any special case any inference whether of fact or law which might have been drawn therefrom if proved at a trial. [E. 389.] N.W.T., c. 21, R. 250.

Special case  
or question of  
law raised by  
order before  
trial.

250. If it appears to the Court or judge that there is in any cause or matter a question of law which it would be convenient to have decided before any evidence is given or any question or issue of fact is tried or before any reference is made to a referee the Court or judge may make an order accordingly and may direct such question of law to be raised for the opinion of the Court either by special case or in any such other manner as the Court or judge deems expedient and all such further proceedings as the decision of such question of law may render unnecessary may thereupon be stayed. [E. 390.] N.W.T., c. 21, R. 251.

Special case  
where person  
under  
disability  
is party.

251. No special case in any cause or matter to which a married woman (not being a party thereto in respect of her separate property or of any separate right of action by or against her), infant or person of unsound mind not so found by judicial decision is a party shall be set down for argument without leave of the Court or judge, the application for which must be supported by sufficient evidence that the statements contained in such special case so far as the same affect the interest of such married woman, infant or person of unsound mind are true. [E. 392.] N.W.T., c. 21, R. 252.

Agreement  
for payment  
of money  
according to  
result of  
special case.

252. The parties to a special case may if they think fit enter into an agreement in writing that on the judgment of the Court being given in the affirmative or negative of the questions of law raised by the special case a sum of money fixed by the parties or to be ascertained by the Court or in such manner as the Court directs shall be paid by one of the parties to the other of them either with or without costs of the cause or matter; and the judgment of the

Court may be entered for the sum so agreed or ascertained with or without costs as the case may be and execution may issue upon such judgment in the ordinary way unless otherwise agreed or unless stayed on appeal. [E. 394.] N.W.T., c. 21, R. 253.

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ORDER XXV.

TRIAL.

253. If when a trial is called on the plaintiff appears and the defendant does not appear the plaintiff may prove his claim so far as the burden of proof lies upon him. [E. 455.] N.W.T., c. 21, R. 254. Defendant not appearing.

254. If when a trial is called on, the defendant appears and the plaintiff does not appear the defendant if he has no counterclaim shall be entitled to judgment dismissing the action but if he has a counterclaim then he may prove such counterclaim so far as the burden of proof lies upon him. [E. 456.] N.W.T., c. 21, R. 255. Plaintiff not appearing.

255. Any verdict or judgment obtained where one party does not appear at the trial may be set aside by the Court or judge upon such terms as seem fit upon an application within fifteen days after the trial. [E. 457.] N.W.T., c. 21, R. 256. Judgment by default.  
Setting aside.

256. The judge may if he thinks it expedient for the interests of justice postpone or adjourn a trial for such time and to such place and upon such terms if any as he thinks fit; but no trial shall be postponed upon the ground of the absence of a material witness unless the affidavit upon which the application is made distinctly states that the deponent believes and is advised that the party on whose behalf the application is made has a just cause of action or defence upon the merits and that the application is not made solely for delay. [E. 458.] N.W.T., c. 21, R. 257. Postponement  
or  
adjournment  
of trial.

257. Where through accident or mistake or other cause any party omits or fails to prove some fact material to his case the judge may proceed with the trial subject to such fact being afterwards proved at such time and subject to such terms and conditions as to costs and otherwise as the judge directs and if the case is being tried by a jury the judge may direct the jury to find a verdict as if such fact had been proved and the verdict shall take effect on such fact being afterwards proved as directed; and if not so proved judgment shall be entered for the opposite party Accidental  
omission to  
prove material  
fact.

unless the Court or judge otherwise directs. This rule shall not apply to actions for libel or slander. N.W.T., c. 21, R. 258.

Speeches to jury.

258. Upon a trial with a jury the addresses to the jury shall be regulated as follows: the party who begins or his counsel shall be allowed at the close of his case if his opponent does not announce any intention to adduce evidence to address the jury a second time for the purpose of summing up the evidence and the opposite party or his counsel shall be allowed to open his case and also to sum up the evidence if any and the right to reply shall be the same as in England. [E. 460.] N.W.T., c. 21, R. 259.

Cross examination.

Vexatious or irrelevant questions.

259. The judge may in all cases disallow any questions put in cross-examination of any party or other witness which may appear to him to be vexatious and not relevant to any matter proper to be inquired into in the cause or matter. [E. 462.] N.W.T., c. 21, R. 260.

Delivery of judgment.

260. The judge shall at or after trial direct judgment to be entered as he thinks right and no motion for judgment shall be necessary in order to obtain such judgment. [E. 463.] N.W.T., c. 21, R. 261.

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## ORDER XXVI.

### EVIDENCE, ETC.

#### I.—*Evidence Generally.*

Evidence may be taken by examiner.

Judgment thereon or new trial.

261. In any action the judge may direct the evidence either wholly or in part to be taken by any clerk of the court or by any other competent person; which clerk or other person shall be sworn to take the same truly and to reduce it to writing and on the return of the evidence the judge may give judgment upon the evidence taken by the clerk or other person as aforesaid or may order a new trial as justice requires. N.W.T., c. 21, R. 262.

Witnesses to be examined *viva voce* unless otherwise agreed or ordered.

262. In the absence of any agreement in writing between the parties or their solicitors and subject to the provisions of this Ordinance the witnesses at the trial of any action or at any assessment of damages shall be examined *viva voce* and in open court but the Court or judge may at any time for sufficient reason order that any particular fact or facts may be proved by affidavits or that the affidavit of any witness may be read at the hearing or trial on such conditions as the Court or judge think reasonable or that



any witness whose attendance in court ought for some sufficient cause to be dispensed with be examined by interrogatories or otherwise before a commissioner or examiner :

Provided that where it appears to the Court or judge that the other party *bona fide* desires the production of a witness for cross-examination and that such witness can be produced an order shall not be made authorising the evidence of such witness to be given by affidavit. [E. 483.] N.W.T., c. 21, R. 263.

263. An order to read evidence taken in another cause or matter shall not be necessary but such evidence may saving all just exceptions be read by leave of the Court or judge. [E. 485.] N.W.T., c. 21, R. 264. Reading evidence taken in other causes.

264. Copies of all writs, records, pleadings and documents filed in court when certified by the clerk shall be admissible in evidence in all causes and matters and between all persons or parties to the same extent as the original would be admissible. [E. 486.] N.W.T., c. 21, R. 265. Office copies admissible in evidence.

265. Impounded documents while in the custody of the court are not to be parted with ; and are not to be inspected except on a written order signed by the judge on whose order they were impounded ; or in case of documents impounded on the order of the Court *en banc* by an order of that court such documents shall not be delivered out of the custody of the court except on an order made on motion in open court. N.W.T. c. 21, R. 266. Impounded documents.

## II.—*Examination of Witnesses.*

266. The Court or judge may in any cause or matter when it appears necessary for the purposes of justice make any order for the examination upon oath *viva voce* or by interrogatories in writing before the Court or judge or any officer of the court or any other person and at any place of any witness or person and may empower any party to any such cause or matter to give such deposition in evidence therein on such terms if any as the Court or judge directs. [E. 487.] N.W.T. c. 21, R. 267. Order for examination of witness.

267. The Court or judge may in any cause or matter at any stage of the proceedings order the attendance of any person for the purpose of producing any writings or other documents named in the order the production of which the Court or judge thinks requisite :

Provided that no person shall be compelled to produce under any such order any writing or other document which he could not be compelled to produce at the hearing or trial. [E. 489.] N.W.T. c. 21, R. 268. Order for production of documents.

- Disobedience to order. 268. Any person wilfully disobeying any order requiring his attendance for the purpose of being examined or of producing any document shall be deemed guilty of contempt of court and may be dealt with accordingly. [E. 490.] N. W.T. c. 21, R. 269.
- Conduct money. 269. Any person required to attend for the purpose of being examined or of producing any document shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial in court. [E. 491.] N.W.T. c. 21, R. 270.
- Copy of proceedings to be furnished examiner. 270. Where any witness or person is ordered to be examined before any officer of the Court or before any person appointed for the purpose the person taking the examination shall be furnished by the party on whose application the order was made with a copy of the proceedings in the cause or with a copy of the documents necessary to inform the person taking the examination of the questions at issue between the parties. [E. 492.] N.W.T. c. 21, R. 271.
- Conduct of examination. 271. The examination shall take place in the presence of the parties, their counsel, solicitor or agent and the witnesses shall be subject to cross-examination and re-examination. [E. 493.] N.W.T. c. 21, R. 272.
- Depositions, mode of taking. 272. The depositions taken before an officer of the Court or before any other person appointed to take the examination shall be taken down in writing by or in the presence of the examiner not ordinarily by question and answer but so as to represent as nearly as may be the statement of the witness and when completed shall be read over to the witness and signed by him in the presence of the parties or such of them as think fit to attend. If the witness refuses to sign the depositions the examiner shall sign the same. The examiner may put down any particular question or answer if there appears any special reason for doing so and may put any question to the witness as to the meaning of any answer or as to any matter arising in the course of the examination. Any questions which are objected to shall be taken down by the examiner in the depositions and he shall state his opinion thereon to the solicitors or parties and shall refer to such statement in the depositions but he shall not have the power to decide upon the materiality or relevancy of any question. [E. 494.] N. W.T. c. 21, R. 273.
- Reading and signatures. Questions and answers. Objections. 273. If any person duly summoned by subpoena to attend for examination refuses to attend or if having attended he refuses to be sworn or to answer any lawful question a certificate of such refusal signed by the examiner
- Disobedience of witness.

shall be filed in court and thereupon the party requiring the attendance of the witness may apply to the Court or judge *ex parte* or on notice for an order directing the witness to attend or to be sworn or to answer any question as the case may be. [E. 495.] N.W.T. c. 21, R. 274.

274. If any witness objects to any question put to him before an examiner the question so put and the objection of the witness thereto shall be taken down by the examiner and transmitted by him to the court to be there filed and the validity of the objection shall be decided by the court or judge. [E. 496.] N.W.T. c. 21, R. 275.

Objections by witness.

275. If it is made to appear to the judge that a witness has been duly served with a subpoena and his fees for travel and attendance paid or tendered to him and that such witness refuses or neglects to attend to give evidence as required by his subpoena and that his evidence is necessary and material it shall be lawful for the judge in addition to any powers which he possesses for the punishment of such witness to issue a warrant under his hand and seal directed to the sheriff or other officer or officers for the immediate arrest of such witness to be brought before the court or person authorized to hear the evidence for the purpose of giving evidence in the cause. N.W.T. c. 21, R. 276.

Witness disobeying subpoena.

Warrant for arrest.

276. In any case under the next three preceding rules the court or judge shall have power to order the witness to pay any costs occasioned by his refusal or objection. [E. 497.] N.W.T. c. 21, R. 277.

Costs against disobedient witness.

277. When the examination of any witness before any examiner has been concluded the original depositions authenticated by the signature of the examiner shall be returned by him to the clerk of the court to whom the same is returnable and by him shall be filed. [E. 498.] N.W.T. c. 21, R. 278.

Return of depositions.

278. The person taking the examination of a witness under the provisions of this order may and if need be shall make a special report to the court touching such examination and the conduct or absence of any witness or other person thereon and the court or judge may direct such proceedings and make such order as upon the report they or he thinks just. [E. 499.] N.W.T., c. 21, R. 279.

Special report by examiner.

279 Except where it is otherwise provided or is directed by the court or judge no deposition shall be given in evidence at the hearing or trial of the cause or matter without the consent of the party against whom the same

Depositions, use of in evidence.

is offered unless the court or judge is satisfied that the deponent is dead or beyond the jurisdiction of the court or unable from sickness or other infirmity to attend the hearing or trial in any of which cases the depositions certified under the hand of the person taking the examination shall be admissible in evidence saving all just exceptions without proof of the signature to such certificate. [E. 500.] N.W.T., c. 21, R. 280.

Oaths.

280. Any officer of the court or other person directed to take the examination of any witness or person may administer oaths. [E. 501.] N.W.T., c. 21, R. 281.

Examination for use in proceedings in cause.

281. Any party in any cause or matter may by subpoena *ad testificandum* or *duces tecum* require the attendance of any witness before an officer of the court or other person appointed to take the examination for the purpose of using his evidence upon any proceeding in the cause or matter in the like manner as such witness would be bound to attend and be examined at the hearing or trial; and any party or witness having made an affidavit to be used or which is used on any proceeding in the cause or matter shall be bound on being served with such subpoena to attend before such officer or person for cross-examination. [E. 502.] N.W.T., c. 21, R. 282.

Cross examination on affidavit.

Evidence taken after trial.

282. Evidence taken subsequently to the hearing or trial of any cause or matter shall be taken as nearly as may be in the same manner as evidence taken at or with a view to a trial. [E. 503.] N.W.T., c. 21, R. 283.

Practice on taking evidence.

283. The practice with reference to the examination cross-examination and re-examination of witnesses at a trial shall extend and be applicable to evidence taken in any cause or matter at any stage. [E. 504.] N.W.T., c. 21, R. 284.

Special directions as to taking evidence.

284. The practice of the court with respect to evidence at a trial when applied to evidence to be taken before an officer of the court or other person in any cause or matter after the hearing or trial shall be subject to any special directions which are given. [E. 505.] N.W.T., c. 21, R. 285.

Notice to use affidavit or depositions at trial.

285. No affidavit or deposition filed or made before issue joined in any cause or matter shall without special leave of the court or judge be received at the hearing or trial thereof unless within one month after the cause is at issue or within such longer time as is allowed by special leave of the court or a judge notice in writing has been given by the party intending to use the same to the opposite party of his intention in that behalf. [E. 506.] N.W.T., c. 21, R. 286.

286. All evidence taken at the hearing or trial of any cause or matter may be used in any subsequent proceedings in the cause or matter. [E. 507.] N.W.T., c. 21, R. 287. Evidence at trial, subsequent use of.

### III.—*Subpœna.*

287. When a subpœna is required for the attendance of a witness for the purpose of proceedings in chambers such subpœna shall issue from the clerk's office upon a note from the judge. [E. 510.] N.W.T., c. 21, R. 288. Subpœna for witness in chambers.

288. The service of a subpœna shall be effected by delivering a copy of the writ and of the indorsement thereon and at the same time producing the original writ. [E. 514.] N.W.T., c. 21, R. 289. Service of subpœna.

### IV.—*Perpetuating Testimony.*

289. Any person who, under the circumstances alleged by him to exist, becomes entitled upon the happening of any future event to any office or to any estate or interest in any property real or personal the right or claim to which cannot by him be brought to trial before the happening of such event may commence an action to perpetuate any testimony which may be material for establishing such right or claim. [E. 517.] N.W.T., c. 21, R. 290. Action to perpetuate testimony.

290. Witnesses shall not be examined to perpetuate testimony unless an action has been commenced for the purpose. [E. 519.] N.W.T., c. 21, R. 291. Witnesses.

291. No action to perpetuate the testimony of witnesses shall be set down for trial. [E. 520.] N.W.T., c. 21, R. 292. Trial.

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## ORDER XXVII.

### AFFIDAVITS AND DEPOSITIONS.

292. Upon any motion, petition or summons evidence may be given by affidavit; but the Court or judge may on the application of either party order the attendance for cross-examination of the person making any such affidavit and may make such interim order or otherwise as appears necessary to meet the justice of the case. [E. 512.] N.W.T., c. R. 293. Evidence on motions, etc.  
Cross examination.

293. Every affidavit shall be intituled in the cause or matter in which it is sworn; but in every case in which there is more than one plaintiff or defendant it shall be Intituling affidavits.

sufficient to state the full name of the first plaintiff or defendant respectively and that there are other plaintiffs or defendants as the case may be ; and the costs occasioned by any unnecessary polixity in any such title shall be disallowed. [E. 522.] N.W.T., c. 21, R. 294.

Affidavits  
confined to  
facts.

294. Affidavits shall be confined to such facts as the witness is able of his own knowledge to prove except on interlocutory motions on which statements as to his belief with the grounds thereof may be admitted. The costs of every affidavit which shall unnecessarily set forth matters of hearsay or argumentative matter or copies of or extracts from documents shall be paid by the party filing the same. [E. 523.] N.W.T., c. 21, R. 295.

Statements of  
belief.

Officers for  
oaths.

295. Affidavits sworn in the Yukon Territory shall be sworn before a judge, clerk of the court or deputy clerk, notary public, justice of the peace or commissioner empowered to administer oaths. [E. 524.] N.W.T., c. 21, R. 296.

Jurat; time  
and place  
of oath.

296. Every person administering oaths shall express the time when and the place where he takes any affidavit or recognizance ; otherwise the same shall not be held authentic nor be admitted to be filed without the leave of the Court or judge. [E. 525.] N.W.T., c. 21, R. 297.

Officers for  
oaths out of  
Territory.

297. All examinations, affidavits, declarations, affirmations and attestations in causes or matters depending in the Territorial Court may be sworn and taken out of the Yukon Territory in any part of the Dominion of Canada, or in Great Britain or Ireland, or the Channel Islands, or in any colony, island, or plantation, or place under the dominion of His Majesty in foreign parts before any judge, court, notary public or person lawfully authorised to administer oaths in such country, colony, island, plantation or place respectively or before any of His Majesty's consuls or vice consuls in any foreign part out of His Majesty's dominions or before a judge of a court of record or a notary public under his hand and seal or before a commissioner appointed for the purpose of taking affidavits outside of the Territory to be used within said Territory or a commissioner duly appointed by the judge for such purpose and the judges and other officers of the Territorial Court shall take judicial notice of the seal or signature as the case may be of any such court, judge, notary public, person, consul or vice consul, attached, appended or subscribed to any such examinations, affidavits, affirmations, attestations and declarations. [E. 526.] N.W.T., c. 21, R. 298.

Form of  
affidavits.

298. Every affidavit shall be drawn up in the first person and shall be divided into paragraphs and every paragraph shall be numbered consecutively and as nearly as may be

shall be confined to a distinct portion of the subject. No costs shall be allowed for any affidavit or part of an affidavit substantially departing from this rule. [E. 527.] N.W.T., c. 21, R. 299.

299. Every affidavit shall state the description and true place of abode of the deponent and shall be signed by him. [E. 528.] N.W.T., c. 21, R. 300.

Description of deponent.  
Signature.

300. In every affidavit made by two or more deponents the names of the several persons making the affidavit shall be inserted in the jurat except that if the affidavit of all the deponents is taken at one time by the same officer it shall be sufficient to state that it was sworn by both or all of the "above named" deponents. [E. 529.] N.W.T., c. 21, R. 301.

Affidavits by several deponents.

301. Every affidavit used in a cause, matter or proceeding shall be filed. [E. 530.] N.W.T., c. 21, R. 302.

Affidavits, etc. to be filed.

302. The court or judge may order to be struck out from any affidavit any matter which is scandalous and may order the costs of any application to strike out such matter to be paid by the offending party. [E. 531.] N.W.T., c. 21, R. 303.

Scandalous matter.

303. No affidavit having in the jurat or body thereof any interlineation, alteration or erasure shall without leave of the court or judge be read or made use of in any matter depending in court unless the interlineation or alteration (other than by erasure) is authenticated by the initials of the officer taking the affidavit nor in the case of an erasure unless the words or figures appearing at the time of taking the affidavit to be written on the erasure are written and signed or initialled in the margin of the affidavit by the officer taking it. [E. 532.] N.W.T., c. 21, R. 304.

Alterations in affidavits.

304. Where an affidavit is sworn by any person who appears to the officer taking the affidavit to be illiterate or blind the officer shall certify in the jurat that the affidavit was read in his presence to the deponent, that the deponent seemed perfectly to understand it and that the deponent made his signature or mark in the presence of the officer. No such affidavit shall be used in evidence in the absence of this certificate unless the court or judge is otherwise satisfied that the affidavit was read over to and appeared to be perfectly understood by the deponent. [E. 533.] N.W.T., c. 21, R. 305.

Affidavits by illiterate or blind person.

305. The court or judge may receive any affidavit sworn for the purpose of being used in any cause or matter notwithstanding any defect by misdescription of parties or otherwise in the title or jurat or any other irregularity in

Use of defective affidavits.

the form thereof and may direct a memorandum to be made on the document that it has been so received. [E. 534.] N.W.T., c. 21, R. 306.

Office copies.

306. A copy of an affidavit may in all cases be used the original affidavit having been previously filed and the copy duly authenticated with the certificate of the clerk with the seal of the court. [E. 535.] N.W.T., c. 21, R. 307.

Affidavit sworn before solicitor or agent

307. No affidavit shall be sufficient if sworn before the solicitor acting for the party on whose behalf the affidavit is to be used or before any agent of such solicitor or before the party himself. [E. 536.] N.W.T., c. 21, R. 308.

or clerk or partner.

308. Any affidavit which would be insufficient if sworn before the solicitor himself shall be insufficient if sworn before his clerk or partner. [E. 537.] N.W.T., c. 21, R. 309.

Time limited for filing.

309. Where a special time is limited for filing affidavits no affidavit filed after that time shall be used unless by leave of the court or judge. On motions founded on affidavits either party may by leave of the court or judge make affidavits in answer to the affidavits of the opposite party as to new matter arising out of such affidavits. [E. 538.] N.W.T., c. 21, R. 310.

Affidavits in answer.

Affidavits on *ex parte* motions.

310. Except by leave of the court or judge no order made *ex parte* in court founded on any affidavit shall be of any force unless the affidavit on which the application was made was actually made before the order was applied for and produced or filed at the time of making the application. [E. 539.] N.W.T., c. 21, R. 311.

Use in chambers of affidavits used in court.

311. All affidavits which have been previously made and read in court upon any proceedings in a cause or matter may be used before a judge in chambers. [E. 541.] N.W.T., c. 21, R. 312.

Affidavits of service.

312. Affidavits of service upon any party must state when where and how and by whom such service was effected. [E. 1020.] N.W.T., c. 21, R. 313.

Alterations in verified accounts.

313. Every alteration in an account verified by affidavit shall be marked with the initials of the commissioner or officer before whom the affidavit is sworn and such alteration shall not be made by erasure. [E. 542.] N.W.T., c. 21, R. 314.

Exhibits, reference to.

314. Accounts, extracts and other documents referred to by affidavit shall not be annexed to the affidavit or referred to in the affidavit as annexed but shall be referred to as exhibits. [E. 543.] N.W.T., c. 21, R. 315.



315. Every certificate on an exhibit referred to in an affidavit signed by the commissioner or officer before whom the affidavit is sworn shall be marked with the short title of the cause or matter. [E. 544.] N.W.T., c. 21, R. 316. Certificate on exhibit.

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## ORDER XXVIII.

### MOTION FOR JUDGMENT.

316. Except where it is otherwise provided that the judgment may be obtained in any other manner the judgment of the court shall be obtained by motion for judgment. [E. 559.] N.W.T., c. 21, R. 317. Judgment on motion.

317. Where at or after a trial with a jury the judge has directed that any judgment be entered any party may apply to set aside such judgment and enter any other judgment on the ground that the judgment directed to be entered is wrong by reason that the finding of the jury upon the questions submitted to them has not been properly entered. [E. 561.] N.W.T., c. 21, R. 318. Judgment on findings of jury.  
Setting aside.

318. Where at or after a trial by a judge either with or without a jury the judge has directed that any judgment be entered any party may apply to set aside such judgment and enter any other judgment upon the ground that upon the finding as entered the judgment so directed is wrong. [E. 562.] N.W.T., c. 21, R. 319. Setting aside judgment directed to be entered by judge.

319. An application under the two next preceding rules shall be to the Court *en banc*. [E. 563.] N.W.T., c. 21, R. 320. Application to court *en banc*.

320. When issues have been ordered to be tried or issues or questions of fact to be determined in any manner the plaintiff may set down a motion for judgment as soon as such issues or questions have been determined. If he does not set down such a motion and give notice thereof to the other parties within ten days after his right so to do has arisen then after the expiration of such ten days any defendant may set down a motion for judgment and give notice thereof to the other parties. [E. 565.] N.W.T., c. 21, R. 321. Setting down motion for judgment after issues tried.

321. When issues have been ordered to be tried or issues or questions of fact to be determined in any manner and some only of such issues or questions of fact have been tried or determined any party who considers that the result of such trial or determination renders the trial or determina- After trial of some of issues ordered.

Motion for judgment.

tion of the others of them unnecessary or renders it desirable that the trial or determination thereof should be postponed may apply to the court or judge for leave to set down a motion for judgment without waiting for such trial or determination; and the court or judge may if satisfied of the expediency thereof give such leave upon such terms if any as appear just and may give any directions which appear desirable as to postponing the trial of the other issues of fact. [E. 566.] N.W.T., c. 21, R. 322.

Motion to be set down within one year.

322. No motion for judgment shall except by leave of the court or judge be set down after the expiration of one year from the time when the party seeking to set down the same first became entitled so to do. [E. 567.] N.W.T., c. 21, R. 323.

Motion for judgment or new trial.

Inferences of fact, etc.

323. Upon a motion for judgment or upon an application for a new trial the court may draw all inferences of fact not inconsistent with the finding of the jury and if satisfied that it has before it all the materials necessary for finally determining the questions in dispute or any of them or for awarding any relief sought give judgement accordingly or may if it is of opinion that it has not sufficient materials before it to enable it to give judgment direct the motion to stand over for further consideration and direct such issues or questions to be tried or determined and such accounts and inquiries to be taken and made as it thinks fit. [E. 568.] N.W.T., c. 21, R. 324.

Court or judge may direct any application to be turned into motion for judgment or hearing of cause.

324. Where it is made to appear to the Court or judge on the hearing of any application which is pending before the Court or judge that it will be conducive to the ends of justice to permit it, the Court or judge may direct any application to be turned into a motion for judgment or hearing of the cause or matter; and thereupon the Court or judge may make such order as to the time and manner of giving the evidence in the cause and matter and with respect to the further prosecution thereof as the circumstances of the case require; and upon the hearing it shall be discretionary with the Court or judge to either pronounce a judgment or make such order as the Court or judge deems expedient. N.W.T., c. 21, R. 325.

Court or judge may permit service of notice of motion for judgment before appearance.

325. Where at any time after the writ of summons has been issued it is made to appear to the Court or judge on an *ex parte* application that it will be conducive to the ends of justice to permit a notice of motion for a judgment to be forthwith served the Court or judge may order the same accordingly and when such permission is granted the Court or judge shall give such directions as to the service of the notice of motion and affidavits as are expedient. Upon

the hearing of such motion the Court or judge instead of either granting or refusing the application may give such directions for the examination of either parties or witnesses or for the making of further inquiries or with respect to the further prosecution of the suit as the circumstances of the case requires and upon such terms as to costs as the Court or judge thinks right. N.W.T., c, 21, R. 826.

## ORDER XXIX.

### JUDGMENT AND ENTRY OF JUDGMENT.

326. Except where otherwise provided every order or decree and every other judgment that the judge so directs shall be entered by the proper officer at length in a book to be kept for such purpose properly indexed and a copy of such entry certified by the proper officer under the seal of the Court shall be received for all purposes as of the same force and effect as such original order, decree or judgment. N.W.T., c, 21, R. 327.

Recording orders, decrees and judgments.  
Certified copies evidence.

327. Where any judgment is pronounced by the Court or judge the entry of judgment shall be dated as of the day on which such judgment is pronounced unless the Court or judge otherwise orders and the judgment shall take effect from that date:

Judgment to be entered as of date pronounced.

Provided that by special leave of the Court or judge a judgment may be antedated or postdated. [E. 571.] N. W.T., c. 21, R. 328.

328. In all cases not within the next preceding rule the entry of judgment shall be dated as of the day on which the requisite documents are left with the proper officer for the purpose of such entry and the judgment shall take effect from that date. [E. 572.] N.W.T., c. 21, R. 329.

Date of entry in other cases.

329. Every judgment or order made in any cause or matter requiring any person to do an act thereby ordered shall state the time or the time after service of the judgment or order within which the act is to be done and upon the copy of the judgment or order which shall be served upon the person required to obey the same there shall be indorsed a memorandum in the words or to the effect following, namely:

Time to be stated for doing any act ordered to be done.

“If you the within named *A.B.* neglect to obey this judgment (or order) by the time therein limited you will be liable to process of execution for the purpose of compelling you to obey the same judgment (or order).” [E. 573.] N.W.T., c. 21 R. 330.

Memorandum to be indorsed.

Entry of judgment on production of affidavit or document.

330. Where it is provided that any judgment may be entered upon the filing of any affidavit, or production of any document the clerk shall examine the affidavit or document produced and if the same is regular and contains all that is by law required he shall enter judgment accordingly. [E. 574.] N.W.T., c. 21, R. 331.

Entry on production of order or certificate.

331. Where any judgment may be entered pursuant to any order or certificate or return to any writ the production of such order, certificate or return shall be sufficient authority to the officer to enter judgment accordingly. [E. 575.] N.W.T., c. 21, R. 332.

Consent judgment.

Defendant represented.

332. In any cause or matter where the defendant has appeared by solicitor no order for entering judgment shall be made by consent unless the consent of the defendant is given by his solicitor or agent. [E. 577.] N.W.T., c. 21, R. 333.

Consent judgment.

Defendant in person.

333. Where the defendant has not appeared or has appeared in person no such order shall be made unless the defendant attends before a judge and gives his consent in person or unless his written consent is attested by a solicitor acting on his behalf. [E. 578.] N.W.T., c. 21, R. 334.

Satisfaction of judgment.

334. Satisfaction of a judgment shall be signed by the plaintiff and his personal representatives, or by a solicitor specially authorized for that purpose in writing unless the judge on special circumstances set forth by affidavit dispenses with such authorisation. N.W.T., c. 21, R. 335.

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## ORDER XXX.

### EXECUTION.

#### I.—*Execution Generally.*

Judgment or order to be obeyed without demand.

335. Where any person is by order directed to pay any money or deliver up or transfer any property real or personal to another it shall not be necessary to make any demand thereof but the person so directed shall be bound to obey such order upon being duly served with a copy of the same without demand. [E. 579.] N.W.T., c. 21, R. 336.

Conditional judgment.

336. Where any person who has obtained any judgment or order upon condition does not perform or comply with such condition he shall be considered to have waived or abandoned such judgment or order so far as the same is beneficial to himself and any other person interested in the

matter may on breach or non-performance of the condition take either such proceedings as the judgment or order in such case warrants or such proceedings as might have been taken if no such judgment or order had been made unless the Court or judge otherwise directs. [E. 580.] N. W.T., c. 21, R. 337.

Breach or non-performance of condition.

337. Every person to whom any sum of money or any costs are payable under a judgment or order so soon as the money or costs are payable shall be entitled to sue out one or more writ or writs of *feri facias* to enforce payment thereof subject nevertheless as follows :

Execution to enforce payment of money.

(a) If the judgment or order is for payment within a period therein mentioned no such writ as aforesaid shall be issued until after the expiration of such period ;

Where time allowed by judgment.

(b) The court or a judge may at or after the time of giving judgment or making an order stay execution until such time as it or he thinks fit. [E. 595.] N.W.T., c. 21, R. 338.

Stay of execution.

338. A judgment for the recovery or for the delivery or the possession of land may be enforced by writ of possession. [E. 583.] N.W.T., c. 21, R. 339.

Recovery of land.

339. A judgment for the recovery of any property other than land or money may be enforced by writ for the delivery of the property. [E. 584.] N.W.T., c. 21, R. 340.

Recovery of other property

340. A judgment requiring any person to do any act other than the payment of money or to abstain from doing anything may be enforced by writ of attachment or by committal. [E. 585.] N.W.T., c. 21, R. 341.

Judgment to do or abstain from any act.

341. Where a judgment or order is to the effect that any party is entitled to any relief subject to or upon the fulfilment of any condition or contingency the party so entitled may upon the fulfilment of the condition or contingency and demand made upon the party against whom he is entitled to relief apply to the judge for leave to issue execution against such party ; and the judge may if satisfied that the right to relief has arisen according to the terms of the judgment or order, order that execution issue accordingly or may direct that any issue or question necessary for the determination of the rights of the parties be tried in any of the ways in which questions arising in any action may be tried. [E. 587.] N.W.T., c. 21, R. 342.

Judgment on condition.

Execution of.

342. Where a judgment or order is against a firm execution may issue :

Execution in case of judgment against firms.

(a) Against any property of the partnership ;

(b) Against the property of any person who has appeared in his own name or who has admitted on the pleadings that he is or who has been adjudged to be a partner;

(c) Against the property of any person who has been individually served as a partner with a writ of summons and has failed to appear;

Application for leave to issue against members of firm.

(2) If the party who has obtained judgment or an order claims to be entitled to issue execution against any other person as being a member of the firm he may apply to a judge for leave so to do; and a judge may give such leave if the liability is not disputed or if such liability is disputed may order that the liability of such person be tried and determined in any manner in which any issue or question in an action may be tried and determined; but except as against any property of the partnership a judgment against a firm shall not render liable, release or otherwise affect any member thereof who was out of the jurisdiction when the writ was issued and who has not appeared to the writ unless he has been made a party to the action or has been served with the writ in the action. [E. 648h.] N.W.T., c. 21, R. 343.

Judgment not to affect partner out of jurisdiction.

Præcipe for execution.

343. No writ of execution shall be issued without the party issuing it or his solicitor filing a *præcipe* for that purpose; the *præcipe* shall contain the title of the action, the reference to the record, the date of the judgment and of the order if any directing the execution to be issued, the names of the parties against whom or of the firm against whose goods the execution is to be issued and shall be signed by or on behalf of the solicitor of the party issuing it or by the party issuing it if he does so in person [E. 590.] N.W.T., c. 21, R. 344.

Execution, one or more.

344. When entitled thereto the party in whose favour such judgment has been entered may have one or more writs of execution directed to the sheriff for levying the amount due on such judgment and legal interest thereon and costs subsequent to such judgment by distress and sale of the goods and chattels and personal property liable to seizure and sale for debt of the party against whom the said judgment has been so entered N.W.T., c. 21, R. 345.

Date of execution. Duration. Renewal.

345. Every writ of execution shall bear date the day of its issue and shall remain in force for two years from its date (and no longer if unexecuted unless renewed) but such writ may at any time before its expiration and so from time to time during the continuance of the renewed writ be renewed by the party issuing it for two years from the date of such renewal by being marked in the margin with a memorandum to the effect following: "Renewed

for two years from the            day of            A.D. 19            ,”  
 (signed by the clerk); and the production of a writ of execution marked as renewed in manner aforesaid shall be sufficient evidence of its having been so renewed; and a writ of execution so renewed shall have effect and be entitled to priority according to the time of the original delivery thereof. N.W.T., c. 21, R. 346.

346. Every writ of execution for the recovery of money shall be indorsed with a direction to the sheriff or other officer or person to whom the writ is directed to levy the money really due and payable and sought to be recovered under the judgment or order stating the amount and also to levy legal interest thereon, if sought to be recovered, together with sheriff's fees, poundage and other expenses of execution. [E. 594.] N.W.T., c. 21, R. 347.

Indorsement  
of direction  
to sheriff.

347. As between the original parties to a judgment or order execution may issue at any time within six years from the recovery of the judgment or the date of the order. [E. 600.] N.W.T., c. 21, R. 348.

Execution  
may issue  
within six  
years.

348. In the following cases namely:

- (a) Where six years have elapsed since the judgment or date of the order or any change has taken place by death or otherwise in the parties entitled or liable to execution;
- (b) Where a husband is entitled or liable to execution upon a judgment or order for or against a wife;
- (c) Where a party is entitled to execution upon a judgment of assets *in futuro*;
- (d) Where a party is entitled to execution against any of the shareholders of a joint stock company upon a judgment recorded against such company or against a public officer or other person representing such company;

Leave to issue  
execution in  
certain cases.

the party alleging himself to be entitled to the execution may apply to the judge for leave to issue the execution accordingly; and such judge may if satisfied that the party so applying is entitled to issue execution make an order to that effect or may order that any issue or question necessary to determine the rights of the parties shall be tried in any of the ways in which any question in any action may be tried; and in either case such judge may impose such terms as to costs or otherwise as are just. [E. 601.] N.W.T., c. 21, R. 349.

349. Every order of the Court or judge in any cause or matter may be enforced against all persons bound thereby in the same manner as a judgment to the same effect. [E. 602.] N.W.T., c. 21, R. 350.

Enforcement  
of orders.

Executions by or against a person not a party.

350. Any person not being a party to a cause or matter who obtains any order or in whose favour any order is made shall be entitled to enforce obedience to such order by the same process as if he was a party to such cause or matter and any person not being a party to a cause or matter against whom obedience to any judgment or order may be enforced shall be liable to the same process for enforcing obedience to such judgment or order as if he was a party to such cause or matter. [E. 604.] N.W.T., c. 21, R. 351.

Facts arisen too late to be pleaded.

351. No proceeding by *audita querela* shall hereafter be used; but any party against whom a judgment has been given may apply to the judge for a stay of execution or other relief against such judgment upon the ground of facts which have arisen too late to be pleaded and the judge may give such relief and upon such terms as are just. [E. 605.] N.W.T., c. 21, R. 352.

Stay of execution.

Court may order act to be done at expense of party refusing

352. If a mandamus granted in an action or otherwise or a mandatory order, injunction or judgment for the specific performance of any contract is not complied with the court or judge besides or instead of proceedings against the disobedient party for contempt may direct that the act required to be done may be done so far as practicable by the party by whom the judgment or order has been obtained or some other person to be appointed by the Court or judge at the cost of the disobedient party and upon the act being done the expenses incurred may be ascertained in such manner as the Court or judge directs and execution may issue for the amount so ascertained and costs. [E. 608.] N.W.T., c. 21, R. 353.

Enforcement of judgment against corporation.

353. Any judgment or order against a corporation wilfully disobeyed may by leave of the Court or judge be enforced by execution against the corporate property or by attachment of the persons of the directors or other officers. [E. 609.] N.W.T., c. 21, R. 354.

Forms of execution.

354. Every writ of execution shall follow form B in the schedule hereto adapted to the circumstances of each case and where form B is not appropriate the form shall be settled by the judge on *ex parte* application. N.W.T., c. 21, R. 355.

Effect of execution in sheriff's hands as against goods of judgment debtor.

355. Except as hereinafter mentioned every writ of execution against goods and chattels shall at and from the time of its delivery to the sheriff to be executed bind all the goods and chattels or any interest in all the goods and chattels of the judgment debtor within the Territory and shall take priority to any chattel mortgage, bill of sale or assignment for the benefit of all or any of the creditors of



the judgment debtor executed by him after the receipt by the sheriff of such writ of execution or which by virtue of the provisions of *The Bills of Sales Ordinance* has not taken effect prior to such receipt as against the creditor's or creditors' interest under the execution but shall not take priority to a *bona fide* sale by the judgment debtor followed by an actual and continued change of possession of any of his goods and chattels without actual notice to the purchaser that such writ is in the hands of the sheriff. N.W.T., c. 21, R. 356.

356. No sale of personal property seized under any writ of execution or process shall be made without such sale being advertised for at least ten days by public notice thereof describing the property to be sold copies of which notice shall be posted in the offices of the clerk and sheriff and in at least five public places in the locality where the same is to be sold; but when the articles seized are of a perishable nature or are of such a character as to not allow a delay of ten days as hereinbefore provided the same may be sold forthwith. N.W.T., c. 21, R. 357.

Notice of  
sheriffs sale.

Perishable  
articles.

357. On any writ of execution against goods and chattels the sheriff charged with the execution of the same may seize and sell the interest or equity of redemption in any goods or chattels including leasehold interests in any lands of the party against whom the writ has issued and such sale shall convey whatever interest the mortgagor had in such goods and chattels at the time of the seizure. N.W.T., c. 21, R. 358.

Equity of  
redemption  
in goods.

Leasehold  
interests.

(2.) Any interest which a free miner has in any mineral claim, or in any mining property as defined in the regulations for the disposal of quartz mining claims and hydraulic and dredging concessions and the regulations governing placer mining on Dominion lands in the Yukon Territory and the amendments thereto, may be seized and sold under and by virtue of an execution issued against goods and chattels. No. 38 of 1900, s. 1.

Mining claims  
may be seized  
and sold under  
execution  
against goods.

358. The sheriff having the execution of any writ of execution against goods may seize any money or bank notes, any cheques, bills of exchange, promissory notes, bonds, mortgages, specialties or other securities for money belonging to the execution debtor and such sheriff may pay and assign them to the execution creditor at the sum actually due on and secured by them respectively if he will accept them as money collected or the sheriff may sue in his own name for the recovery of the sums secured thereby when the time of payment thereof has arrived and on payment execute and give valid discharges therefor but no such sheriff or other party shall be bound to sue any party liable

Seizure of  
money,  
bank notes,  
cheques, etc.

upon any such cheque, bill of exchange, promissory note, bond, specialty or other security unless the party who sued out the execution furnishes sufficient security to indemnify him from all costs and expenses to be incurred in the prosecution of the action or to which he may become liable in consequence thereof. N.W.T., c. 21, R. 359.

Seizure of mortgages belonging to debtor.

359. The officer charged with the execution of any writ of execution against goods may seize thereunder any registered mortgage in favour of the execution debtor whether upon lands or chattels by delivering a notice in writing of such seizure to the registrar or clerk in the office where such mortgage is registered; but no such mortgage shall be affected or charged by any writ of execution until delivery of such notice.

Entry in register.

(2.) Upon receipt of such notice the clerk or registrar shall make an entry thereof in the register for which he shall be entitled to a fee of fifty cents:

Notice to mortgagor.

Provided that unless and until personal service of a notice of seizure on the mortgagor is made he shall not be affected thereby, and payments made by him to the mortgagee before service of such notice shall be deemed good and valid. N.W.T., c. 21, R. 360.

Transfer of cheques, etc., discharges sheriff.

360. The transference by the sheriff to the execution creditor of any cheques or property named in Rule 358 shall discharge the sheriff to the extent of the amount due on and secured thereby. N.W.T., c. 21, R. 361.

Payment by sheriff of moneys realised.

361. Subject to the provisions of *The Creditors' Relief Ordinance* the sheriff shall pay over to the execution creditor or his solicitor all moneys recovered or a sufficient sum to discharge the amount directed by the writ to be levied; but the sheriff shall in all cases be entitled to first deduct his fees and expenses. N.W.T., c. 21, R. 362.

Growing crops

362. No sale of growing crops whether grain or roots shall take place until after the same have been harvested and threshed or taken and removed from the ground when after all charges for harvesting threshing, taking and removing have been paid and all exemptions been claimed and reserved the balance may be sold. N.W.T. c. 21, R. 363.

Issue of execution lands.

363. Any person who becomes entitled to issue a writ of execution against goods may at or after the time of issuing the same issue a writ of execution against the lands of the person liable, provided that not less than \$50 remain due and unpaid on the judgment and deliver the same to the sheriff at or after time of delivery to him of the writ against goods and either before or after any return thereof; but such officer shall not sell the said lands within less than

one year from the day on which the writ against lands is delivered to him nor until three months' notice of such sale has been posted in a conspicuous place in the sheriff's and clerk's offices respectively and published two months in the newspaper nearest the lands to be sold.

Sale of lands.  
Time for.  
Advertisement of.

(2.) Where more than one newspaper is published in the same locality the notice of sale may be published in either one. N.W.T., c. 21, R. 364.

364. No sale shall be had under any execution against lands until after a return of *nulla bona* in whole or in part with respect to an execution against goods in the same suit or matter by the same officer. Where there are no bidders or no sufficient bid has been offered for the land to be sold as aforesaid the sheriff may adjourn such sale from time to time and a notice of the time and place of such adjourned sale shall be posted by him in a conspicuous place in the sheriff's and clerk's offices respectively, and such notice shall be sufficient notice of such adjourned sale. N.W.T., c. 21, R. 365.

Return *nulla bona* before sale of lands.  
Adjournment of sale.

365. In cases where the sheriff or other officer sells lands under execution for which a certificate of title has not been granted a transfer executed by him in the form prescribed for lands for which a certificate of title has been granted shall be sufficient to convey the execution debtor's interest therein to the purchaser. N.W.T., c. 21, R. 366.

Form of transfer where certificate of title not granted.

366. No sheriff shall make any return of *nulla bona* either in whole or in part to any writ against goods until the whole of the goods of the execution debtor liable to seizure, which he can find have been exhausted. N.W.T., c. 21, R. 367.

Return *nulla bona*.

367. If the amount authorised to be made and levied under the writ against goods is made and levied thereunder the person issuing the writ against lands shall not be entitled to the expenses thereof or of any seizure or advertisement thereunder and the return to be made by the officer charged with the execution of the writ against lands to such writ shall be to the effect that the amount has been so made and levied as aforesaid. N.W.T., c. 21, R., 368.

If money made on goods no costs execution lands.

Return in such case.

368. Where under any writ of execution while in force personal property has been seized the sheriff may proceed to sell the same although the writ of execution has expired. N.W.T., c. 21, R. 369.

Sale after expiry of writ.

369. Where it is sought to enforce a judgment made for the recovery of any property other than land or money the Court or judge may upon the application of the plaintiff or

Execution for delivery of property or recovery of assessed value.

person entitled thereto order that execution issue for the delivery of the property without giving the defendant or other party the option of retaining the property and paying the assessed value if any; or at the option of the plaintiff or person entitled thereto that the sheriff levy and make the assessed value with or without costs in either instance as is just and for such purpose separate writs may be issued for the costs. [E. 647.] N.W.T., c. 21, R. 370.

Writ of possession for recovery of land.

370. A judgment or order that a party do recover possession of any land or that any person therein named do deliver up possession of any land to some other person may, without any order for such purpose, after fifteen days from the entry of the judgment or service of a copy of the order, be enforced by a writ of possession. [E. 644 and 645.] N.W.T., c. 21, R. 371.

Execution for recovery of land and costs

371. Upon any judgment or order for the recovery or delivery of possession of any land and costs there may be either one writ or separate writs of execution for the recovery of possession and for the costs, at the election of the successful party. [E. 646.] N.W.T., c. 21, R. 372.

## II.—*Poundage, Interest, &c.*

Levy of interest, poundage and expenses.

372. Upon any execution against lands or goods the sheriff may in addition to the sum recovered by the judgment levy the poundage fees, expenses of the execution and interest upon the sum so recovered from the time of entering the judgment. N.W.T., c. 21, R. 373.

Poundage: amount chargeable in certain cases.

373. In case a part only is levied by the sheriff on or by force of any execution against goods and chattels, the sheriff shall be entitled besides his fees and expenses of execution to poundage only upon the amount so made by him whatever be the sum indorsed upon the writ and in case the personal estate of the defendant is seized or advertised on or under an execution, but not sold by reason of satisfaction having been otherwise obtained or from some other cause and no money is actually made by the sheriff on or by force of such execution the sheriff shall be entitled to the fees and expenses of execution and poundage only on the value of the property seized not exceeding the amount indorsed on the writ or such, less sum as a judge of the court out of which the writ issued deems reasonable under the circumstances of the case. Any party interested may apply to the judge to fix such sum either before or after taxation of the sheriff's bill of costs, charges and expenses or on review or appeal from such taxation. N.W.T., c. 21, R. 374.

374. Upon the satisfaction of an execution either in whole or in part by payment, levy or otherwise or upon the withdrawal, stay or setting aside of an execution the sheriff or officer claiming any fees, poundage, incidental expenses or remuneration which have not been taxed shall upon being required by any party interested within forty-eight hours deliver a copy of his bill in detail to the applicant. Such bill shall be taxed by the clerk of the court upon the applicant obtaining and serving an appointment for such taxation. N.W.T., c. 21, R. 376.

Sheriff's charges on withdrawal, stay, etc., of execution.

375. No sheriff shall collect any fees, costs, poundage or incidental expenses after having been required to have the same taxed without taxation; and upon tender of the amount taxed no fees, costs, poundage or incidental expenses in respect of proceedings subsequently taken shall be allowed to any sheriff. N.W.T., c. 21, R. 377.

Sheriff's costs.

Taxation. Tender.

376. It shall be the duty of every taxing officer above referred to to grant an appointment for the taxation of and to tax the bills of costs presented to him for taxation as herein required upon payment or tender of his fees and to give when requested a certificate of such taxation and the amount thereof. N.W.T., c. 21, R. 378.

Duty of taxing officer.

377. Either party dissatisfied with the taxation may appeal to a judge for a revision of such taxation. N.W.T., c. 21, R. 379.

Revision of taxation.

## ORDER XXXI.

### DISCOVERY IN AID OF EXECUTION.

378. When a judgment or order is for the recovery or payment of money the party entitled to enforce it may apply to a judge *ex parte* for an order that the debtor liable under such judgment or order or in the case of a corporation that any officer thereof be orally examined as to whether any and what debts are owing to the debtor and whether the debtor has any and what property or means of satisfying the judgment or order before the judge or whom he may appoint; and the judge may make an order for the attendance and examination of such debtor or other person before the clerk of the court or other person to be named in the order and for the production of any books or documents.

Examination of judgment debtor or officer of corporation.

(2) Where judgment has been obtained as aforesaid the Court or judge may *ex parte* on the application of the party entitled to enforce the judgment order any clerk or employee or former clerk or employee of the judgment debtor or any person or officer or officers of any corporation to whom the

Examination of clerk or employee, former clerk or employee or transferee of debtor's property.

debtor has made a transfer of his property or effects since the date when the liability or debt which was the subject of the action in which judgment was obtained was incurred to attend before the clerk of the court or other person to be named in the order and to submit to be examined upon oath as to the estate and effects of the debtor and as to the property and means he had when the liability or debt aforesaid was incurred and as to the property or means he still has of discharging the judgment and as to the disposal he has made of any property since contracting the debt or incurring the liability and as to any and what debts are owing to him.

Use of  
examination.

(3) The examination shall be for the purpose of discovery only and no order shall be made on the evidence given on such examination but any such examination may be read on any subsequent proceedings between the same parties or between the execution creditor and any transferee of the property or effects of the execution debtor or in any proceeding to obtain payment directly or indirectly whether by attachment of debts, equitable execution or otherwise. [E. 610]. N.W.T., c. 21, R. 380.

Difficulty in  
enforcing  
judgment  
other than  
for money.

379. In case of a judgment or order other than for the recovery or payment of money if any difficulty arises in or about the execution or enforcement thereof any party interested may apply to a judge and the judge may make such order thereon for the attendance and examination of any party or otherwise as is just and may direct how such judgment or order may be enforced or executed. [E. 611.] N.W.T., c. 21, R. 380.

Conduct  
money.

380. Any person liable to be examined under any of the preceding rules of this order shall be entitled to the like conduct-money and payment for expenses and loss of time as upon attendance at a trial in court and may be compelled to attend and testify and to produce books and documents in the same manner and subject to the same rules of examination and the same consequences of neglecting to attend or refusing to disclose the matters in respect of which he is examined as in the case of a witness on a trial. N.W.T., c. 21, R. 381.

Production of  
documents.  
Rules of  
examination.  
Disobedience.

Costs.

381. The costs of any application under this order and of any proceedings arising from or incidental thereto shall be in the discretion of the judge. [E. 612]. N.W.T., c. 21, R. 382.

## ORDER XXXII.

## ATTACHMENT OF DEBTS AND ARREST OF DEFENDANT.

382. Any plaintiff in an action for a debt or liquidated demand before or after judgment and any person who has obtained a judgment or order for the recovery or payment of money may issue a garnishee summons in the form or to the effect of form C in the schedule hereto. Such summons shall be issued by the clerk upon the plaintiff or judgment creditor, his solicitor or agent filing an affidavit—

Issue of  
garnishee  
summons.

- (a) Showing the nature and amount of the claim or judgment against the defendant or judgment debtor and swearing positively to the indebtedness of the defendant or judgment debtor to the plaintiff or judgment creditor;
- (b) Stating to the best of the deponent's information and belief that the proposed garnishee (naming him) is indebted to such defendant or judgment debtor. N.W.T., c. 21, R. 384.

Affidavit  
therefor.

383. Service of such summons on the garnishee shall bind any debt due or accruing due from the garnishee to the defendant or the judgment debtor whether such debt is payable in money or otherwise.

Service binds  
debts.

(2.) The garnishee summons may be served whether on the garnishee, defendant or judgment debtor in any way that a writ of summons may be served; and the provisions relating to service of a writ of summons shall apply to service of a garnishee summons.

Manner of  
service.

(3.) A copy of the garnishee summons shall be served on the defendant or judgment debtor (or his solicitor) within twenty days after service on the garnishee or such further time as a judge *ex parte* orders. N.W.T., c. 21, R. 385.

Service on  
defendant or  
judgment  
debtor.

384. No order shall be made against the garnishee or for payment out of any money paid into court by the garnishee until at least ten days after the service of the said summons on the defendant or judgment debtor and on the garnishee, nor when a garnishee summons issues prior to judgment until the plaintiff has recovered a judgment against the defendant.

No order to go  
for payment to  
plaintiff until,  
etc.

(2.) The defendant or judgment debtor or the garnishee or any person claiming to be interested in the moneys attached may apply to a judge in chambers to set aside the garnishee summons.

Application  
to set aside  
garnishee.

(3.) No money paid into court under these proceedings shall be paid out unless on the written consent of the parties interested except by order of the Court or judge which order may be made *ex parte* or on such notice as the judge directs. N.W.T., c. 21, R. 386.

Payment out  
of court.

Garnishee's  
costs.

385. A garnishee paying money into Court shall be entitled to deduct therefrom the necessary disbursements and costs (not exceeding \$5) except when the debt due from him to the defendant or judgment debtor is larger than the amount of the plaintiff's claim and costs in which case the garnishee may deduct such costs and disbursements out of the balance in his hands, but if such balance is not sufficient to cover such disbursements and costs he may deduct the difference from the amount to be paid into court. N.W.T., c. 21, R. 387.

Yukon  
Government,  
garnishment  
against.

386. The Government of the Yukon Territory may be garnisheed under the provisions of this order with regard to the moneys due or accruing due to all persons permanently employed by the Government of the Territory.

Service.

(2.) Such garnishee process shall be served upon the Territorial Secretary in his office. N.W.T., c. 21, s. 388.

Default by  
garnishee.

387. If the garnishee does not pay into Court the amount due from him to the debtor or an amount equal to the claim or judgment and costs and does not dispute the debt due or claimed to be due from him to such debtor then the judge may after judgment has been entered against the primary debtor or at once when the garnishee summons is founded on a judgment already recovered order that judgment be entered up against the garnishee and that execution issue and it may issue accordingly to levy the amount due from such garnishee or so much thereof as is sufficient to satisfy the judgment or order. [E. 624.] N.W.T., c. 21, R. 389.

Dispute by  
garnishee.

388. If the garnishee disputes his liability or claims that the debt is not attachable he shall enter with the clerk within the time specified in the summons or such further time as the judge allows a statement showing the grounds on which he disputes liability or claims that the debt is not attachable. After which, on application of the plaintiff or any other person interested on two days' notice given to the garnishee, the judge may fix a time and place for summarily determining the question of liability or whether the debt is attachable as the case may be; or may order that any issue or question necessary for determining such liability, or whether the debt is attachable be tried and determined in any manner in which any issue or question in any action may be tried or determined and may direct who shall be the parties to such issue or question and any determination under this section whether summarily or otherwise shall form a judgment of the Court and may be enforced as such. [E. 625.] N.W.T., c. 21, R. 390.

Trial of issue.



389. If within two months after the appearance by the garnishee the plaintiff does not proceed to have the question of liability determined as hereby provided the garnishee may apply for an order to set aside the garnishee summons. N.W.T., c. 21, R. 391.

Delay by plaintiff.

Application by garnishee.

390. Whenever it is suggested by the garnishee or any person claiming to be interested that the debt attached belongs to some third person, or that any third person has a lien or charge upon it the judge may order such third person to appear and state the nature and particulars of his claim upon such debt. [E. 626.] N.W.T., c. 21, R. 392.

Suggestion of claim of third party.

391. After hearing the allegations of any third person under such order as in the next preceding rule mentioned and of any other person whom by the same or any subsequent order the judge orders to appear, or in case of such third person not appearing when ordered the judge may order execution to issue to levy the amount due from such garnishee or any issue or question to be tried or determined in manner aforesaid and may bar the claim of such third person or make such other order as such judge thinks fit upon such terms in all cases with respect to the lien or charge (if any) of such third person and to costs as the judge thinks just and reasonable. [E. 627.] N.W.T., c. 21, R. 393.

Procedure when third person suggested as entitled.

392. Payment made by or execution levied upon the garnishee under any such proceeding as aforesaid shall be a valid discharge to him against the debtor to the amount paid or levied although such proceeding is set aside or the judgment or order reversed or the plaintiff fails in his action. [E. 628.] N.W.T., c. 21, R. 393.

Garnishee discharged by payment or levy.

393. The garnishee shall not be liable for the costs of the proceedings unless and in so far only as occasioned by setting up a defence which he knew or ought to have known was untenable; and the plaintiff or judgment creditor in garnishee proceedings shall be entitled to tax against the defendant or judgment debtor and add to the judgment the costs of such proceedings unless the judge otherwise orders and subject to this provision the costs of all parties shall be in the discretion of the judge. N.W.T. c. 21, R. 395.

Costs in garnishee proceedings.

394. No execution shall in any case issue to levy the money owing from any garnishee until and so far only as such money shall become fully due. N.W.T., c. 21, R. 396.

Execution stayed till money due.

395. No debt due or accruing due to a mechanic, workman, labourer, servant, clerk or employee for or in respect

Exemption from garnishment.

of his wages or salary shall be liable to seizure or attachment unless such debt exceeds the sum of \$100 and then only to the extent of the excess;

Exception.

Provided that nothing in this rule contained shall apply to any case where the debt sued for or in respect of which the judgment was recovered has been contracted for board and lodging. N.W.T., c. 21, R. 397.

#### ARREST OF DEFENDANT.

If plaintiff swears \$100 due him, judge or clerk may order arrest of defendant about to quit the territory.

396. If a plaintiff in any action brought for recovery of a debt, or damages arising from breach of contract, by affidavit shows to the satisfaction of a Judge of the Court in which the action is brought, or of the clerk of such Court, that such plaintiff has a cause of action arising within the Dominion of Canada against the defendant, or has recovered judgment in the Dominion of Canada against him, to the amount of one hundred dollars or upwards, and that there is probable cause for believing that the defendant, is about to quit the Yukon Territory with intent to defraud creditors generally or the plaintiff in particular, unless he is forthwith apprehended, or has disposed or is about to dispose of his property, or any part thereof, with such intent as aforesaid, it shall be lawful for such judge or clerk by special order to direct that such defendant so about to quit the Yukon Territory, or so having disposed or being about to dispose of his property as aforesaid, shall be arrested and held to bail for such sum (not exceeding the amount of the debt, money demand, or damages as aforesaid, and costs) as to such judge or clerk seems proper. No. 26 of 1899, s. 1.

May require security before making order.

397. It shall be lawful for such judge, or clerk, whenever he thinks fit to require security to be given by the plaintiff, to the satisfaction of such judge or clerk, for the defendant's costs and damages consequent on such arrest under such order, if the plaintiff has obtained such order without reasonable and probable cause. No. 26 of 1899, s. 2.

Order to bear date on day of signing and be good for 12 months.

398. Every such special order shall bear date on the day of the signing thereof by the judge or clerk, and shall be valid for the period therein specified, not exceeding twelve calendar months. No. 26 of 1899, s. 3.

Copy sufficient authority for sheriff.

399. A copy of such special order, under the seal of the Court in which it is made, shall be sufficient authority to any sheriff, deputy sheriff, bailiff or other officer entrusted with the execution thereof, to take into custody and detain the defendant named therein. No. 26 of 1899, s. 4.

400. The sheriff or other officer to whom any such order is directed shall, within the period specified in the order, but not afterwards, proceed to arrest the defendant thereupon; and such defendant, when so arrested, shall remain in custody until he has given security to the plaintiff, to the satisfaction of the sheriff, for, or, has made deposit of, the sum mentioned in such order, together with such amount for costs as is specified therein. Any officer other than the sheriff, may upon instructions by letter or telegram from the sheriff of the Yukon Territory, arrest the defendant without actually having in his possession a copy of the special order mentioned in the next preceding rule; provided that at the time of such arrest a copy of such special order is in the hands of the said sheriff. No. 20 of 1899, s. 5, and No. 31 of 1900, s. 1.

Officer shall arrest person.

401. Any special order may be made, and the defendant arrested in pursuance thereof, at any time after the commencement of such action and before or after final judgment has been obtained therein. Where such order is applied for at the commencement of an action, no statement of claim need be filed upon the issue of the writ of summons, but such statement of claim shall be filed within three days after the making of such order for arrest; otherwise such order shall become void. No. 26 of 1899, s. 6.

Special order for arrest may be made any time after commencement of action or before final judgment.

402. It shall be lawful for any person arrested upon such order to apply, at any time after such arrest, to a judge of the court in which the action has been commenced, by summons calling on the plaintiff in such action to show cause why the person arrested should not be discharged out of custody; and it shall be lawful for such judge to make such order upon such summons as the judge seems fit. No. 26 of 1899, s. 7.

Plaintiff may be called on to show why arrested person should not be discharged.

403. In addition to any other ground upon which such judge may order the discharge of a defendant from custody, he may order such discharge upon being satisfied that such defendant has no means or ability to satisfy the claim or judgment, or any part or further part thereof: Provided always, that if upon such application it appears so the judge, whether by the examination of such defendant or by other evidence, that such defendant has incurred the debt which is the subject of the claim or judgment against him, or any material part thereof, by fraud or false pretences, or that such defendant has concealed or made away with his property, or any part thereof, in order to defeat, delay, or defraud his creditors, or any of them, such judge may order such defendant to be committed to any common gaol, with or without hard labour, for any term not exceeding twelve calendar months, unless the claim or judgment is

Judge may dismiss defendant if he has no means to satisfy claim.

If debt incurred by fraud judge may commit defendant to gaol not exceeding 12 months.

sooner satisfied, and at the termination of such term of imprisonment such defendant shall be entitled to his discharge from custody, unless it is made to appear to the judge, whether by the further examination of such defendant or otherwise, that he has means and ability, or that it is within his power, to satisfy the claim or judgment, or some portion thereof, in which case the judge may order the further detention of such defendant until he satisfies the Court that he is unable to further satisfy the debt. No. 26 of 1899, s. 8.

Imprisonment of debtor shall not operate as discharge of debt.

404. The imprisonment of a judgment debtor under authority of this Order shall not operate as a discharge of the judgment, either in whole or in part, nor operate to bar or suspend any remedies which the creditor may otherwise be entitled to take for the recovery of his demand. No. 26 of 1899, s. 9.

“Plaintiff” includes judgment creditor, “defendant” judgment debtor.

405. In the next nine preceeding rules the term “plaintiff” includes a judgment creditor, and the term “defendant” includes a judgment debtor. No. 26 of 1899, s. 10.

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### ORDER XXXIII.

#### INTERLOCUTORY ORDERS AS TO MANDAMUS, INJUNCTIONS OR INTERIM PRESERVATION OF PROPERTY.

Interlocutory applications, how made.

406. Applications for interlocutory orders for mandamus, injunction or receiver or the interim preservation of property may be made *ex parte* in the first instance or by notice of motion :

Provided that on an *ex parte* application the judge may require notice to be given to any party or parties interested. N.W.T., c. 21, R. 398.

Interim preservation of property.

407. Where by any contract a *prima facie* case of liability is established and there is alleged as matter of defence a right to be relieved wholly or partially from such liability the Court or judge may make an order for the preservation or interim custody of the subject matter of the litigation or may order that the amount in dispute be brought into court or otherwise secured. Application for an order under this rule may be made in chambers by notice of motion by any party at any time after his right thereto appears from the pleadings or, if there are no pleadings, is made to appear by affidavit or otherwise to the satisfaction of the court or judge. [E. 657 and 663.] N.W.T., c. 21, R. 399.

408. It shall be lawful for a judge on the application of any party to make any order for the sale by any person or persons named in such order and in such manner and on such terms as the judge thinks desirable of any goods, wares or merchandise which may be of a perishable nature or likely to injure from keeping or which for any other just or sufficient reason it is desirable to have sold at once. [E. 658.] N.W.T., c. 21, R. 400.

Order for sale of goods, etc.

409. It shall be lawful for a judge upon the application of any party to a cause or matter and upon such terms as are just to make any order for the detention, preservation or inspection of any property or thing being the subject of such cause or matter or as to which any question may arise therein and for all or any of the purposes aforesaid to authorise any person to enter upon or into any land or building in the possession of any party to such cause or matter and for all or any of the purposes aforesaid to authorise any samples to be taken or any observation to be made or experiment to be tried which may be necessary or expedient for the purpose of obtaining full information or evidence. [E. 659.] N.W.T., c. 21, R. 401.

Detention, preservation or inspection of property.

410. It shall be lawful for the judge by whom any cause or matter is heard or tried with or without a jury or before whom any cause or matter is brought to inspect any property or thing concerning which any question arises therein and in jury cases the judge may make all such orders upon the sheriff or other person as are necessary to procure the attendance of the jury at such a time and place and in such manner as he thinks fit. [E. 660 and 661.] N.W.T., c. 21, R. 402.

Inspection by judge or jury.

411. Where an action is brought to recover or a defendant in his defence seeks by way of counterclaim to recover specific property other than land and the party from whom such recovery is sought does not dispute the title of the party seeking to recover the same but claims to retain the property by virtue of a lien or otherwise as security for any sum, the judge may at any time after such last mentioned claim appears from the pleadings or if there are no pleadings by affidavit or otherwise to the satisfaction of such judge, order that the party claiming to recover the property be at liberty to pay into court to abide the event of the action the sum of money in respect of which the lien or security is claimed and such further sum if any for interest and costs as such judge directs and that upon such payment into court being made the property claimed be given up to the party claiming it. [E. 664.] N.W.T., c. 21, R. 403.

Order for delivery of specific chattel claimed under lien or payment into court.

412. Where any real or personal property forms the subject of any proceedings in the court and the judge is satisfied

Allowance out of estate *pendente lite*.

that the same will be more than sufficient to answer all the claims thereon which ought to be provided for in such proceedings the judge may at any time after the commencement of the proceedings allow to the parties interested therein or to any one or more of them the whole or part of the annual income of the real property or a part of the personal property or the whole or a part of the income there-of up to such times as the judge directs. [E. 665.] N.W.T., c 21, R. 404.

**Injunction.** 413. An injunction shall be by a judgment or order and any such judgment or order shall have the effect which a similar judgment or order has in England. [E. 667.] c. 21, R. 405.

**Injunction against wrongful act or breach of contract.** 414. In any cause or matter in which an injunction has been or might have been claimed the plaintiff may before or after judgment apply for an injunction to restrain the defendant or respondent from the repetition or continuance of the wrongful act or breach of contract complained of or from the commission of any injury or breach of contract of a like kind relating to the same property or right or arising out of the same contract and the judge may grant the injunction either upon or without terms as is just. [E. 668.] N.W.T., c. 21, R. 406.

#### MANDAMUS.

**Mandamus.** 415. The plaintiff in any action in which he claims a mandamus to command the defendant to fulfil any duty in the fulfilment of which the plaintiff is personally interested shall include the claim in his statement of claim. N.W.T., c. 21, R. 407.

**Order upon defendant for performance.** 416. If judgment is given for the plaintiff the court or judge may by the judgment command the defendant either forthwith or on the expiration of such time and upon such terms as may appear to the court or judge to be just to perform the duty in question. The court or judge may also extend the time for the performance of the duty. [E. 721.] N.W.T., c 21, R. 408.

**Enforcement.** 417. In the event of noncompliance with the judgment as aforesaid the same may be enforced by prerogative mandamus as in England. N.W.T., c. 21, R. 409.

**Protection of person acting under mandamus.** 418. No action or proceeding shall be commenced or prosecuted against any person in respect of anything done in obedience to a judgment or order for a mandamus. [E. 730.] N.W.T., c. 21, R. 410.

419. No writ of mandamus shall hereafter be issued in any action but a mandamus shall be by judgment or order which shall have the same effect as a similar judgment or order has in England. [E. 722.] N.W.T., c. 21, R. 411.

Mandamus to be by judgment or order.

## ORDER XXXIV.

### RECEIVERS.

420. Where an order is made directing a receiver to be appointed unless otherwise ordered the person to be appointed shall first give security to be allowed by a judge duly to account for what he receives as such receiver and to pay the same as the Court or judge directs and the person so to be appointed shall unless otherwise ordered be allowed a proper salary or allowance. [E. 672.] N.W.T., c. 21, R. 412.

Receiver.

Security.

Remuneration

421. When a receiver is appointed with a direction that he shall pass accounts the judge shall fix the days upon which he shall annually or at longer or shorter periods file and pass such accounts and also the days upon which he shall pay the balances appearing due on the accounts so filed or such part thereof as shall be certified as proper to be paid by him and with respect to any such receiver as shall neglect to file and pass his accounts and pay the balances thereof at the times so to be fixed for that purpose as aforesaid the judge before whom any such receiver is to account may from time to time when his subsequent accounts are produced to be examined and passed disallow the salary therein claimed by such receiver and may also if he thinks fit charge him with interest upon the balances so neglected to be paid by him during the time the same appear to have remained in the hands of any such receiver. [E. 674.] N.W.T., c. 21, R. 413.

Time for filing accounts and payment of balances.

Neglect of receiver.

422. In case of any receiver failing to file any account or affidavit or to pass such account or to make any payment or otherwise the receiver or the parties or any of them may be required to attend before the judge to show cause why such account or affidavit has not been filed or such account passed or such payment made or any other proper proceedings taken and thereupon such directions as are proper may be given by the judge including the discharge of any receiver and appointment of another and payment of costs. [E. 677.] N.W.T., c. 21, R. 414.

Default of receiver. Procedure on.

423. When a receivership has been completed the book containing the accounts shall be deposited in the clerk's office. N.W.T., c. 21, R. 415.

Receiver's accounts.

Passing  
accounts.

424. The accounts of liquidators and of guardians shall be passed and verified in the same manner as receiver's accounts. N.W.T., c. 21, R. 416.

## ORDER XXXV.

### ATTACHMENT OF PERSONAL PROPERTY.

Attachment  
of goods.

Affidavits  
required.

425. After the commencement of any suit wherein the claim is for the recovery of a debt of \$50 or upwards from the defendant upon affidavit made by the plaintiff or one of several plaintiffs, if more than one, his or their agent, having a personal knowledge of the matter stating clearly and succinctly from what cause such debt arose and the amount thereof and that he has good reason to believe (giving reasons therefor) that the defendant—

- (a) Is about to abscond or has absconded from the Territory leaving personal property liable to seizure under execution for debt; or
- (b) Has attempted to remove such personal property out of the said Territory or to sell or dispose of the same with intent to defraud his creditors generally or the plaintiff in particular; or
- (c) Keeps concealed to avoid service of process; and
- (d) In every case that the deponent verily believes that without the benefit of the attachment the plaintiff will lose his debt or sustain damage;

and upon the further affidavit of one other credible person that he is well acquainted with the defendant and has good reason to believe (giving such reason) that the defendant is about to abscond or has absconded or has attempted to remove his personal property out of the said Territory or to sell or dispose of the same or keeps concealed with intent as aforesaid as the case may be the judge if satisfied with the reasons aforesaid on application to him *ex parte* may direct the clerk to issue a writ of attachment in form D in the schedule hereto which writ shall be executed by the sheriff according to its tenor:

Application  
to judge.

Exemption  
from seizure.

Provided that in any case where the debtor has absconded or is about to abscond from the Territory leaving no wife or family behind no property of such debtor shall be exempt from seizure. N.W.T., c. 21, R. 417.

Copy writ of  
attachment to  
be served.

426. A copy of every such writ shall be served on the debtor against whose effects the same is issued at the time of making any seizure thereunder or as soon thereafter as such service can be effected if the said debtor can be found; but if such personal service cannot be effected a copy thereof shall be left with some grown-up person resident at the



place where such seizure is made or if no person is resident, posted in a conspicuous place on the premises. N.W.T., c. 21, R. 418.

427. Immediately after making a seizure under the said writ the sheriff shall make a return of the writ and with such return transmit annexed thereto an inventory of the property seized and the value thereof according to the best of his judgment and an affidavit of the manner in which service of such writ has been effected. N.W.T., c. 21, R. 419.

Sheriff's  
return and  
inventory.

428. Upon the seizure of any property under the writ hereinbefore described the person in whose possession it was at the time of seizure may have the same returned to him upon giving the sheriff sufficient security for or paying into court an amount equal to its appraised value as shown by the inventory prescribed by the next preceding rule. N.W.T., c. 21, R. 420.

Return of  
goods seized  
on giving  
security or  
deposit of  
value claimed.

429. Unless the property seized is redelivered or relinquished by the sheriff under any of the provisions hereof he shall hold the same until the plaintiff obtains judgment in the cause and an execution upon such judgment is delivered to the sheriff:

Unless re-  
delivered sheriff  
to hold until  
execution  
issued.

Provided that in case the plaintiff is guilty of any unnecessary delay in the prosecution of his suit to judgment the Court or a judge may order the redelivery of the property so seized to the person from whose possession it was taken unless some other writ of attachment or execution against the defendant is in the sheriff's hands for execution. N.W.T., c. 21, R. 421.

430. Notwithstanding the issue of a writ of attachment the cause shall be proceeded with in the ordinary way but the plaintiff shall not have judgment against the defendant except by order of the judge and in case the plaintiff fails to recover judgment for the full amount of the debt sworn to be shall not be entitled to any costs but may be ordered to pay the costs of the defendant. N.W.T., c. 21, R. 422.

Subsequent  
proceedings.

431. A writ of attachment may be set aside by a judge on satisfactory proof by affidavit that the creditor who sued out such writ had not reasonable cause for taking such proceeding. N.W.T., c. 21, R. 423.

Setting aside  
writ.

432. If any horses, cattle, sheep or any perishable goods or chattels or such as from their nature cannot be safely kept or conveniently taken care of are taken under any writ of attachment the officer who seized the same shall have them appraised and valued on oath by two competent persons and in case the plaintiff desires it and deposits with

Disposal of  
cattle or  
perishable  
goods pending  
suit.

the sheriff a bond to the defendant executed by one or more persons whose sufficiency is approved of by such officer in double the amount of the appraised value of such articles conditioned for the payment of such appraised value to the defendant together with all costs and damages incurred by the seizure and sale thereof in case judgment is not obtained by the plaintiff against the defendant then the sheriff may sell all or any of such enumerated articles at public auction to the highest bidder giving not less than six days' notice of such sale unless any of the articles are of such a nature as not to allow of that delay in which case the officer shall sell such articles last mentioned forthwith and shall hold the proceeds of such sale for the same purpose as he would have held any property seized under the attachment. N.W.T., c. 21, R. 424.

Plaintiff  
omitting to  
give security.

433. If the plaintiff after notice to himself or his solicitor of the seizure of any articles enumerated in the next preceding rule neglects or refuses to deposit the bond or only offers a bond with sureties insufficient in the judgment of the sheriff then after the lapse of four days next after the notice the sheriff shall be relieved from all liability to the plaintiff in respect to the articles so seized and the sheriff shall forthwith restore the same to the person from whose possession he took such articles. [R.S.O. 1897, c. 79, s. 6.] N.W.T. c. 21, R. 425.

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## ORDER XXXVI.

### REPLEVIN.

Recovery  
of goods  
unlawfully  
detained.

436. In any action brought for the recovery of any personal property and claiming whether alone or with any other claim that such property was unlawfully taken or is unlawfully detained the plaintiff may at any time after the issue of the writ of summons obtain a writ of replevin for the delivery of the property to him on his complying with the following rules; such writ shall be in form E in the schedule hereto with such variations as circumstances require; but nothing herein contained shall authorise the replevying any property seized by the sheriff or other officer charged with the execution of any process issued out of the court. N.W.T. c. 21, R. 426.

Property in  
custody of  
court.

Issue of writ  
of replevin.

435. Writs of replevin shall be issued by the clerk of the Court upon the plaintiff or his duly authorised agent filing an affidavit:

Affidavit  
thereof.

1. Embodying a description of the property sought to be replevied and the value thereof to the best of the deponent's belief; and a statement that the person claiming is the owner or is entitled to the possession of the said property;

2. Further stating if replevin is sought in the case of property distrained for rent or *damage feasant* that the property was taken under colour of distress for rent or *damage feasant* as the case may be;

3. Or in the case of property wrongfully taken out of the possession of the claimant or fraudulently got out of his possession stating in addition to the particulars required by clause 1 of this rule the time and the wrongful and fraudulent manner in which the same was taken or gotten out of his possession and such facts and circumstances as show that the claimant is entitled to the possession of the property;

4. After the issue of a writ of replevin the defendant or his agent shall have the right to apply to the judge for an order allowing him to retain possession of the property upon giving such security to the sheriff as the judge orders. Such security shall be assigned on request to the party entitled to the benefit thereof by the sheriff indorsing his name thereon and such indorsement shall be sufficient to enable such party to bring action thereon in his own name against the several parties who have executed such security, N.W.T. c. 21, R. 427.

Return of property to defendant on giving security.

436. Before the sheriff replevies he shall take a bond in double the value of the property to be replevied as stated in the writ. The bond shall be assignable to the defendant by the sheriff indorsing his name thereon and such indorsement shall enable the defendant to bring an action thereon in his own name against the parties who have executed it. The bond may be in form F in the schedule hereto with such variations as circumstances require and the parties to such bond shall be liable to the defendant and the defendant be entitled to recover from them in such action as well the value of the property replevied as the amount of any judgment in his favour in the original action as also such damages as the defendant has sustained by reason of the detention of the property replevied by means of the said writ. N.W.T. c. 21, R. 428.

Replevin bond

Assignment of

Form.

Defendant's rights.

437. A copy of such a writ shall be served upon the defendant personally or if he cannot be found left at his usual or last place of abode with his wife or some other grown up person being a member of his family or household or if no such person resident there posted in a conspicuous place on the premises or if the defendant has no known residence posted up in the office of the clerk who issued the writ: but such service or posting shall not be made until the sheriff has replevied the property described in the writ or such part thereof as is found; and in case the said sheriff or other officer has good reason to suspect that the property to be replevied or any part thereof is secured, contained or concealed in any dwelling house building or enclosure of the defendant or of any other person

Service of copy of writ.

Property secured or concealed from sheriff.

keeping or holding the same and the said sheriff or officer demands from the owner, occupier or other person in charge of the premises aforesaid deliverance of the said property and the same is not delivered upon such demand he may and if necessary he shall (but only between sunrise and sunset) break open such premises and enter and search the same for the purpose of replevying the property demanded and if found therein replevy the same. N.W.T., c. 21, R. 429.

Sheriff's  
return to writ.

438. The sheriff shall make a return to the writ to the clerk of the court whence it issued and shall annex to the return—

1. The names, places of residence and occupation of the sureties in and the date of the bond taken from the plaintiff and the names of the witnesses thereto;

2. The number, quality and quantity of the articles of property replevied and in case he has replevied only a portion of the property mentioned in the writ and cannot replevy the residue he shall state in his return the articles which he cannot replevy and the reason why not. N.W.T. c. 21, R. 430.

## ORDER XXXVII.

### INTERPLEADER.

Interpleader.  
Cases in which  
relief granted.

439. Relief by way of interpleader may be granted—

1 Where the person seeking relief (hereinafter called the applicant) is under any liability for any debt, money, goods or chattels for or in respect of which he is or expects to be sued by two or more parties (hereinafter called the claimants) making adverse claims thereto;

2. Where the applicant is a sheriff or other officer charged with the execution of process by or under the authority of the Court and claim is made to any property taken or intended to be taken in execution or attachment under any process or to the proceeds or value of any such property by—

- (a.) Any person other than the person against whom the process issued;
- (b.) Any landlord for rent;
- (c.) Any second or subsequent execution creditor claiming priority over any previous judgment, execution, process or proceeding;
- (d.) The execution or attachment debtor claiming the benefit of any exemptions from seizure allowed by law. N.W.T., c. 21, R. 431.

440. Where a claim is made to or in respect of any goods or chattels taken in execution under the process of the court it shall be in writing and upon the receipt of the claim the sheriff or his officer shall forthwith give notice thereof to the execution creditor and the execution creditor shall within four days after receiving the notice give notice to the sheriff or his officer that he admits or disputes the claim. If the execution creditor admits the title of the claimant and gives such notice he shall only be liable to such sheriff or officer for any fees and expenses incurred prior to the receipt of the notice admitting the claim. N.W.T., c. 21, R 432.

Sheriff's interpleader. Claim to be in writing. Notice to and by execution creditor.

441. Where the execution creditor does not in due time as directed by the next preceding rule admit or dispute the title of the claimant to the goods or chattels and the claimant does not withdraw his claim thereto by notice in writing to the sheriff or his officer the sheriff may apply for an interpleader summons to be issued and should the claimant withdraw his claim by notice in writing to the sheriff or his officer or the execution creditor in like manner serve an admission of the title of the claimant prior to the return day of such summons and at the same time give notice of such admission to the claimant the judge may in and for the purposes of the interpleader proceedings make all such orders as to costs, fees, charges and expenses as are just and reasonable. N.W.T., c. 11, R. 433.

If claim not admitted or abandoned, issue of summons.

Admission or abandonment after summons.

Costs.

442. The applicant shall satisfy the court or judge by affidavit or otherwise—

Matters to be proved by applicant.

1. That the applicant claims no interest in the subject matter or dispute other than for charges or costs; and
2. That the applicant does not collude with any of the claimants; and
3. That the applicant is willing to pay or transfer the subject matter into court or to dispose of it as the court or judge directs. [E 851.] N.W.T., c. 21, R. 434.

443. The applicant shall not be disentitled to relief by reason only that the titles of the claimants have not a common origin but are adverse to and independent of one another. N.W.T., c. 21, R 435.

Adverse titles of claimants.

444. When the applicant is a defendant application for relief may be made at any time after service of the writ of summons. [E. 853.] N.W.T., c. 21, R. 436.

Application by defendant.

445. The applicant may take out a summons calling on the claimants to appear and state the nature and particulars of their claims and either to maintain or relinquish them. [E. 854.] N.W.T., c. 21, R. 437.

Summons by applicant.

- Stay of action. 446. If the application is made by the defendant in an action the Court or judge may stay all further proceedings in the action. [E. 855.] N.W.T., c. 21, R. 438.
- Order on summons. 447. If the claimants appear in pursuance of the summons the Court or judge may order either that any claimant be made a defendant in any action already commenced in respect to the subject matter in dispute in lieu of or in addition to the applicant or that an issue between the claimants be stated and tried and in the latter case may direct which of the claimants is to be plaintiff and which defendant as also the time and place for the trial of such issue. [E. 856.] N.W.T., c. 21, R. 439.
- Issue.
- Summary disposal. 448. The judge may if it seems desirable so to dispose of the merits of their claims and decide the same in a summary manner and on such terms as are just. [E. 857.] N.W.T., c. 21, R. 440.
- Question of law. 449. When the question is a question of law and the facts are not in dispute the judge may either decide the question without directing the trial of an issue or order that a special case be stated for the opinion of the Court. If a special case is stated the provisions herein relating to special cases shall as far as applicable apply thereto. [E. 858.] N.W.T., c. 21, R. 441.
- Special case.
- Claimant not appearing or otherwise in default. 450. If a claimant having been duly served with a summons calling upon him to appear and maintain or relinquish his claim does not appear in pursuance of the summons or having appeared neglects or refuses to comply with any order made after his appearance the Court or judge may make an order declaring him and all persons claiming under him forever barred against the applicant and persons claiming under him but the order shall not affect the rights of the claimants as between themselves. [E. 859.] N.W.T., c. 21, R. 442.
- Appeal lies. 451. Subject to the provisions of this order an appeal shall lie to the Court *en banc* from the decision of the Court or a judge in any interpleader proceeding but subject to such appeal the decision of the Court or judge shall be final and conclusive against the claimants and all persons claiming under them. N.W.T., c. 21, R. 443.
- Decision otherwise final.
- Order for sale of goods seized. 452. When goods and chattels have been seized in execution or under attachment by a sheriff and any claimant alleges that he is entitled under a bill of sale or otherwise to the same by way of security for debt the judge may order the sale of the whole or a part thereof and direct the application of the proceeds of the sale in such manner

and upon such terms as are just. [E. 861.] N. W. T., c. 21, R. 444.

453. The rules of court in respect to discovery and inspection shall with the necessary modifications apply in interpleader proceedings and the judge before whom the proceedings are had may finally dispose of the whole matter of the interpleader proceedings including all costs not otherwise provided for. [E 862.] N.W.T., c. 21, R. 445.

Discovery and inspection.

Powers of judge.

454. In case the sheriff has more than one writ at the suit or instance of different parties against the same property it shall not be necessary for the sheriff to make separate applications on such writs or in each case; but he may make one application and make all the parties who are execution creditors parties to the said application; and the Court or judge before whom the application is made may make such order therein as if a separate application had been made upon and in respect to each writ. N.W.T., c. 21, R. 446.

Application where several executions against same property.

455. Pending the adjudication of any such claim the sheriff may upon sufficient security being given to him by bond or otherwise for the forthcoming and delivery to him of the property so taken or the value thereof when demanded permit the claimant to retain the possession of the same until there is final adjudication in respect for the said sheriff or other officer at any time he sees fit to resume the actual and absolute possession and custody of the said property notwithstanding such bond or security. Horses, cattle, sheep or any perishable goods the subject of interpleader may at the request of either party and upon his furnishing sufficient security or by order of the judge be sold by the seizing officer at public auction to the highest bidder giving not less than ten days' notice of such sale unless any of the articles are of such a nature as not to admit of delay in which case they may be sold forthwith. N. W. T., c. 21, R. 447.

Delivery of property to claimant pending adjudication.

Sale of cattle or perishable goods.

456. The Court or a judge may in and for the purpose of any interpleader proceedings make all such orders as to costs and all other matters as are just and reasonable. [E. 864.] N. W. T., c. 21, R. 448.

Costs and other matters.

## ORDER XXXVIII.

### SALES OF LAND, PARTITION, ETC.

457. If in any cause or matter relating to any real estate it appears necessary or expedient that the real estate or any part thereof should be sold the Court or a judge

Court may order sale of real estate.

may order the same to be sold and any party bound by the order and in possession of the estate or in receipt of the rents and profits thereof shall be compelled to deliver up such possession or receipt to the purchaser or such other person as is thereby directed. [E. 680.] N.W.T., c. 21, R. 449.

Mode of carrying out sale, mortgage, etc. when ordered by court.

458. In all cases where a sale, mortgage, partition or exchange is ordered the Court or a judge shall have power in addition to the powers already existing, with a view to avoiding expense or delay or for other good reason, to authorize the same to be carried out—

1. By laying proposals before the judge in chambers for his sanction; or

2. By proceedings altogether out of court, any moneys produced thereby being paid into court or to trustees or otherwise dealt with as the judge in chambers orders:

Provided always that the judge shall not authorize the said proceedings altogether out of court unless and until he is satisfied by such evidence as he deems sufficient that all persons interested in the estate to be sold, mortgaged, partitioned or exchanged are before the Court or are bound by the order for sale, mortgage, partition or exchange and every order authorizing the said proceedings altogether out of court shall be prefaced by a declaration that the judge is so satisfied as aforesaid and a statement of the evidence upon which such declaration is made. [E. 680*a*.] N.W.T., c. 21, R. 450.

Sale by court.

459. Where a judgment or order is given or made whether in court or chambers directing any property to be sold, unless otherwise ordered the same shall be sold with the approbation of the judge to the best purchaser that can be got, the same to be allowed by the judge, and all proper parties shall join in the sale and conveyance as the judge directs. [E. 682.] N.W.T., c. 21, R. 451.

Approval of judge.

Parties.

Originating summons for foreclosure, etc.

460. A mortgagee or mortgagor whether legal or equitable or any person entitled to or having property subject to a legal or equitable charge or any person having the right to foreclose or redeem any mortgage whether legal or equitable may obtain an originating summons returnable in chambers for such relief of the nature or kind following as may by the summons be specified and as the circumstances of the case require that is to say: sale, foreclosure, delivery of possession by the mortgagor, redemption reconveyance, delivery of possession by the mortgagee. [E. 767*a*.] N.W.T., 21, R. 452.

Judgment or order.

461. The judge may upon such summons pronounce such judgment and make such orders as the case requires including orders vesting such property in such person or



persons as are found or declared entitled thereto for such estate or interest as is requisite. N.W.T., c. 21, R. 453.

462. The persons to be served with such summons shall be such persons as under the existing practice would be the proper defendants to an action for the like relief as that specified by the summons. [E. 767*b*.] N.W.T., c. 31, R. 454. Persons to be served.

463. The judge may direct such other persons to be served with the summons as he thinks fit. [E. 768.] N.W.T., c. 21, R. 455. Service on other persons.

464. The application shall be supported by such evidence as the judge requires and directions may be given as he thinks just for the trial of any questions arising thereout. [E. 769.] N.W.T., c. 21, R. 456. Evidence. Trial of questions.

465. The judge may give any special directions touching the carriage or execution of the judgment or order or the service thereof upon persons not parties as he thinks just. N.W.T., c. 31, R. 457. Special directions.

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## ORDER XXXIX.

### MOTIONS AND APPLICATIONS.

466. Applications for summonses, rules and orders to show cause and applications authorised to be so made by these rules may be made *ex parte*. Other motions in court shall be by notice of motion and other applications in chambers by summons or notice except where otherwise specially provided. But the Court or judge if satisfied that delay caused by proceeding in the ordinary way would or might entailed irreparable or serious mischief may make any order *ex parte* upon such terms as to costs or otherwise and subject to such undertaking if any as the Court or judge thinks just; and any party affected by such order may move to set it aside or to vary it. [E. 698.] N.W.T., c. 21, R. 458. *Ex parte* applications. Court motions Chamber applications. Order *ex parte* if delay injurious.

467. Every notice of motion or summons or notice to set aside, remit or enforce an award or for attachment or committal or to strike off the rolls shall state in general terms the grounds of the application; and where any motion is made by notice a copy of any affidavit intended to be used shall be served with the notice of motion. [E. 699.] N.W.T., c. 21, R. 459. Grounds to be stated in certain cases. Service of affidavits.

468. Unless the Court or a judge gives special leave to the contrary there must be at least two clear days between Motions. Length of notice.

the service of a notice of motion and the day named in the notice for hearing the motion. [E 700.] N.W.T., c. 21, R. 460.

Dismissal or adjournment where persons not served.

469. If on the hearing of a motion or other application the Court or judge is of opinion that any person to whom such notice the Court or judge may either dismiss the motion or application or adjourn the hearing thereof in order that such notice may be given upon such terms if any as the Court or judge thinks fit to impose. [E. 701.] N.W.T., c. 21, R. 461.

Adjournment of hearing.

470. The hearing of any motion or application may from time to time be adjourned upon such terms if any as the Court or judge thinks fit. [E. 702 ] N.W.T., c. 21, R. 462.

Deciding preliminary question.

471. When on any application or motion in court or chambers it appears to the judge desirable that any question of law or fact should be first determined before proceeding with the complete hearing of such application or motion the judge may direct such question to be first argued or determined upon such terms as to costs, adjournment and otherwise as he deems proper and upon the determination of such question the judge may either finally dispose of the motion or application or proceed with a further hearing thereof as is proper. N.W.T., c. 21, R. 463.

Defendant not appearing to writ. Service of notice on.

472. The plaintiff shall without any special leave be at liberty to serve any notice or motion or other notice or any petition or summons upon any defendant who having been duly served with a writ of summons to appear has not appeared within the time limited for that purpose. [E. 703.] N.W.T., c. 21, R. 454.

Service of notice of motion before appearance.

473. The plaintiff may by leave of the Court or judge to be obtained *ex parte* serve any notice of motion upon any defendant along with the writ of summons or at any time after service of the writ of summons and before the time limited for the appearance of such defendant. [E. 704.] N.W.T., c. 21, R. 465.

Enforcing return of writ or order by sheriff.

474. No order shall issue for the return of any writ or order or to bring in the body of any person ordered to be attached, arrested or committed; but a notice from the person issuing the writ or obtaining the order for attachment, arrest, replevin or committal (if not represented by a solicitor) or by his solicitor calling upon the sheriff to return such writ or order or to bring in the body within ten days, if not complied with shall entitle such person to apply for an order for the committal of such sheriff. [E. 706.] N.W.T., c. 21, R. 466.

475. Every order shall be dated the day of the month and year on which the same was made, unless the Court or a judge otherwise directs, and shall take effect accordingly. [E. 708.] N.W.T., c. 21 R. 967. Date of orders.

476. Where an order has been made not embodying any special terms nor including any special directions, but simply enlarging time for taking any proceeding or doing any act or giving leave— Certain orders need not be drawn up.

- (a) For the issue of any writ other than a writ of attachment ;
- (b) For the amendment of any writ or pleadings ;
- (c) For the filing of any document ; or
- (d) For any act to be done by any officer of the court other than a solicitor ;

it shall not be necessary to draw up such order unless the court or a judge otherwise directs ; but the production of a note or memorandum of such order signed by a judge shall be sufficient authority for such enlargement of time, issue or amendment, filing or other act. A direction that the costs of such order shall be costs in any cause or matter shall not be deemed a special direction within the meaning of this section. The solicitor of the person on whose application such order is made shall forthwith give notice in writing thereof to such person, if any, as would if this rule had not been made, have been required to be served with such order. [E. 709.] N.W.T., c. 21, R. 468.

## ORDER XL.

### APPLICATIONS IN CHAMBERS.

#### I.—*By Originating Summons.*

477. Proceedings commenced by originating summons in the Supreme Court of Judicature in England may be so commenced under this Ordinance unless otherwise provided and proceeding by a landlord to recover possession of demised premises from an overholding tenant may be so commenced. N.W.T., c. 21, R. 469. Proceedings by originating summons.

478. An originating summons shall be sealed by the clerk and shall follow form G in the schedule hereto with such variations as are approved by the judge. N.W.T., c. 21, R. 470. Sealing and form.

479. Unless otherwise ordered, there shall be at least ten clear days between the service and return of an originating summons. N.W.T., c. 21, R. 471. Time for appearance.

Service. 480. An originating summons may be served in the same manner as a writ of summons. N.W.T., c. 21, R. 472.

Judgment on originating summons. 481. Upon proof by affidavit of the due service of the originating summons or on the appearance in person or by solicitor of the parties served the judge may pronounce such judgment as the nature of the case requires. [E. 470.] N.W.T., c. 21, R. 473.

Special directions as to judgment. 482. The judge may give any special directions touching the carriage or execution of the judgment or the service thereof upon persons not parties as he thinks just. [E. 771.] N.W.T., c. 21, R. 474.

## II.—*Generally.*

Service of chamber summons. 483. Every summons except an originating summons shall be served two clear days before the return thereof unless in any case it is otherwise ordered. [E. 737.] N.W.T., c. 21, R. 475.

Proceeding *ex parte* where party fails to attend. 484. Where any of the parties to a summons or notice of application fail to attend whether upon the return of the summons or notice or at any time appointed for the consideration or further consideration of the matter, the judge, after waiting thirty minutes, may allow the case to proceed *ex parte* if considering the nature of the case, he thinks it expedient so to do; no affidavit of non attendance shall be required or allowed, but the judge may require such evidence of service as he thinks just. [E. 738.] N.W.T., c. 21, R. 476.

Reconsideration of *ex parte* proceedings. Costs. 485. When the case has been allowed to proceed *ex parte* such proceeding shall not in any manner be reconsidered unless the judge is satisfied that the party failing to attend was not guilty of wilful delay or negligence; and in such case the costs occasioned by his non-attendance shall be in the discretion of the judge who may fix the same at the time and direct them to be paid by the party or his solicitor before he shall be permitted to have such proceeding reconsidered or make such order as to such costs as he thinks just. [E. 739.] N.W.T., c. 21, R. 477.

Proceeding failing by non-attendance of party. Costs. 486. When a proceeding in chambers fails by reason of the non-attendance of any party and the judge does not think it expedient to allow *ex parte* proceeding the judge may order such an amount for costs if any as he thinks reasonable to be paid to the party attending by the absent party or by his solicitor personally. [E. 740.] N.W.T., c. 21, R. 478.

487. When matters in respect of which summonses have been issued or notices given are not disposed of upon the return of the summons or notice the parties shall attend from time to time without further summons or notice at such time or times as are appointed for the consideration or further consideration of the matter. [E. 741.] N.W.T., c. 21, R. 479.

Summons not disposed of on return, further attendance.

488. A judge in chambers shall have jurisdiction to hear and determine any application or motion, except where it is by this Ordinance or by these rules otherwise provided, that may be heard and determined by a single judge or which by the practice and procedure in the Supreme Court of Judicature in England may be heard and determined by any judge in chambers, master or chief clerk. N.W.T., c. 21, R. 480.

Jurisdiction of judge in chambers.

### III.—*Administration and Trusts.*

489. The executors or administrators of a deceased person or the sureties for administrators and the trustees under any deed or instrument or any of them and any person claiming to be interested in the relief sought as creditor, devisee, legatee, next of kin or heir at law of a deceased person or as *cestui que trust* under the trust of any deed or instrument or as claiming by assignment or otherwise under such creditor or other person as aforesaid may obtain an originating summons returnable before the judge in chambers at such time as he appoints, for:—

Originating summons relating to express trusts or administration of estate of deceased person.

- (1.) The administration of the estate of the deceased ;
- (2.) The administration of the trust ;
- (3.) The determination of any question affecting the rights or interests of the person claiming to be creditor, devisee, legatee, next of kin or heir at law or *cestui que trust* ;
- (4.) The ascertainment of any class of creditors, legatees, devisees, next of kin or others ;
- (5.) The furnishing and vouching of any particular accounts by executors, administrators or trustees ;
- (6.) The payment into court of any money in the hands of executors, administrators or trustees ;
- (7.) Directing the executors, administrators or trustees to do or abstain from doing any particular act in their character as executors, administrators or trustees ;
- (8.) The approval of any sale, purchase, compromise or other transaction ;
- (9.) The determination of any question arising in the administration of the estate or trust ;
- (10.) An order that no action be brought or that all actions and proceedings pending against trustees, executors or administrators be stayed for such period as to the said judge seems necessary or expedient in order that sufficient

Staying actions pending performance of trusts.

time be allowed to such trustee, executor or administrator for the performance of the trusts imposed upon him ; provided however that any creditor or other person interested in such estate may apply before the expiration of such time for an order discontinuing such stay :

Interference with discretion of trustee.

Provided that the proceedings under this rule shall not interfere with or control any power or discretion vested in any executor, administrator or trustee except so far as such interference or control may necessarily be involved in the particular relief sought. [E. 765, 766 and 774.] N.W.T., c. 21, R. 481.

Service of summons.

490. The persons to be served with the summons under the next preceding rule shall be such persons as would be the proper defendants to an action for the like relief as that specified by the summons and the summons shall be served upon such other persons as the judge directs and the intended hearing may also be advertised in one or more newspapers as the judge orders. N.W.T., c. 21, R. 482.

Newspaper notice.

Evidence.

491. The application shall be supported by such evidence as the judge requires. [E. 769.] N.W.T., c. 21, R. 483.

Judgment on summons.

492. Upon the return of the summons the judge may pronounce such judgment and make such orders as the nature of the case requires. [E. 770.] N.W.T., c. 21, R. 484.

Special directions.

493. The judge may give any special directions touching the carriage or execution of the judgment or order or the service thereof upon persons not parties as he thinks proper. [E. 771.] N.W.T., c. 21, R. 485.

Administration not to be ordered if questions otherwise determinable.

494. It shall not be obligatory on the Court or judge to pronounce or make judgment or order whether on summons or otherwise for the administration of any trust or of the estate of any deceased person if the questions between the parties can be properly determined without such judgment or order. [E. 772.] N.W.T., c. 21, R. 486.

Powers of court if administration or trust accounts not rendered.

495. Upon an application for administration or execution of trusts by a creditor or beneficiary under a will, intestacy or deed of trust where no accounts or insufficient accounts have been rendered the Court or a judge may in addition to the powers already existing :

- (a) Order that the application shall stand over for a certain time and that the executors, administrators or trustees in the meantime shall render to the applicant a proper statement of their accounts with an intimation that if this is not done they may be made to pay the costs of the proceedings ;
- (b) When necessary to prevent proceedings by other creditors or by persons beneficially interested make

the usual judgment or order for administration with a proviso that no proceedings are to be taken under such judgment or order without leave of the judge in person. [E. 772a.] N.W.T., c. 21, R. 487.

496. Any of the following applications may be made by originating summons : Appointment of new trustee and vesting order.

(1.) An application for the appointment of a new trustee with or without a vesting or other consequential order ;

(2.) An application for a vesting order or other order consequential on the appointment of a new trustee whether the appointment is made by the Court or a judge or out of court. N.W.T., c. 21, R. 488.

497. Whenever in an action for the administration of the estate of a deceased person or execution of the trusts of a written instrument a sale is ordered of any property vested in any executor, administrator or trustee the conduct of such sale shall be given to such executor, administrator or trustee unless the judge otherwise directs. [E. 666.] N. W.T., c. 21, R. 489. Sale ordered of trust property. Conduct of sale.

498. The judge may in such way as he thinks fit obtain the assistance of accountants, merchants, engineers and other scientific persons the better to enable any matter at once to be determined and he may act upon the certificate of any such person. [E. 781.] N.W.T., c. 21, R. 490. Judge may obtain assistance of experts.

499. Where a judgment or order is given or made directing an account of debts, claims or liabilities or an inquiry for heirs, next of kin or other unascertained persons unless otherwise ordered all persons who do not come in and prove their claims within the time which is fixed, for that purpose by advertisement shall be excluded from the benefit of the judgment or order. [E. 806.] N.W.T., c. 21 R, 491. Claimants not coming in to prove excluded.

500. The Court or judge may direct that notice of the time so fixed shall be given by publishing an advertisement thereof in some newspaper or newspapers in the Territory as the Court or judge directs and unless otherwise directed no other notice thereof or service shall be necessary. N.W.T., c. 21, R. 492. Advertisement of time for proof of claims.

501. Such notice if the order is made by the Court shall be signed by the clerk as the officer of the court ; if made by a judge it shall be signed by him. N.W.T., c. 21, R. 493. Signature of notice.

502. Upon such notice being duly published and such other notice given or published or served as the Court or judge directs, all persons who do not come in and prove Persons not proving claims within time excluded.

their claims within the time so fixed shall be excluded from the benefits of the judgment or order. [E. 806.] N. W.T., c. 21, R. 494.

Application by trustee, etc., for opinion and direction of court.

503. Any trustee, executor or administrator may without the institution of a suit upon a written statement verified on oath apply to a judge in chambers for the opinion advice, or direction of such judge on any question respecting the management or administration of the trust property or the assets of any testator or intestate, notice of such application to be served upon or the hearing thereof to be attended by all persons interested in such application or such of them as the said judge thinks expedient and the said trustee, executor, or administrator acting upon the opinion, advice, or direction given by the said judge shall be deemed so far as regards his own responsibility to have discharged his own duty as such trustee, executor or administrator in the subject matter of the said application ;

Exoneraton of trustee, etc.  
Fraud or concealment.

Provided nevertheless that nothing in this rule shall extend to indemnify any trustee, executor or administrator in respect of any act done in accordance with such opinion, advice or direction as aforesaid if such trustee, executor or administrator has been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion, advice or direction. N.W.T., c. 21, R. 495.

#### IV.—*Guardian ad litem.*

Infant or person of unsound mind  
Guardian ad litem.

504. At any time during proceedings at chambers under any judgment or order the judge may if he thinks fit appoint a guardian *ad litem* for an infant or person of unsound mind not already so found who has been served with notice of such judgment or order. N.W.T., c. 21, R. 496.

#### V.—*Varying Orders*

Consent to discharge of order.

505. The judge may set aside, vary or discharge any order made by him on consent of all parties interested. N.W.T., c. 21, R. 497.

### ORDER XLI.

#### COURT EN BANC.

Sittings of court *en banc*.

506. The Territorial Court shall sit *en banc* at such times and places as the Commissioner of the Yukon Territory appoints. The sittings may be adjourned from time to time as is necessary. N.W.T., c. 21, R. 498.



507. If on any of the days appointed for the sittings of the Court *en banc* or adjournments thereof a sufficient number of judges to constitute a quorum have not arrived the senior judge present shall make such adjournment as he thinks proper. N.W.T., c. 21, R. 499. Adjournment if no quorum.

508. No judgment given or order made by the Court or a judge by the consent of parties or as to costs only which by law are left to the discretion of the Court or judge shall be subject to any appeal except by leave of the Court or judge giving the judgment or making the order. N.W.T., 21, R. 500. Judgment on consent or as to costs, no appeal without leave.

509. No appeal shall lie from the judgment or order of the court presided over by a single judge or a judge of the court to the Court *en banc* without the special leave of the judge or court whose judgment or order is in question unless the title to real estate or some interest therein or the validity of a patent is affected or unless the matter in controversy on the appeal exceeds the sum of two hundred dollars exclusive of costs; or unless the matter in question relates to the taking of an annual or other rent, customary or other duty or fee or a like demand of a public nature or general nature affecting future rights. N.W.T., c. 21, R. 501. Jurisdiction in appeal.

510. No security for costs shall be required in applications for new trials or appeals or motions in the nature of appeals unless by reason of special circumstances such security is ordered by a judge upon application to be made within fifteen days from the service of the notice of motion, application or appeal. N.W.T. c. 21, R. 502. Security for costs.

511. Motions for new trials, appeals and motions in the nature of appeals shall be brought by notice of appeal and any party appealing may by the same notice appeal and in the alternative ask for a new trial. In motions for new trials, appeals or motions in the nature of appeals the appellant may, by the notice of appeal, appeal from the whole or any part of the verdict, judgment or order and the notice of appeal shall state whether the whole or part only of such verdict, judgment or order is complained of and in the latter case shall specify such part; and such notice of appeal shall state the grounds on which such application is based. N.W.T. c. 21, R. 503. Appeal or motion for new trial. Contents of notice.

512. The notice of appeal shall be served within 30 days after the verdict where the application is for a new trial and within 30 days after judgment in other cases but the Court or judge may either before or after the expiration of such period enlarge the time for giving notice, provided that in appeals from interlocutory orders the notice of Time for service of notice.

appeal shall be served within 15 days from the date of the order but the Court or judge may in like manner enlarge the time for giving such notice. N.W.T. c. 21, R. 504.

Amendment  
of notice.

513. The notice may be amended at any time by leave of the Court or judge on such terms as the Court or judge thinks just. [E. 555.] N.W.T. c. 21, R. 505.

Service of  
notice of  
appeal.

514. In appeals or motions in the nature of appeals the notice of appeal shall be served on all parties directly affected by the appeal and it shall not be necessary to serve parties not so affected; but the Court may direct notice of the appeal to be served on all or any parties to the action or other proceeding or upon any person not a party and in the meantime may postpone or adjourn the hearing of the appeal upon such terms as are just and may give such judgment and make such order as might have been given or made if the persons served with such notice had been original parties. [E. 866.] N.W.T. c. 21, R. 506.

Parties to  
appeal.

General  
powers of  
court on  
appeal.

515. On appeal the Court shall have in addition to all the powers and duties as to amendment, full discretionary powers to receive further evidence on questions of fact as to matters which have occurred after the date of the decision from which the appeal is brought by affidavit or by deposition taken before an examiner or commissioner; such further evidence shall be admitted on special grounds only and with the special leave of the Court. The Court shall have power to draw inferences of fact and to give any judgment and make any order which ought to have been made and to make such further or other order as the case requires. The powers aforesaid may be exercised by the Court notwithstanding that the notice of appeal is that part only of the decision be reversed or varied and such powers may also be exercised in favour of all or any of the respondents or parties although such respondents or parties may not have appealed from or complained of the decision. The Court shall have power to make such order as to the whole or any part of the costs of the appeal as are just. [E. 868.] N.W.T., c. 21, R. 507.

New trial not  
to be granted  
unless  
substantial  
wrong or  
miscarriage.

516. A new trial shall not be granted on the ground of misdirection or of the improper admission or rejection of evidence or because the verdict of the jury was not taken upon a question which the judge at the trial was not asked to leave to them unless in the opinion of the Court to which the application is made some substantial wrong or miscarriage has been thereby occasioned in the trial; and if it appears to such court that such wrong or miscarriage affects part only of the matter in controversy or some or one only of the parties the Court may give final judgment as to part thereof or some or one only of the parties and direct a new

trial as to the other part only or as to the other party or parties. [E. 556.] N.W.T. c. 21, R. 508.

517. A new trial may be ordered on any question whatever are the grounds for the new trial without interfering with the decision or finding upon any other question. [E. 557.] N.W.T. c. 21, R. 509. New trial on any one question.

518. When notice of motion for a new trial or notice of appeal has been served the further proceedings on the verdict, finding, order or judgment may be stayed in whole or in part until the decision of such motion or appeal by the Court or by the judge who presided at the trial on such terms as the Court or judge thinks fit. The applicant however shall be entitled to an order so staying the proceedings on filing sufficient bail or security or making deposit of money to the approval of the Court or judge in such reasonable amount as the Court or judge directs to respond the judgment to be finally given in the cause or matter. An application to the judge for such stay of proceedings shall not prejudice the applicant's right to apply to the Court for such stay. N.W.T. c. 21, R. 510. Application to stay proceedings pending appeal.

519. When any question of fact is involved in an appeal or application for a new trial the evidence taken in the court below or by the judge appealed from, bearing on such question shall subject to any special order be brought before the court as follows : Evidence on appeal as to question of fact.

1. As to any evidence taken by affidavit, by the production of copies of such affidavits ;

2 As to any evidence given orally, by the production of copies of the judge's notes or of the evidence extended from the notes taken by the official stenographer or of such other material as the Court deems expedient. [E. 875.] N.W.T., c. 21, R. 511.

520. No interlocutory order or rule shall operate so as to bar or prejudice the Court from giving such decision on the appeal as is just. [E. 878.] N.W.T., c. 21, R. 512. Interlocutory order not to prejudice appeal.

521. No notice of appeal shall operate as a stay of execution or of proceedings under the decision appealed from or objected to except so far as the judge appealed from or the Court orders and no intermediate act or proceeding shall be invalidated except so far as the Court directs. Such deposit or other security shall be made or given as is directed by the Court or judge otherwise the motion of appeal or for new trial shall not be heard but be dismissed. [E. 880.] N.W.T., c. 21, R. 513. Appeal not to be stay of proceedings. Security.

522. Where any application ought to be made to or any jurisdiction exercised or any act done by the judge by whom Applications to judge where judge who

tried the  
action cannot  
hear them.

a cause or matter has been tried or heard if such judge dies or ceases to be a judge of the court or if for any other reason it is impossible or inconvenient that such judge should act in the matter the presiding judge may either by a special order in any cause or matter or by a general order applicable to any class of orders or matters nominate some other judge to whom such applications may be made or by whom such jurisdiction may be exercised. [E. 885.] N.W.T., c. 21, R. 514.

Appeals to be  
entered and  
motions made  
at first  
opportunity.

523. A judgment, order, decision, rule or verdict appealed from or sought to be set aside shall stand as if no notice of appeal or notice of motion to set the same aside had been made or given if the cause or matter in which the same was made or given is not entered for argument on the first entry day after such notice or if the motion of which such notice has been given is not made when the cause or matter is called unless such default in the moving party is waived by the other parties interested or unless the Court otherwise orders. N.W.T., c. 21, R. 515.

Single judge  
may deliver  
judgment of  
court or of  
other judge.

524. Any judge may deliver the judgment of the Court when authorized to do so by the judges *en banc* who heard the matter on which judgment is to be pronounced or may deliver the judgment of any other judge when authorized to do so by such other judge notwithstanding the absence of the judge or judges aforesaid. N.W.T., c. 21, R. 516.

## ORDER XLII.

### COSTS.

#### I.—*Generally.*

Costs  
generally in  
discretion  
of court.

525. Subject to the provisions of this Ordinance and the rules of court the costs of and incident to all proceedings in the Territorial Court including the administration of estates and trusts and compensation or allowance to any executor, administrator, guardian, committee, receiver or trustee shall be in the discretion of the Court or judge :

Proviso as to  
trustees.

Provided that nothing herein contained shall deprive an executor, administrator, trustee or mortgagee who has not unreasonably instituted or carried on or resisted any proceedings of any right to costs out of a particular estate or fund to which he would otherwise be entitled.

Costs where  
cause tried  
by jury.

Provided also that where any action, cause, matter or issue is tried with a jury the costs shall follow the event unless the judge by whom such action, cause, matter or issue is tried or the court for good cause otherwise orders. [E. 966.] N.W.T., c. 21, R. 517.

526. When issues in fact and law are raised upon a claim or counterclaim the costs of the several issues respectively both in law and fact shall unless otherwise ordered follow the event. N.W.T., c. 21, R. 518. Costs of issues.

527. Where the Court or judge appoints the Public Administrator or a solicitor to be guardian *ad litem* of an infant or person of unsound mind the Court or judge may direct that the costs to be incurred in the performance of the duties of such office shall be borne and paid by the parties or some one or more of the parties to the cause or matter in which such appointment is made or out of any fund in court in which such infant or person of unsound mind is interested and may give directions for the repayment or allowance of costs as the justice and circumstances of the case requires. [E. 988.] N.W.T., c. 21, R. 519. Costs of solicitor guardian *ad litem*.

## II.—*Security for Costs.*

528. When the plaintiff in an action resides out of the Territory and in any other case where by the practice and procedure in England a defendant is entitled to security for costs and the defendant by affidavit of himself or his agent alleges that he has a good defence on the merits to the action the defendant shall be entitled to a summons to show cause why an order should not issue requiring the plaintiff within three months (or such other or further time as the Court or judge deems right) from the service of the order to give security for the defendant's costs and staying all further proceedings in the meantime and directing that in default of such security being given the action be dismissed with costs unless the Court or judge on special application for that purpose otherwise orders. N.W.T., c. 21, R. 520. Summons for security for costs.

529. In any cause or matter in which security for costs is required the security shall be of such amount and be given at such times and in such manner and form as the Court or judge directs. [E. 981.] N.W.T., c. 21, R. 521. Time and manner of giving security.

530. Where a bond is given as security for costs it shall unless the Court or judge otherwise directs be given to the party or person requiring the security and not to an officer of the court. [E. 982.] N.W.T., c. 21, R. 522. Obligee where bond given.

## III.—*Taxation and Tariffs of Costs.*

531. In all cases and proceedings as also upon interlocutory applications where a party becomes entitled to costs from any other party the same shall be taxed by the clerk Taxation of costs unless lump sum ordered.

in accordance with the authorized tariffs unless the Court or judge by order directs the payment of a sum in gross in lieu of taxed costs and by and to whom such sum in gross shall be paid. N.W.T., c. 21, R. 523.

Sheriff's and clerks' fees.

532. There shall be paid to each sheriff and clerk the fees prescribed by the judges of the Territorial court; and for any necessary services performed for which fees are not so prescribed such fees as are authorized by the judge. N.W.T., c. 21, R. 524.

Cases where solicitor may be deprived of or ordered to pay costs.

533. If in any case it appears to the court or a judge that costs have been improperly or without any reasonable cause incurred or that by reason of any undue delay in proceeding under any judgment or order or of any misconduct or default of the solicitor any costs properly incurred have nevertheless proved fruitless to the person incurring the same the court or judge may call on the solicitor of the person by whom such costs have been so incurred to show cause why such costs should not be disallowed as between the solicitor and his client and also (if the circumstances of the case require) why the solicitor should not pay to his client any costs which the client has been ordered to pay to any other person and thereupon may make such order as the justice of the case requires. N.W.T., c. 21, R. 525.

Notice of taxation.

534. One day's notice of taxing costs together with a copy of the bill of costs and affidavit of increase if any shall be given by the solicitor of the party whose costs are to be taxed to the other party or his solicitor in all case where a notice to tax is necessary. N.W.T., c. 21, R. 526.

Unnecessary if defendant not appeared.

535. Notice of taxing costs shall not be necessary in any case where the defendant has not appeared in person or by his solicitor or guardian. N.W.T., c. 21, R. 527.

Application for review of taxation.

536. Any party who is dissatisfied with the allowance or disallowance by the clerk in any bill of costs taxed by him of the whole or any part of the item or items may on two days' notice to the opposite party specifying the item or items objected to apply to a judge in chambers to review the taxation. N.W.T., c. 21, R. 528.

Evidence on review.

537. Such application shall be heard and determined by the judge upon the evidence which was brought in before the clerk and no further evidence shall be received unless the judge otherwise directs. N.W.T., c. 21, R. 529.

Tariffs to be posted.

538. A copy of the tariff of clerk's and sheriff's fees shall be posted in some conspicuous place in the clerk's and sheriff's offices respectively. N.W.T., c. 21, R. 530.

539. Witnesses, jurors and interpreters and parties shall be entitled to the fees and remuneration named in the *Tariff of witnesses', jurors' and interpreters' fees* appended to this Ordinance. N.W.T., c. 21, R. 531. Witnesses', jurors' and interpreters' fees.

540. All fees and allowances respectively payable under the said tariffs whether under writs of execution or otherwise shall be paid in advance by the parties at whose instance the service is to be rendered but in cases where the amounts are impossible of ascertainment for any reason then the amount approximated by the officer or fixed by the judge shall be deposited or paid to be accounted for when the correct amount is ascertained. N.W.T., c. 21, R. 532. Fees payable in advance.  
Deposit where unascertainable.

541. In all causes and matters in which duly enrolled solicitors holding certificates as such and resident in the Territory are employed they shall be entitled to charge and be allowed such fees as are from time to time prescribed by the judges of the Territorial Court. N.W.T., c. 21, R. 533. Solicitors fees.

542. The court *en banc* may by order regulate fees for services performed by the clerk and other officers of the court as also fees to counsel and solicitors practising therein. N.W.T., c. 21, R. 534. Fees in court *en banc*.

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## ORDER XLIII.

### MISCELLANEOUS.

#### I.—Forms.

543. The forms contained in the schedule to this Ordinance shall be used with such variations as circumstances require; and as to all other matters the forms used in the administration of civil justice in England with such variations as will make them respectively applicable to proceedings in the Territorial Court of the Territory whether *en banc* or otherwise may be used. N.W.T., c. 21, R. 535. Forms.

#### II.—Actions against Public Officers.

544. All actions and prosecutions to be commenced against any person for anything purporting to be done in pursuance of his duty as a public officer shall be commenced within six months after the act was committed and not otherwise and notice in writing of such action and of the cause thereof must be given to the defendant one month at least before the commencement of the action. N.W.T., c. 21, R. 536. Venue.  
Limitation.  
Notice of action.

### III.—*Ex parte Proceedings ; Noncompliance ; and Irregularities.*

*Ex parte*  
proceedings.  
Notice may be  
required.

545. In case of *ex parte* proceedings the judge may refuse to proceed *ex parte* and may direct such notice to be given by summons or otherwise to such party or parties as he deems fit. N.W.T., c. 21, R. 537.

Non-  
compliance,  
effect of.

546. Non-compliance with any of the provisions of this Ordinance shall not render any proceedings void unless the Court or a judge directs but such proceedings may be set aside either wholly or in part as irregular or amended or otherwise dealt with in such manner and upon such terms as the Court or judge thinks fit. [E. 1037.] N. W.T., c. 21, R. 538.

Waiver of  
irregularity.

547. No application to set aside any proceeding for irregularity shall be allowed unless made within reasonable time nor if the party applying has taken any fresh step after knowledge of the irregularity. [E. 1038.] N.W.T., c. 21, R. 539.

Grounds of  
irregularity  
to be stated.

548. When an application is made to set aside proceedings for irregularity the several objections intended to be insisted upon shall be stated in the summons or notice. [E. 1039.] N.W.T., c. 21, R. 540.

Costs of  
summons.

549. When a summons is taken out or notice given to set aside any process or proceeding for irregularity with costs and the summons or notice is dismissed generally without any special direction as to costs it is to be understood as dismissed with costs. [E. 1040.] N.W.T., c. 21, R. 541.

### IV.—*Alias Writs.*

Expiry of  
process.  
*Alias* or  
*pluries*.

550. The expiry of any writs or process without service or execution shall not abate the suit but the suit may be continued by the issue of *alias* or *pluries* writs or process as is necessary. N.W.T., c. 21, R. 542.

### V.—*Time for Service.*

Hours for  
service of  
pleadings, etc.

551. Service of pleadings, notices, summonses, orders, rules and other proceedings except writs of summons, attachment and replevin shall be effected before six o'clock in the afternoon ; service effected after six o'clock in the afternoon shall for the purpose of computing any period of time subsequent to such service be deemed to have been effected on the following day and if effected on Saturday, the following Monday. [E. 971.] N.W.T., c. 21, R. 544.



552. In any case in which any number of days not expressed to be clear days is prescribed in this Ordinance the same shall be reckoned exclusively of the first and inclusively of the last day. [E. 972.] N.W.T., c. 21, R. 545.

Reckoning number of days.

553. Where any limited time less than six days from or after any date or event is appointed or allowed for doing any act or taking any proceeding the days on which the offices are closed under the provisions of this Ordinance and the rules of court shall not be reckoned in the computation of such limited time. [E. 962.] N.W.T., c. 21, R. 546.

Where time limited under six days holidays excluded.

554. Where the time for doing any act or taking any proceeding expires on a Sunday or other day on which the offices are closed and by reason thereof such act or proceeding cannot be done or taken on that day such act or proceeding shall so far as regards the time of doing or taking the same be held to be duly done or taken if done or taken on the day on which the offices are next open. [E. 963.] N.W.T., c. 21, R. 547.

Time expiring on holiday.

555. The Court or a judge shall have power to enlarge or abridge the time appointed by this Ordinance or the rules of court or fixed by any order enlarging time for doing any act or taking any proceedings upon such terms if any as the justice of the case requires and any such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed or allowed. N.W.T., c. 21, R. 548.

Enlargement or abridgement of time.

#### VI.—*Sittings of the Court and Vacation.*

556. Subject to the provisions of section 12 of the Yukon Territory Act and until the times and places of sittings are appointed under that section, the Territorial Court, presided over by a single Judge for the transaction of the business of the Court, may sit and act at any time and place in the Yukon Territory that the judges of the Court appoint, or, in the absence of such appointment, that the Judge who is to hold any sitting appoints therefor.

Judges may fix sittings of court.

(2) Several sittings of the Court, each so presided over, may be held concurrently.

Sittings may be concurrent.

(3) Between the first and twenty-fifth days, inclusive, of every month, if there is any business to dispose of there shall be at least one sitting of the Court at Dawson in said Territory on every day of the month, except on holidays and Saturdays.

Court to sit from 1st to 25th of each month.

(4) Every sitting of the Court shall commence at the hour of 10 o'clock in the forenoon, unless otherwise ordered by the judge who is to hold the sitting, or by the judges.

Sittings to commence at 10 a.m.

(5) At the conclusion of the sitting of the Court on any day, unless the presiding judge otherwise orders, and, if

At conclusion

of sittings or if no judge attends court to adjourn until 10 a.m. next day.

no judge attends at any time or place appointed for a sitting of the Court, then, at three of the clock in the afternoon of the day appointed, the Court shall be deemed to be adjourned until the hour of ten of the clock in the forenoon of the next day fixed by this Ordinance or appointed for a sitting of the court. No. 21 of 1901, s. 1.

Vacation.

557. There shall be a vacation to extend from the first day of December in every year to the first day of February in the year following, inclusive of both of said days.

No contested business to be transacted in vacation.

(2) During vacation no contested business, except as in this section provided, shall be transacted, and no party to a cause in which the defendant has appeared, shall be compelled to deliver any pleading. If the time for delivering any pleading in any such cause has not expired before the first day of vacation, it shall, without any order to that effect, stand extended until the expiration of five days after the last day of vacation

What may be done during vacation.

(3) Provided that during vacation :

(a) Notice of motion to set a cause down, for trial may be given and heard.

(b) Any process may be issued.

(c) Any *ex parte* business and any contested business, if the parties to such contested business by their solicitors or counsel consent, may be transacted.

(d) Judgment by default may be entered in any cause in which no appearance has been entered.

(e) Costs may be taxed, and

(f) Any cause or matter may be heard and any proceedings may be had or taken if the Court or a judge authorizes such proceedings to be had or taken notwithstanding vacation. No. 21 of 1901, s. 1.

Sitting of court *en banc*.

557. There shall be three sittings of the court *en banc* during each year, in the months of April, June and September, and each sitting shall continue until appeals and other matters pending in such court are disposed of:

Provided, however, that there shall be no sitting of such court *en banc* between the 25th day of September in any year and the 15th day of the next ensuing month of March. No. 22 of 1901, s. 1.

## Part II.

### Lunatics, Infants and Probate.

#### ORDER XLIV.

##### LUNATICS.

559. Proceedings in lunacy shall be by petition to the judge filed with the clerk of the court for that purpose verified on oath setting forth the ground on which the application is made and the relations or connection of the petitioner to or with the alleged lunatic and his property and estate as also a description and value of the same separating real and personal estate. N.W.T., c. 21, R. 551.

Petition to  
judge.  
Verification.

560. Upon presentation of such petition the judge shall appoint a time and place at which he will hear the same; at which time and place (all necessary parties having been duly notified) the judge shall inquire into the facts and hear such evidence under oath as is adduced and thereupon determine whether or not the person who is the subject of the inquiry is at the time of such inquiry of unsound mind, has property and is incapable of managing such property. N.W.T., c. 21, R. 552.

Hearing of  
petition.

561. A copy of such petition and notice of the intended application shall be served on the alleged lunatic unless such service is dispensed with by the judge. N.W.T., c. 21, R. 553.

Service on  
lunatic.

562. The judge may order the issue of a commission to take evidence to be used on any such hearing as in any ordinary suit in court and all depositions taken thereunder shall be received in evidence at the hearing saving all just exceptions. N.W.T., c. 21, R. 554.

Commission to  
take evidence.

563. If the judge determines such person to be a lunatic and that he has property the judge shall forthwith order the appointment under the seal of the court of one or more persons as guardian or guardians to his estate. N.W.T., c. 21, R. 555.

Appointment  
of guardian.

564. On every such inquiry the alleged lunatic if he is within the jurisdiction of the court shall be produced and examined by the judge unless such examination is dispensed with. N.W.T., c. 21, R. 556.

Examination  
of lunatic.

Costs.

565. The judge may order the costs, charges and expenses of and incidental to proceedings in matters of lunacy to be paid either by the party presenting the petition or the party opposing the same (if opposition is made) or out of the estate or partly one way and partly the other. N.W.T., c. 21, R. 557.

566. In every case unless otherwise specially provided by order of the judge the following provisions shall be complied with :

Security  
by guardian.

(1.) The guardian of the estate shall before receiving his appointment furnish his own bond together with those of two or more persons approved of by the judge as sureties in double the approximate value of the personal estate and of the annual value of the real estate for duly accounting for the same once in each year or oftener if required by the judge or Court such bond to be (in form approved of by the judge) to the clerk of the court and his successors in office or legal assigns, which bond shall be filed in court ;

Inventory.

(2.) The guardian of the estate shall within six months after appointment file in court a true inventory of the whole real and personal property and estate of the lunatic stating the income and profits thereof and setting forth the debts, credits and effects of the lunatic so far as the same have come to the knowledge of the guardian ;

Supplemen-  
tary inventory

(3.) If any property belonging to the estate is discovered after the filing of the inventory the guardian shall file a true account of the same from time to time as the same is discovered ;

Verification.

(4.) Every inventory shall be verified by the oath of the guardian. N.W.T., c. 21, R. 558.

Where  
personal  
estate  
insufficient  
for debts.  
Petition for  
realisation  
on realty.

567. Whenever the personal estate of a lunatic is not sufficient for the discharge of his debts,—

(1.) The guardian of his estate may apply by petition to the judge for authority to mortgage or sell so much of the real estate as is necessary for the payment of such debts ;

(2.) Such petition shall set forth the particulars and amount of such estate (real and personal) of the lunatic, the application made of any personal estate, and an account of the debts and demands against the estate ;

Inquiry by  
judge.

(3.) The judge shall make or cause to be made inquiries into the truth of the representations made in the petition and hear all parties interested in the real estate ;

Order for sale  
or mortgage.

(4.) If the judge is satisfied as to the result of such inquiries, that the personal estate is not sufficient for the payment of the debts and that the same has been applied to that purpose as far as the circumstances of the case render proper the judge may order the real estate or a sufficient portion of it to be mortgaged or sold by the guardian and the moneys thus raised shall be employed for the pay-

ment of the debts of the estate and if insufficient shall be distributed in the same way as intestates' estates are distributed by law the guardian having first provided a bond with sureties similar in terms to that provided by clause (1) of the next preceeding rule for duly accounting for the proceeds so raised. N.W.T., c. 21, R. 559.

Bond by guardian.

568. When the personal estate and the rents, profits and income of the real estate of the lunatic are insufficient for his maintenance or that of his family or for the proper education of his children or when for any other cause it appears desirable so to do on application made by the guardian or by any member of the family of the insane person the judge may after inquiry as hereinbefore provided in the case of debts order the mortgaging or sale of the whole or part of the real estate of the lunatic by the guardian the guardian having first provided a bond with sureties as required by the next preceding rule. N.W.T., c. 21, R. 560.

Sale or mortgage of real estate for maintenance of lunatic or family.

569. The judge may order such fees to the clerk of the court and costs of and relating to any petition, order, direction and conveyance including remuneration to the guardian as he considers reasonable to be paid and raised from the lands, rents or personal estate of the lunatic in respect of whom the same may be respectively incurred, made or caused N.W.T., c. 21, R. 561.

Clerk's fees. Costs.

Guardian's remuneration.

570. On sufficient grounds shown the judge may remove a guardian and appoint another in his stead. N.W.T., c. 21, R. 562.

Removal of guardian.

571. In the proceedings aforesaid the petitions and papers may be intituled as follows.

Intituling proceedings.

In the Territorial Court,

In the matter of

N.W.T., c. 21, R. 563.

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## ORDER XLV.

### INFANTS.

#### I.—Guardians.

572. The Court or a judge thereof may appoint guardians of infants and of their estates (but unless the Court or judge otherwise orders no guardian shall be appointed to the person or estate of any infant of the age of fourteen years or

Guardianship of infants and their estates.

Letters of appointment. over without the consent of such infant) and letters of appointment may be obtained as in the case of letters of administration. A record of every appointment and removal shall be made and the like record thereof kept with the papers upon which the appointment and removal are made in like manner as near as may be as in the case of probate and administration. N.W.T., c. 21, R. 564.

Mother may be appointed not withstanding other appointment by father. 573. The Court or judge may upon hearing the petition of the mother of an infant whose father is dead appoint the mother or some other person to take the guardianship of the person of the infant notwithstanding any testamentary provisions to the contrary or any appointment of another person as guardian by the father if it appears just and proper; and may also make an order for the maintenance of the infant by the payment out of any estate to which the infant is or shall be entitled of such sum or sums of money from time to time as according to the value of the estate such Court or judge thinks just and reasonable. N.W.T., c. 21, R. 565.

Maintenance of infant.

Testamentary appointment of mother may be preferred to that of father. 574. The Court or judge may give effect to the testamentary appointment of guardians by the mother of infant children either as respects the person or estate or one or both notwithstanding the previous appointment of gaurdians by testament of the father of such infants upon petitions presented and facts proved, if it seems advisable and in the interest of the infants to do so; and make an order for the maintenance of the infants as in the next preceding rule mentioned. N.W.T., c. 21, R. 566.

Maintenance.

Testamentary guardians and trustees. Removal. 575. Testamentary guardians and trustees may be removed for proper cause in the same manner as other guardians and trustees. N.W.T., c. 21, R. 567.

General powers of court or judge.

576. In all matters and applications touching or relating to the appointment of guardians, control or removal of guardians of any infants and the security to be given by such guardians or otherwise, the Court or judge shall have full power and authority to summon and order the attendance of witnesses and to order the examination of the same before the Court or judge and to order the production of deeds, writings and documents and generally to enforce all orders, decrees and judgments in such manner as seems expedient according to the practice and procedure of the court in that behalf and in such manner as the Court or judge directs. N.W.T., c. 21, R. 568.

Appointment of guardian on notice to mother.

577. Upon the written application of any infant or the friend or friends of any infant and upon notice thereof to the mother of such infant if living in the Territory the

Court or judge may upon a proper case made out for that purpose appoint some suitable and discreet person or persons to be guardian or guardians of such infant. N.W.T., c. 21, R. 569.

578. There shall be taken from the guardian or guardians appointed by the Court a bond in the name of the infant or infants in such penal sum and with or without sureties as the Court or judge directs or approves having regard to the circumstances of each case; and such bond shall be conditioned that the said guardian or guardians shall and will faithfully perform the said trust and that he or they, his or their executors or administrators shall and will when the said ward becomes of the full age of twenty-one years or whenever thereunto required by the Court or a judge render to his or their said ward or his or their executors or administrators a true and just account of all goods, moneys, interests, rents and profits of property of such ward which have come or which might but for his or their default have come into the hands of such guardian or guardians and that he or they shall and will thereupon without any delay deliver and pay over to the said ward or to his or her executors or administrators the property or the sum or balance of money which may be in the hands of the said guardian or guardians belonging to such ward deducting therefrom and retaining a reasonable sum for the expenses and charges of the said guardian or guardians; and such bond shall be filed and recorded in the books in the office of the clerk of the court but in cases where the estate is of small value such bond or bonds may be dispensed with. N.W.T., c. 21, R. 570.

Security by guardian.

May be dispensed with.

579. The guardian or guardians of the person of an infant so appointed may during the continuance of his or her guardianship in case the infant is under the age of fourteen years with the approbation of two justices of the peace and the consent of such ward or in case the infant is not under the age of fourteen years then with the consent of the ward only place or bind him or her an apprentice to any lawful trade, profession or employment; such apprenticeship in the case of males not extending beyond the age of twenty-one years and in the case of females not beyond the age of eighteen years or the marriage of the ward within that age. N.W.T., c. 21, R. 571.

Apprenticing infants.

580. The Court or judge may on proper cause being shown for that purpose discharge any such ward from the apprenticeship in the next preceding rule mentioned and order the articles or instrument of apprenticeship to be delivered up to be cancelled or make such other order in respect of the master or apprentice or either of them as under the circumstances appears to be proper and just; and may

Discharging apprenticeship.

Removal of guardian.

also upon reasonable complaint made and sustained remove any guardian or guardians from his or their guardianship and if it appears necessary appoint another guardian or guardians in his or their stead. N.W.T., c. 21, R. 572.

Practice and procedure.

581. The practice and procedure in respect of guardianship and all question relating thereto shall conform as nearly as the circumstances will admit to the practice and procedure in England,

Provided always that the Court or judge may in any case where the circumstances warrant it to save expenses vary the same. N.W.T., c. 21, R. 573.

## II.—*Custody of Infants.*

Order for access of mother.

582. The Court or judge upon application by the mother of any infant being in the sole custody or control of the father thereof or any other person by his authority or of any other person without his authority or of any guardian after the death of the father may make an order for the access of the mother to such infant at such times and subject to such regulations as the Court or judge thinks convenient and just; and if such infant is within the age of twelve years may make an order for the delivery of such infant into the custody and control of the mother and there to remain for such time and under such conditions as the Court or judge prescribes; and in dealing with any such application the Court or judge may also make an order for the maintenance and education of such infant by payment by the father thereof or by payment out of any estate to which such infant is entitled of such sum or sums of money from time to time as according to the pecuniary circumstances of such father or the value of such estate the Court or judge thinks just and reasonable. As a rule the father shall have the custody and control of his infant children but it shall be lawful for the Court or a judge on a proper case made for that purpose to order any infant child or children to be delivered into the sole custody and control of the mother on such conditions and subject to such regulations as the circumstances and facts of the case render proper, reasonable and just, wherever such child or children may be or under whatever authority or control they may have been placed, any law, usage or custom to the contrary notwithstanding. N.W.T., c. 21, R. 574.

Delivery to mother.

Maintenance and education.

Custody of infants generally.

Evidence on application.

583. On the investigation of the facts on any application mentioned in the next preceding rule the Court or judge may enforce the attendance of any person before the Court or judge and take evidence under oath touching the matter of



the application by rule or order made for that purpose and on failure of the person to attend for the purpose aforesaid, after notice of the rule or order in that behalf, the Court or judge may order that such person shall be committed for contempt of court or may decide such application on affidavits received and filed or to be received and filed or on the evidence taken *viva voce* and such affidavits. N.W.T., c. 21, R. 575.

584. All orders and rules made by a judge or by the Court under any of the preceding rules may in addition to all other remedies be enforced by the judge or by the Court (according as the same shall be made by a judge or the Court) by attachment or process for contempt. N.W.T., c. 21, R. 576.

Enforcement of orders.

585. No order directing that the mother shall have the custody of or access to an infant shall be made in virtue of the preceding rules in favour of a mother against whom adultery has been established or to whom the custody or control of an infant could not be safely confided on account of improper conduct or habits of life. N.W.T., c. 21, R. 577.

Mother unsuitable for care of infant.

### III.—*Estate and Property of Infants.*

586. When an infant is seized or possessed of or entitled to any real estate in fee simple or for a term of years or otherwise in the Territory and the Court or judge is of opinion that a sale, lease or other disposition of the same or any part thereof is expedient, necessary or proper in the interest of the infant or for the maintenance or education of the infant or that by reason of any part of the property being exposed to waste and dilapidation or to depreciation from any other cause satisfactory to the Court or judge, his interest requires or will be substantially promoted by such sale, lease or other disposition the Court or judge may order the sale, letting for a term of years or other disposition of such real estate or any part thereof to be made under the direction of the Court or judge or by the guardian of the infant or by any person appointed for the purpose in such manner and with such restrictions, as seem expedient and may order the infant to convey or demise or otherwise dispose of the estate as the Court or judge thinks proper. N.W.T., c. 21, R. 578.

Disposition of property of infant under order of court.

587. The application shall be made in the name of the infant by his next friend or by his guardian but shall not be made without the consent of the infant if he is of the age of seven years or upwards. N.W.T., c., 21, R. 579.

Application, by whom. Consent of infant.

588. When the Court or judge deems it convenient that a conveyance should be executed by some person in the

Execution of conveyance for infants.

place of the infant the Court or judge may direct some other person in the place of the infant to convey the estate. N.W.T., c. 21, R. 580.

Conveyance to be effectual. 589. Every such conveyance whether executed by the infant or some person appointed to execute the same in his place shall be as effectual as if the infant had executed the same and had been of the age of twenty-one years at the time. N.W.T., c. 21, R. 581.

Disposition of moneys raised. 590. The moneys arising from any such sale, lease or other disposition shall be laid out, applied and disposed of in such manner as the Court or judge directs. N.W.T., c. 21, R. 582.

Moneys raised from land to devolve as land. 591. On any sale, lease or other disposition so made the moneys so raised or the securities taken or the surplus thereof shall be of the same nature and character as the estate sold or disposed of and the heirs, next of kin or other representatives of the infant shall have the like interest in any surplus which may remain of the proceeds at the decease of the infant as they would in the estate sold or disposed of if no sale or other disposition had been made thereof. N.W.T., c. 21, R. 583.

Incumbered estate. Acceptance or permanent investment of sum in lieu of incumbrance. 592. If any real estate of an infant is subject to any incumbrance and the person entitled to such incumbrance consents in writing to accept in lieu of such incumbrance any gross sum of money which the Court or judge thinks reasonable or the permanent investment of a reasonable sum of money in such manner that the interest thereof is made payable to the person entitled to such incumbrance during her or his life the Court or judge may direct the payment of such sum or the investment of such other sum of money out of the proceeds or other disposition of the real estate of the infant :

Where incumbrance of uncertain duration. Provided always that it shall be competent for the Court or judge in any case where the estate of the infant is subject to any lien or incumbrance of uncertain duration to compute the reasonable value of the same and to order the sale or other disposition of the estate of the infant freed or discharged from such incumbrance and direct the payment of the value of such incumbrance out of the proceeds of the sale or other disposition of the real estate of the infant. N.W.T., c. 21, R. 584.

Appearance of infant in person on application. 593. In any proceeding for the selling, letting or other disposition of the estate of an infant it shall not be necessary that the infant shall appear *in propria persona* before the Court or judge unless so ordered; but the ground of the proceedings must be made out to the satisfaction of the Court or judge before the application is granted. N.W.T., c. 21, R. 585.

594. In case of any sale or other disposition of any real estate of an infant under the provisions of these rules the interest and estate sold or otherwise disposed of may be conveyed to the purchaser by the vesting order of the Court which shall be to all intents and purposes as effectual to pass the interest and estate so sold or disposed of as a conveyance duly executed as provided in these rules. N.W.T., c. 21, R. 586.

Estate of infant may be conveyed by vesting order.

## ORDER XLVI.

### PROBATE AND LETTERS OF ADMINISTRATION.

595. Every person to whom letters of administration or guardianship are committed shall give a bond or bonds to the judge granting the same with one or more sureties as may be required by the said judge in such form and in such penalty as he directs or in cases where the estate to be administered is of small value such bond or bonds may be dispensed with. Such security may be furnished by bond or agreement of any guarantee company approved by the judge. N.W.T., c. 21, R. 588, s. 1.

Security by administrator or guardian.

596. Any person interested in the estate may by leave of the Court or judge institute proceedings in his own name on the bond or bonds without an assignment thereof to him. N.W.T., c. 21, R. 589.

Proceeding on bond.

597. Where any probate or letters of administration or other legal document purporting to be of the same nature or an exemplification thereof granted by a court of competent jurisdiction in the United Kingdom or in any Province or Territory of the Dominion or in any other British Province is produced to and a copy thereof deposited with the clerk of the Territorial Court of the Yukon Territory and the prescribed fees are paid as on a grant of probate or administration the probate or letters of administration or other document aforesaid shall under the direction of a judge of the said Territorial Court be sealed by the said clerk with the seal of the Territorial Court and shall thereupon be of the like force and effect in the Territory as if the same had been originally granted by the said Territorial Court and shall be subject to any order of the court or any appeal therefrom as if the probate or letters of administration had been granted thereby.

Ancillary probate or letters of administration.

(2) The letters of administration shall not be sealed with the seal of the Territorial Court until a certificate has been filed under the hand of the clerk or other officer of the court wherever the same issued that security has been given in a sum sufficient to cover as well the assets within the

Security on issue of ancillary probate, etc.

jurisdiction of the said court as the assets within the Territory or in the absence of such certificate until security is given to the judge as in the case of granting original letters of administration. N.W.T., c. 21, R. 590.

Proceedings  
before probate  
to restrain  
waste.

598. Before probate\* of a will or letters of administration of the personal estate and effects of a deceased person are granted any person may institute proceedings to restrain any one committing waste by dealing or intermeddling with the estate. When such proceedings have been taken in good faith for the preservation of the property the party instituting such proceedings shall be entitled to costs of the action unless the Court or judge otherwise orders. N.W.T., c. 21, R. 591.

Administrator  
*ad litem*.

599. Where no probate of the will of a deceased person or letters of administration to his estate have been granted and representation of such estate is required in any action or proceeding in court the judge shall appoint the Public Administrator administrator *ad litem* according as the case requires. N.W.T., c. 21, R. 592.

Direction of  
citations,  
summonses,  
etc.

600. Citations, summonses or notices issued by the Court or judge in the exercise of probate jurisdiction may in the discretion of the judge instead of being directed to any person or persons by name be directed generally to the next of kin, creditors and other persons interested in the estate. N.W.T., c. 21, R. 593.

Newspaper  
publication of  
citations, etc.

601. All citations, summonses or notices issued by the court or judge in the exercise of probate jurisdiction may by order of a judge be published in such newspaper or newspapers published in the Territory as such judge directs and for such time as he directs and in that case no other notice or service thereof shall be necessary unless the judge otherwise directs. N.W.T., c. 21, R. 594.

Order for  
creditors to  
send in claims.

602 A judge may on the application of any executor or administrator or of any trustee grant an order for creditors and others to send in to the executor, administrator or trustee claims against the estate of the testator, intestate or the trust estate as the case may be together with a statement of the securities if any held by them within such time as the judge fixes and notice of such order shall be published in such newspaper or newspapers as the judge directs and the executor or administrator on the same being so published may at the expiration of the time so fixed be at liberty to distribute the assets of the testator or intestate or any part thereof and the trustee may in like manner be at liberty to distribute the trust estate or any part thereof amongst the parties entitled thereto having regard to the

Publication.

Distribution  
of estate  
thereafter.

claims of which such executor, administrator or trustee has then notice and shall not be liable for the assets or any part thereof or the trust estate or any part thereof as the case may be so distributed to any person of whose claim such executor, administrator or trustee shall not have had notice at the time of the distribution of the said assets or trust estate or part thereof as the case may be but nothing in this rule shall prejudice the right of any creditor or claimant to follow the assets or trust estate or any part thereof into the hands of the person or persons who have received the same respectively. N.W.T., c. 21, R. 595.

603. Every creditor or other person presenting or sending in a claim to any executor, administrator or trustee shall verify the same by a statutory declaration and shall therein state whether he holds any security for his claim or any part thereof and shall give full particulars of the same; and if such security is on the estate of the debtor or on the estate of a third party for whom such debtor is only secondarily liable he shall put a specified value thereon and the executor, administrator or trustee may either consent to the right of the creditor or person presenting the claim to rank for the claim after deducting such valuation or he may require from the person presenting the claim an assignment of the security at the specified value to be paid out of the trust property or estate when sufficient is realized therefrom and in such case the difference between the value at which the security is retained by the executor, administrator or trustee and the just amount of the gross claim shall be the amount for which the creditor or other person shall rank in respect of the estate.

Verification of claims.

Security to be valued.

(2.) If a creditor or other person holds a claim based upon negotiable instruments upon which the debtor is only indirectly or secondarily liable and which is not mature or exigible such creditor or other person shall be considered to hold security within the meaning of this rule and shall put a value on the liability of the party primarily liable thereon as being his security for the payment thereof but after the maturity of such liability and its non-payment he shall be entitled to amend and revalue his claim.

Security consisting of negotiable instruments.

(3.) If a person presenting a claim holds security for his claim or any part thereof and he fails to value such security as required by these rules a judge of the Territorial Court sitting in chambers may on summary application by the executor, administrator or trustee or by any other person interested in the trust property or estate, of which application three days' notice shall be given to such claimant, order that unless a specified value shall be placed upon such security and notified in writing to the executor, administrator or trustee within a time to be limited by the order such claimant shall in respect of the claim or the part

Omission to value security.

thereof for which the security is held be wholly barred of any right to share in the proceeds of such trust property or estate; and if a specified value is not placed on such security and notified in writing to the executor, administrator or trustee according to the exigency of such order the said claim or the said part as the case may be shall be wholly barred as against such trust property or estate. N.W.T., c. 21, R. 596.

Administrators to file accounts.

604. Every administrator to whom letters of administration have been issued shall within two years after the grant of letters of administration or such further time as the Court or judge allows file in the office of the clerk of the Territorial Court a statement and an account verified by his oath showing his administration of the estate and apply to a judge to have his accounts passed and allowed whereupon a summons may be issued calling upon the creditors, next of kin and all persons interested in the estate to attend the passing of the accounts. Any moneys remaining in the hands of the administrator after payment of legal charges thereon and such remuneration for his service as administrator as the judge allows shall be paid into court. On the final winding up of the estate the judge may order the administration bond to be cancelled and the administrator and the sureties discharged.

Application to pass accounts.

(2.) Any money paid into court under the provisions of this rule shall after deducting such charges and fees for services rendered in connection therewith as the judge allows be transferred over to the general revenue fund of the Territory. N.W.T., c. 21, R. 597.

Cancellation of bond.

Undisposed of moneys.

Proceedings by public administrator.

605. The Public Administrator may obtain an originating summons as plaintiff under rule 489 of these rules as if he were a creditor or one of the next of kin of the deceased upon obtaining special leave of a judge to do so, which leave shall be granted by the judge *ex parte* upon his being satisfied by affidavit or otherwise that it is expedient to grant it. N.W.T., c. 21, R. 598.

Action in which infant interested. Public administrator to be served and be guardian *ad litem*.

606. Whenever an action is brought or is pending in respect of any property or estate in which one or more infants is or are interested the writ and statement of claim shall be served on the Public Administrator together with a statement giving the full name, age and address of such infant or infants, his or their father, mother or guardian; and the Public Administrator shall be the guardian *ad litem* and shall enter an appearance for such infant or infants and shall for all purposes represent the infant or infants in such action.

Duties.

(2) It shall be the duty of the Public Administrator to make all necessary or proper inquiries, to take all necessary

or proper proceedings and to protect and actively attend to the interests of the infant.

(3) The costs of the guardian *ad litem* shall be taxed as Costs. between party and party and shall, subject to the discretion of the judge, generally be paid out of the estate. N.W.T., c. 21, R.599.

607. In any case in which it appears desirable the court or judge may appoint the Public Administrator Public administrator may be guardian. guardian of the estate of any infant or of the estate of any lunatic. N.W.T., c. 21, R. 600.

608. The Public Administrator and all executors and administrators shall be entitled to such remuneration Remuneration of public administrator. for their services (in addition to the costs of the grant of the probate or administration) as the judge allows, to be charged against and deduced from the estate passing through their hands or to be paid by the successor of the Public Administrator out of the assets of the deceased; and such remuneration shall be a first charge on the estate after payment of the costs of probate or administration, funeral and testamentary expenses. N.W.T., c. 21, R. 601.

### Part III.

#### Small Debt Procedure.

#### ORDER XLVII.

Claims for  
debt under  
\$100.

609. In all claims and demands for debt, whether payable in money or otherwise, where the amount or balance claimed does not exceed \$100 the procedure shall, unless otherwise ordered or allowed by a judge, be as in this part provided. N.W.T., c, 21, R. 602.

Entry of  
action.

610. Every plaintiff when he enters an action with the clerk shall do so by leaving with him (by post or otherwise) a simple statement in writing (with a copy to file and one for each copy of writ desired) of the cause of action in the case of an account the particulars may be in the usual form of items of an account or otherwise; in the case of a bill, note or order a copy thereof shall be furnished and in the case of a claim under any other written instrument a copy shall be furnished or a concise statement of the purport or effect of the same shall be given to the extent of exhibiting the grounds of action so that in each case it may be known or understood by a person of ordinary intelligence what the action is brought for and the clerk shall attach such statement to the summons and shall attach to each copy of the summons a copy of such statement. N.W.T., c. 21, R. 603.

Particulars  
of claim.

Address of  
parties.

611. The plaintiff shall also at the time he so delivers his statement to the clerk inform him of his post office address and of the full name of the defendant where practicable and also of his place of residence and post office address with as much certainty and particularity as possible. N.W.T., c. 21, R. 604.

Issue of  
summons.

612. Upon receipt of such claim and upon payment of the proper fees therefor the clerk shall enter such claim in the procedure book to be kept by him for that purpose and shall issue a summons corresponding in substance with form H in the schedule hereto where the cause of action is within rule 617 hereof and with the form J in the schedule hereto where the cause of action is not within the said rule and shall make out as many copies of the said summons as there are defendants. N.W.T., c. 21, R. 605.



613. Upon the issue of the said summons the clerk shall deliver or transmit the same and the copies thereof with the copies of claim attached thereto to the plaintiff or as he directs and shall attach to the original summons as many copies of the affidavit of service in form K in the schedule hereto as there are defendants in the said suit. N.W.T., c. 21, R. 606.

Delivery of  
summons.

614. The summons shall be returnable—

1. Where the defendant resides within a distance of ten miles from the court house at Dawson at the expiration of eight days from the service thereof;

Time for  
return of  
summons.

2. Where the defendant resides outside the aforesaid distance of ten miles from the court house at Dawson, one additional day shall be allowed for appearing to the writ of summons for each and every additional ten miles;

3. Where the defendant resides in any place in Canada outside the Territory or in the United States of America, at the expiration of thirty days from the service thereof;

4. Where the defendant resides in any part of the United Kingdom, at the expiration of thirty days from the service thereof;

5. In any of the above cases it shall not be necessary to obtain an order for service out of the jurisdiction.

615. After the service of the said summons upon the defendant the plaintiff shall forthwith cause it to be returned to the clerk accompanied by an affidavit of service thereof in the said form K. N.W.T., c. 21, R. 608.

Return to  
clerk after  
service.

616. After the receipt of such summons with the affidavit of service thereof the clerk shall, after the expiration of the time limited therein for appearance thereto, notify the plaintiff or his solicitor whether the defendant has or has not entered a dispute to the same. N.W.T., c. 21, R. 609.

Clerk to notify  
plaintiff if  
dispute  
entered.

617. In actions where the claim or demand is a mere account or is ascertained by some instrument signed by the defendant as a merchant's account, the price of goods sold and delivered, a claim for work and services, money paid, money lent, rent, a promissory note, a bill, order, bond, covenant for the payment of money or other memorandum showing liability for the payment of a sum certain or which may be ascertained by computation and the defendant does not appear according to the writ of summons the clerk may upon the said summons being returned to him with an affidavit of the due service thereof, after the time for appearance has expired, sign judgment for the amount of the claim and costs against the defendant by entering in his procedure book the words "judgment against the defendant by default," stating the date of such entry and such entry

Entry of  
judgment  
by default  
of dispute.

Execution. shall be the judgment of the court in the cause and execution may issue and other lawful proceedings be taken thereon :

Setting aside judgment. Provided always that it shall be competent for any judge on application by the person feeling himself aggrieved by any such judgment to set aside the said judgment and to let the defendant in to defend the said action, or to stay proceedings on such terms as to costs and otherwise as to him seem just. N.W.T., c. 21, R. 610.

Notice of dispute. 618. If the defendant desires to defend any action or suit he must cause a written dispute note in form L in the schedule hereto to be delivered by post or otherwise to the clerk before the entry of judgment in which shall be stated briefly the nature or grounds of his defence and where a claim is disputed in part only he shall state what part thereof or the items he disputes.

(2.) The defendant shall in his notice of disputes give his post office address. N.W.T., c. 21, R. 611.

Set-off or counterclaim. 619. A defendant in any action may set off or set up by way of counterclaim against the claim of the plaintiff any right or claim whether such set-off or counterclaim sound in damages or not ; such set-off or counterclaim shall have the same effect as if such relief were sought in a cross-action so as to enable the court to pronounce a final judgment in the same action both on the original and on the cross-claim. N.W.T., c. 21, R. 612.

Setting down for trial. 620. After the filing by the defendant of his dispute note the clerk shall inform the judge that such dispute is so filed and the judge shall thereupon set the case down for trial in chambers or such other place as the judge deems expedient and at such time as to him seems expedient but not within five days from the day of filing such dispute note, exclusive of the day of filing :

Striking out dispute, etc. Provided however that this rule shall in no wise affect the right of the plaintiff to move to strike out the said dispute note and for judgment or in any way curtail the powers given under rule 627 hereof.

Representation at trial. , Provided further that either party may be represented on the trial in person by solicitor or agent. N.W.T., c. 21, R. 613.

Notice of trial. 621. Upon the time and place of trial of an action being so fixed by the judge the clerk shall notify each party to appear for trial and that in default of appearance thereat judgment may be given against him by default with costs ; such notice of the time and place fixed for such trial shall be forwarded by registered post to the respective addresses given by the parties :

Provided that if a defendant shall in his notice of dispute omit to state his post office address the notice to him shall be mailed to the address stated by the plaintiff as required by rule 611 hereof. N.W.T., c. 21, R. 614.

622. At any time before the trial of the action either of the parties may on reasonable notice to the other party or at the trial without notice apply for a postponement of the trial or a change of the place fixed for the same and the judge may thereupon give such direction as to postponement or change of place of trial and as to costs as he deems fit.

Application for postponement or change of place of trial.

(2.) All notices, summonses to show cause and orders required to be served upon any party to the action may, unless otherwise ordered by the judge, be served by mailing the same to him by registered post to the post office address given by him to the clerk of the court under the provisions hereof or if no such address has been given to his last known post office address. N.W.T., c. 21, R. 615.

Service of notices, etc.

623. Unless the judge otherwise orders, in case any action falling within the class provided for in this order is brought under the general procedure and the plaintiff succeeds or in case in an action of debt brought under the general procedure to recover over \$100 the plaintiff recovers less than that sum he shall recover only such costs as he would have recovered had the action been brought under the provisions of this order and the defendant in any such action shall be entitled to tax his costs of suit between solicitor and client and so much thereof as exceeds the taxable costs of defence which would have been incurred had the proceedings been had under this Order shall on entering judgment be set off and allowed by the clerk against the plaintiff's costs to be taxed or against the costs to be taxed and the amount of the judgment if it be necessary and if the amount of the costs so set off exceeds the amount of the plaintiff's judgment and taxed costs the defendant shall be entitled to judgment for the excess against the plaintiff. N.W.T., c. 21, R. 616.

Suit erroneously brought under general procedure or recovery of less than \$100.

Costs.

624. In every case where an action is defended and a solicitor is employed by the successful party the clerk in addition to all other costs shall unless otherwise ordered by the judge tax to the successful party a solicitor's fee equal to ten per cent of the amount of the judgment recovered if such fee is taxable to the plaintiff or equal to ten per cent of the amount claimed by the plaintiff in the action if such fee is taxable to the defendant.

Solicitor's fees

Provided that in no case shall the fee so taxable be less than \$1 and except as herein provided no other counsel or solicitor's fee shall be taxable or payable as between party and party. N.W.T., c. 21, R. 617.

Clerk's and  
sheriff's fees.

625. There shall be paid to the clerk or deputy clerk and sheriff or deputy sheriff respectively for their services in actions or suits within the provisions of this order the fees prescribed by the tariff's of clerk's and sheriff's fees in the *The Small Debt Tariff* contained in the schedule hereto. N. W.T., c. 21, R. 618.

Witness and  
interpreter  
fees.

626. Witnesses and interpreters in actions and suits within the provisions of this Order shall be entitled to the fees and remuneration set forth in *The Small Debt Tariff* contained in the schedule hereto and such fees shall be taxable to or against the successful party as the case may be to the same extent as they are taxable in other cases under these rules :

Cost of  
evidence by  
commission,  
etc.

Provided that the judge may in any case direct the taxation to either party of the reasonable costs and expenses of obtaining evidence by commission or otherwise. N.W.T., c. 21, R. 619.

Adoption of  
general  
procedure.

627. Except as to the matters specially provided for in this Order the procedure or practice under the preceding Orders and rules where not inconsistent herewith shall be adopted and applied in actions brought under this Order. N.W.T., c. 21, R. 620.

Præcipe and  
indorsement  
unnecessary.

628. It shall not be necessary upon the commencement of any proceeding or the issue of any process in actions coming under the provisions of this Order for any party to file a *præcipe* nor shall it be necessary to indorse upon any such process the name of the person by whom or on whose behalf the same was issued. N.W.T., c. 21, R. 621.

Informalities.

629. No proceedings under this Order shall be deemed invalid for informality provided the same are a substantial compliance with the requirements of this Order as to such proceeding. N.W.T., c. 21, R. 622.



This writ was issued by the plaintiff who resides at and (*if residence over three miles from the clerk's office*) whose "address for service" is at

Or, This writ was issued by \_\_\_\_\_ of solicitor for the plaintiff whose "address for service" (*if the solicitor's office is over three miles from the clerk's office*) is at \_\_\_\_\_

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FORM B.

(Rule 354.)

WRIT OF EXECUTION.

In the Territorial Court of the Yukon Territory.

Between \_\_\_\_\_ of \_\_\_\_\_ Plaintiff,  
 and \_\_\_\_\_  
 of \_\_\_\_\_ Defendant.

EDWARD VII. (*or the name of the reigning Sovereign as the case may be*) by the Grace of GOD of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, KING, (*or as the case may be*) Defender of the Faith, etc., etc., etc.

To the Sheriff of the Yukon Territory :

You are commanded that of the goods (*or lands as the case may be*) of \_\_\_\_\_ you cause to be made \_\_\_\_\_ dollars and \_\_\_\_\_ cents which \_\_\_\_\_ lately by the judgment (*or order as the case may be*) of the said court recovered against him \_\_\_\_\_ and that you have the said money and in what manner you shall have executed this writ make appear to the said court at \_\_\_\_\_ immediately after the execution hereof before the said court at \_\_\_\_\_ together with this writ.

Issued at \_\_\_\_\_ this \_\_\_\_\_ day  
 of \_\_\_\_\_ A.D. 19 \_\_\_\_\_ .

(L.S.)

I. J.,  
 Clerk of the Court.

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## FORM C. .

(Rule 382.)

## GARNISHEE SUMMONS.

In the Territorial Court of the Yukon Territory.

Between

of

Plaintiff,

and

of

Defendant.

and

of

Garnishee.

To the above named Garnishee,

You are hereby notified that a suit has been entered in this court in which the plaintiff claims of the defendant the sum of \_\_\_\_\_ as shown by his statement of claim filed in court a copy of which is hereto annexed (or You are hereby notified that the plaintiff has recovered a judgment in this court against the defendant for

\_\_\_\_\_ ) and it is alleged on affidavit filed that you are indebted to the said defendant.

And you are required within ten days from the service hereof to appear at the clerk's office and state in writing whether or not there is any debt due or accruing due from you to the defendant (or judgment debtor) and, if so, what debt and why you should not pay the same into court to the extent of the plaintiff's claim and costs.

Issued at \_\_\_\_\_ this \_\_\_\_\_ day  
of \_\_\_\_\_ A.D. 19 \_\_\_\_\_ .

(L.S.) \_\_\_\_\_  
I.J.,  
Clerk of the Court.

(To be indorsed same as a Writ of Summons.)

FORM D.

(Rule 425.)

WRIT OF ATTACHMENT.

In the Territorial Court of the Yukon Territory,

Between

of

Plaintiff,

and

of

Defendant.

EDWARD VII. (or the name of the reigning Sovereign as the case may be) by the Grace of GOD of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, KING (or as the case may be), Defender of the Faith, etc., etc., etc.

To the Sheriff of the Yukon Territory :

You are commanded to attach, seize and safely keep all the personal estate, credits and effects together with all evidences of title, debts, books and book accounts or other documents, vouchers or papers belonging thereto or otherwise of the above-named defendant to secure and satisfy the plaintiff the sum of \_\_\_\_\_ with his costs of action and to satisfy the debt and demand of such other creditors of the said defendant as shall prosecute their claims to judgment and lodge executions with you the said sheriff within the time allowed by *The Creditor's Relief Ordinance* to entitle them to share in the distribution of the proceeds.

And we command you the said sheriff that so soon as you have executed this writ you do return the same with an affidavit of service and a certificate of your action thereunder.

Issued at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ A D. 19 \_\_\_\_\_

(L.S.)

I.J.,  
Clerk of the Court.



## FORM E.

(Rule 434.)

## WRIT OF REPLEVIN.

In the Territorial Court of the Yukon Territory,

Between

of

Plaintiff,

and

of

Defendant.

EDWARD VII. (*or the name of the reigning Sovereign as the case may be*) by the Grace of GOD of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, KING (*or as the case may be*), Defender of the Faith, etc., etc., etc.

To the Sheriff of the Yukon Territory :

You are hereby commanded without delay to cause to be replevied to the plaintiff his goods, chattels and personal property following that is to say :

which the said \_\_\_\_\_ alleges to be of the value of \_\_\_\_\_ dollars and which the defendant has taken and unjustly detained (*or unjustly detains as the case may be*) as it is alleged, in order that the plaintiff may have his just remedy in that behalf.

Issued at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 19 \_\_\_\_\_.

(L.S.)

G.H.,  
Clerk of the Court.

## FORM F.

(Rule 436.)

## BOND FOR REPLEVIN.

Know all men by these presents that we, A.B., of \_\_\_\_\_ and  
E.F., of \_\_\_\_\_  
G.H., of \_\_\_\_\_  
are jointly and severally held and firmly bound to \_\_\_\_\_ the  
sheriff of the Yukon Territory in the sum of \_\_\_\_\_  
dollars of lawful money to be paid to the said sheriff, his  
successor in office or either of their assigns for which pay-  
ment well and truly to be made we bind ourselves and each



TARIFF OF WITNESSES', JURORS' AND INTERPRETERS' FEES.

(Rule 589.)

Witnesses and jurors may be allowed the following fees :

For every day necessarily absent from residence, in going to, staying at and returning from trial or other proceeding	
When residence is within two miles of place of trial.....	\$ 4 00
When over two miles.....	5 00
For every mile necessarily travelled by other means than railway.....	25
When railway used, actual fare paid.	
Professional men, when acting professionally in addition to mileage as other witnesses, per day	25 00

INTERPRETERS.

Interpreters may when used be allowed the same mileage as witnesses and for each day actually engaged as interpreters.....	5 00
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FORM H.

(Rule 612.)

SMALL DEBT SUMMONS A.

In the Territorial Court of the Yukon Territory.

Between

of

Plaintiff,

and

of

Defendant.

To C.D., the above named defendant :

The Plaintiff demands of you \$ \_\_\_\_\_, as shown by his claim hereto attached or indorsed hereon.

You are notified that this summons is returnable on the \_\_\_\_\_ day after the day of the service thereof upon you. If you dispute the claim or any part thereof you are to leave with the \_\_\_\_\_ clerk of this court at \_\_\_\_\_ in said Territory within \_\_\_\_\_ days after the said service upon you the dispute note hereto attached or one to the like effect, otherwise after such return day has passed the \_\_\_\_\_ clerk may sign judgment against you by default for the plaintiff's claim and costs but in

case you give or send by mail or otherwise said dispute note to the said clerk, together with the sum of \$ \_\_\_\_\_ for his fees, and he receives the same within the said time the cause will be tried at a sitting of this court, and you will receive due notice of the time and place of such trial by registered letter sent prepaid to the address given by you in said dispute note.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .  
 By the Court,

L.S.)

I. J.,  
Clerk.

FORM J.

(Rule 612.)

SMALL DEBT SUMMONS B.

In the Territorial Court of the Yukon Territory.

Between

of

Plaintiff,

and

of

Defendant.

To C.D. the above named defendant :

Take notice that the plaintiff claims from you \$ \_\_\_\_\_ as shown by his claim hereto attached or indorsed hereon.

If you dispute the same or any part thereof you are to leave with the \_\_\_\_\_ clerk of this court at \_\_\_\_\_ in said Territory within \_\_\_\_\_ days after the service hereof upon you the dispute note hereto attached or one to the like effect. In case you give or send by mail or otherwise the said dispute note to the said \_\_\_\_\_ clerk together with the sum of \$ \_\_\_\_\_ for his fees and he receives the same within the said time the cause will be tried at a sittings of this court and you will receive due notice of the time and place of such trial by registered letter sent prepaid to the address given by you in such dispute note.

If no such dispute note is filed the plaintiff's cause of action shall be deemed to be admitted and the amount the plaintiff is entitled to recover in respect thereof will be ascertained in such manner as a judge shall direct.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .  
 By the Court,

(L.S.)

I. J.,  
Clerk.

## FORM K.

(Rule 613.)

## SMALL DEBT—AFFIDAVIT OF SERVICE.

In the Territorial Court of the Yukon Territory,

Between

A. B.,  
Plaintiff,  
and  
C. D.,  
Defendant.

I, \_\_\_\_\_ of \_\_\_\_\_ (occupation)

make oath and say :

(1.) That I did on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, personally serve C. D., the above named defendant with a true copy of the summons herein and hereunto annexed by delivering the said copy to and leaving the same with the said defendant at \_\_\_\_\_

(2.) That at the time of such service there was attached to the said copy of summons so served a true copy of the particulars of claim attached to or indorsed upon the said annexed summons.

(3.) That at the time of such service there was also attached to the said copy of summons a blank form entitled in this cause of which the form marked "L" is a true copy.

(4.) That to effect such service I necessarily travelled \_\_\_\_\_ miles. (*Jurat*).

## FORM L.

(Rule 618.)

## SMALL DEBT—DISPUTE NOTE.

In the Territorial Court of the Yukon Territory.

Between

A. B.,  
Plaintiff,  
and  
C. D.,  
Defendant.

Take notice that I dispute the plaintiff's claim on the following grounds :—

(Here state briefly the grounds of defence in such manner that the particular nature of the defence may readily be ascertained.)

My post office address is :

*C. D.,*

N.B.—This note must be sent by mail or otherwise to the clerk of the Territorial Court at *(address to be filled in by clerk)* within \_\_\_\_\_ days from service.

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### SMALL DEBT TARIFF.

*(Rules 625 and 626.)*

#### CLERK'S FEES.

The following fees and no others shall be paid to clerks of the court for the several services under the Small Debt procedure herein provided for :

	cts.
Receiving claim, entering in procedure book and issuing summons.....	75
Garnishee summons or writ of attachment, including examining affidavits.....	50
Every original subpoena.....	50
Every copy of summons, garnishee or subpoena.....	10
Entering dispute note, or appearance by garnishee....	25
On payment of money into court without dispute note.	25
Every notice of trial .....	20
Hearing fee in contested cases.....	50
Every chamber summons or judge's order including entering.....	25
Every commission to examine witnesses or exemplification of judgment.....	50
Every appointment.....	10
Every search.....	10
Entering every judgment by default including search for dispute and taxation of costs and necessary filings.....	50
Entering every judgment after trial or order for judgment .....	50
Filing every exhibit at trial (no other filings to be allowed).....	10
Every reference to the clerk, per hour actually engaged	75
Every certificate .....	25
Every writ of execution .....	50
Every renewal thereof.....	25
Copies of documents, per folio .....	10
Necessary postages.	

SHERIFF'S FEES.

The following fees and no others shall be allowed to sheriffs, deputy sheriffs and bailiffs for services under the Small Debt procedure :

Service of summons or other process including affidavit of service, oath and return.....	\$	50
Every seizure .....		50
Schedule of goods seized, including copy for person whose goods seized .....		75
When over 500 words, per every 100 over 500 .....		10
Every mile necessarily travelled one way to serve summons or process, or in going to effect seizure under an attachment or under execution where money made or settlement effected after levy, provided that there shall be only one allowance of mileage fees in and about a seizure and the sale consequent thereon .....		10
Every bond including affidavits .....	1	00
Notice of sale.....		30
Each copy not exceeding five including posting up...		10
Notice of postponement including copies.....		25
All necessary disbursements for removal and care of property seized.....		
For poundage on executions, five per cent, but not upon any sum greater than called for by the writ under which the officer acts.		

WITNESS FEES.

In cases under Small Debt procedure—

Attendance, per day.....\$1 00

Mileage, each way .....

10  
Where railway can conveniently be used witnesses shall only be allowed such sum as would be sufficient to pay railway fare in coming to and returning from place of trial in no case to exceed mileage at above rate.

INTERPRETERS.

In cases under Small Debt procedure—

Per day employed .....\$2 00

## CHAPTER 18.

### An Ordinance Respecting the Clerk and Deputy Clerk.

#### DEPUTY CLERK.

Clerk of court to appoint deputy.

**1.** The clerk of the Territorial Court shall appoint a deputy at White Horse and such deputy clerk shall have and perform the powers, duties and obligations hereinafter mentioned. No. 26 of 1902, s. 7.

#### DEPUTY CLERK'S DISTRICTS.

District of deputy.

**2.** For the purposes hereinafter mentioned the district of the said deputy clerk shall consist of all the Yukon Territory lying south of the 62nd degree of latitude. No. 26 of 1902, s. 7.

#### DEPUTY CLERKS' POWERS AND DUTIES.

Where action may be commenced.

Powers and duties of deputy. Seal and books.

Probate.

Guardianship of persons.

Guardianship of estates.

**3.** All actions and other proceedings commenced in the office of the said deputy clerk shall be carried on in the same office and in respect thereof such deputy clerk shall in all respects have and perform all the powers, duties and obligations of the clerk of the court; and such deputy clerk shall have and use a duplicate of the seal of the court used by the clerk and keep such books as are kept by the clerk.

(2.) And in respect of the following matters:

- (a.) Applications for letters probate or letters of administration where the deceased died within the deputy clerk's district or where the whole of the estate in respect whereof letters probate or letters of administration are applied for lies within the deputy clerk's district;
- (b.) Applications for the appointment of a guardian of the estate of an infant or a lunatic where the infant or the lunatic resides within the deputy clerk's district;
- (c.) Applications for the appointment of a guardian of the estate of an infant or a lunatic where the infant or the lunatic resides within the deputy clerk's district; or where the whole of the estate to be affected lies within the deputy clerk's district;



- (d.) Proceedings commenced by originating summons and proceedings originating by petition, notice of motion, or judge's summons where the solicitor for the applicant resides in a deputy clerk's district; Proceedings commencing without writ.

such deputy clerk shall and in applications of the character of those marked (a) and (c) where a part only of the property to be affected lies within the deputy clerk's district such deputy clerk may have and perform all the powers, duties and obligations of the clerk. N.W.T., c. 22, s. 3.

4. In any action, suit or other proceeding wherever commenced if it is desired to examine a person for discovery and such person resides within the district of the said deputy clerk such deputy clerk shall for the purposes of such examination have and perform all the powers, duties and obligations of the clerk. N.W.T., c. 22, s. 4. Examination for discovery

5. In respect of appeals from convictions or orders made by a justice of the peace under the authority of any Ordinance relating to matters within the legislative authority of the Yukon Council or under the authority of a municipal by-law where the conviction or order is made within the district of the said deputy clerk the office of such deputy clerk shall be the office of the court in which all proceedings relating to such appeal shall be carried on and in respect thereof such deputy clerk shall have and perform all the powers, duties and obligations of the clerk. N.W.T., c. 22, s. 5. Appeals from convictions.

#### PROCESS ISSUERS.

6. In any section of the Territory where the convenience of the public may be the better served the clerk with the approval of the judge may also appoint a process issuer who being supplied with blank forms original and *mesne* processes signed by the clerk may issue the same under his direction from time to time, such process issuer counter-signing each one so issued and making returns of all processes so issued to the clerk as required by the clerk or as directed by the judge and in such cases the clerk and his sureties shall be responsible for all the acts and omissions of such issuer. N.W.T., c. 22, s. 7. Process issuers.

#### SECURITIES AND OATHS OF OFFICE OF CLERK.

7. The clerk before entering upon the duties of his office and if after entering upon his duties a new security is substituted for any previously given shall file in the office of the Territorial secretary a copy, certified as such by the Secretary of State for Canada, of the security required by and Clerk to file copy of security of office.

given under *The North-West Territories Act* or of such substituted security. N.W.T., c. 22, s. 8.

Security may be sued upon.

**8.** Such security shall be available to and may be sued upon by any person suffering damages by the default, breach of duty or misconduct of such clerk. N.W.T., c. 22, s. 9.

Certified copy evidence.

**9.** A copy of such security purporting to be such, certified by the Territorial Secretary, shall be received in all courts as *prima facie* evidence of the due execution and contents thereof without further proof. N.W.T., c. 22, s. 10.

Deputy clerk to give security.

**10.** The deputy clerk before entering upon the duties of his office shall give security to the Commissioner to the satisfaction of the Commissioner in the sum of one thousand dollars for the due performance of the duties and obligations of his said office and for the due payment over to the persons entitled thereto of all moneys received by him by virtue of his said office and any person sustaining damage by reason of non-performance or improper or undue performance of any such duties or obligations or by reason of the non-payment over of any such moneys shall have and possess a right of action against such deputy clerk and his sureties upon such security for the amount of such damages. N.W.T., c. 22, s. 11.

Right of action on security.

Clerk not responsible for deputy.

**11.** The clerk shall not after the giving of such security by his said deputy be answerable or accountable for the acts or non-performance or improper performance of the duties and obligations of his said deputy. N.W.T., c. 22, s. 12.

Deputy Clerk to take oath of office.

**12.** Every deputy clerk appointed under the provisions of any Ordinance of the Territory in that behalf shall upon appointment and before entering upon the duties of his office take the oath of office in the form in the schedule to this Ordinance and also the oath of allegiance.

(2.) All such oaths shall be filed in the office of the Territorial Secretary immediately after being taken. N.W.T., c. 22, s. 12.

#### VACANCY.

Disposition of books, etc., when vacancy occurs.

**13.** Whenever a vacancy occurs in the office of clerk and until the same is filled by the proper authority the books, records, moneys and other matters and things the property of the Government of the Territory shall be handed over by the person in whose possession or control they are to such person as the court appoints to receive the same and such appointee during such vacancy is authorised to perform the duties of the clerk of the court.

(2.) Without prejudice to any other powers of the court or judge by way of attachment, committal or otherwise, the judge may on summary application make an order directing the sheriff or other person named by him to take and seize such books, records, moneys and other things wheresoever found and for such purpose may authorise such sheriff or other person to break and open any doors and windows, buildings or inclosures and such order shall be full justification to such sheriff or other person for any action taken in pursuance thereof. N.W.T., c. 22, s. 14.

Forcible recovery of office books, etc.

#### PROHIBITION FROM PRACTICE AS SOLICITOR.

**14.** No clerk or deputy clerk while holding office shall practise as a barrister or solicitor of the Territory or be a member of any firm of barristers or solicitors practising in the Territory. N.W.T., c. 22, s. 15.

Clerk or deputy not to act as solicitor.

#### BOOKS AND FORMS.

**15.** All necessary books and forms required for use in the clerk's or deputy clerk's offices may be provided by and shall be the property of the Yukon Government. N.W.T., c. 22, s. 16.

Books and forms.

#### FEEES TO CLERK AND DEPUTY—ANNUAL RETURNS TO TERRITORIAL TREASURER.

**16.** For the purposes of the following sections—

Interpretation

1. The word "clerk" means and includes the clerk of the Territorial Court of the Yukon Territory and his deputy appointed under the provisions of this Ordinance;

"Clerk."

2. The word "fees" means and includes all fees and allowances payable to such clerk as registration clerks under the provisions of *The Bills of Sale Ordinance*; *An Ordinance respecting Hire Receipts and Conditional Sales of Goods* and *An Ordinance respecting Partnerships* and any amendments to the said Ordinances or any other Ordinance of the Territory. N.W.T., c. 22, s. 17.

"Fees."

**17.** The clerk shall keep a separate book in which he shall enter from day to day all fees and emoluments received by him under and by virtue of the said Ordinances and amendments showing therein separately the fees received by him for each service performed under any of the said Ordinances and amendments and such further facts and information as the Commissioner from time to time requires. N.W.T., c. 15, s. 20.

Fees received to be recorded.

**18.** The clerk shall on or before the fifteenth day of January in each year make up a statement in duplicate

Annual statement of fees received.

from such book and return the same to the Territorial Treasurer verified under oath; such statement shall set forth the total amount of fees which have been received by such clerk during the twelve months ended on the thirty-first day of December next preceding. N.W.T., c. 22, s. 21.

Fee book open to inspection.

**19.** The clerk shall produce such book at any time during his lawful office hours for inspection by any person appointed by the Commissioner for that purpose. N.W.T., c. 12, s. 22.

Fees retainable by clerk.

**20.** The clerk shall be entitled to retain to his own use in each year all the fees received by him in that year up to the sum of \$1,500.

(2.) Of the further fees and emoluments received by the clerk in each year in excess of \$1,500 and not exceeding \$2,000 he shall be entitled to retain to his own use seventy per cent and no more.

(3.) Of the further fees and emoluments received by the clerk in each year in excess of \$2,000 not exceeding \$2,500 he shall be entitled to retain to his own use sixty per cent and no more.

(4.) Of the further fees and emoluments received by the clerk in each year in excess of \$2,500 and not exceeding \$3,000 he shall be entitled to retain to his own use fifty per cent and no more.

(5.) Of the further fees and emoluments received by the clerk in each in excess of \$3,000 and not exceeding \$3,500 he shall be entitled to retain to his own use forty per cent and no more.

(6.) Of the further fees and emoluments received by the clerk in each year in excess of \$3,500 he shall be entitled to retain to his own use thirty per cent and no more. N. W.T., c. 22, s. 23.

Proportion of fees to be paid Territorial Treasurer.

**21.** With the statement in section 18 of this Ordinance mentioned the clerk shall transmit to the Territorial Treasurer such proportion of the fees received by him during the next preceding year as under this Ordinance he is not entitled to retain to his own use. N.W.T., c. 22, s. 24.

Penalty for neglect to keep books.

**22.** Any clerk who fails to keep the books required to be kept by him under the provisions hereof or who fails to enter therein any fee or fees received by him and required by the provisions hereof to be entered therein shall for each such offence be liable on summary conviction to a penalty not exceeding \$20. N.W.T., c. 22, s. 25.

Penalty for nontransmission of annual statement.

**23.** Any clerk who shall fail to transmit to the Territorial Treasurer on or before the fifteenth day of January in any year the statement mentioned in section 18 hereof

verified as therein provided shall on summary conviction be liable to a penalty of \$20 for each day after that date that he fails to transmit the same so verified. N.W.T., c. 22, s. 26.

**24.** Any clerk who fails to transmit to the Territorial Treasurer with the statement in section 18 of this Ordinance mentioned the proportion of fees required to be so transmitted by him under the provisions of section 21 hereof shall for every such offence be liable on summary conviction to a penalty of \$20 for each day after the fifteenth day of January that he fails to transmit the same. N.W.T., c. 22, s. 27. Failure to transmit fees.  
Penalty.

**25.** The fees and moneys received by the Territorial Treasurer under the provisions hereof shall form part of the general revenue fund of the Territory. N.W.T., c. 22, s. 28. Money to go to general revenue fund.

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SCHEDULE.

DEPUTY CLERK'S OATH OF OFFICE.

I, \_\_\_\_\_ do swear that I will truly and faithfully perform the several duties of deputy clerk of the Territorial Court of the Yukon Territory

to which I have been appointed without fear, favour or malice. So help me God.

Sworn before me at  
in the Yukon Territory, }  
this day of 19 . }

## CHAPTER 19.

### An Ordinance respecting the Sheriff and Deputy Sheriffs.

#### OFFICE HOURS.

Sheriff's office hours.

**1.** It shall be the duty of the sheriff to keep his office open between the hours of ten in the forenoon and four in the afternoon on all days except Sundays and holidays except Saturdays when the same may be closed at one o'clock in the afternoon. N.W.T. c. 23, s. 1.

#### BOOKS, RECORDS AND PROCESS.

Fees received to be recorded

**2.** The sheriff shall keep a separate book in which he shall enter from day to day all fees and emoluments received by him in virtue of his office showing separately the fees received for each service performed and such further facts and information as the Commissioner from time to time requires. N.W.T. c. 23, s. 2.

Annual statement of fees.

**3.** The sheriff shall on or before the fifteenth day of January in each year make up a statement in duplicate from such book and return the same to the Commissioner verified under oath; and such statement shall set forth the total amount of fees which have been received during the twelve months ended on the thirty-first day of December next preceding. N.W.T. c. 23, s. 3.

Books open to public inspection.

**4.** The sheriff shall keep in his office open to the inspection of any person the following books, namely:

(a) Process books—in which shall be entered a memorandum of every process other than writs of execution or writs in the nature of writs of execution received by the sheriff, the court out of which the same issued, the date of the receipt, the nature of the process, the names of the parties thereto, the solicitor by whom issued, the date of the return and the nature of the return made thereto or what was thereunder or therewith done respectively;

(b) Execution books for goods and lands respectively in which shall be entered a memorandum of every writ of execution or writ in the nature of a writ of execution, the court out of which the same issued, the names of the par-

ties thereto, the solicitor by whom issued, the date of return and the nature of the return made thereto or what was done thereunder or therewith; and

(c) A cash book in which shall be entered all cash received or paid away by the sheriff in his official capacity or in connection with his office for any service whatever—for fees, poundage, service of process and papers, attendance at court, moneys levied under execution or under writs in the nature of writs of execution or otherwise, the date of the receipt or payment and the cause, matter or service in which or on account of which the same was received or paid away.

(2) And a seal of office. N.W.T. c. 23, s. 4.

**5.** The said books and seal may be supplied out of the general revenue fund of the Territory. N.W.T. c. 23, s. 5. Supplying books and seal

**6.** All books, accounts, records, papers, writs, warrants, processes, moneys and other matters and things in the possession or under the control of the sheriff by virtue of or appertaining to his office as sheriff shall be the property of the Government and the same and every of them shall immediately upon the resignation, removal from office or death of any sheriff be, by the party in whose possession or control they may come or happen to be, handed over to and taken possession of by the successor in office of such sheriff or such person as the judge appoints to receive the same. N. W. T. c. 23, s. 6. Books, records, etc., to be property of Government. Disposition on vacancy of office.

**7.** No person except the successor in office of the sheriff so resigning, being removed or dying, or the person so to be appointed by the court as aforesaid shall take, have or hold any such books, accounts, records, papers, writs, warrants, processes, moneys, or other matters or things; and any person having or holding any of the matters aforesaid shall forthwith on demand deliver over the same and every of them to the said succeeding sheriff or to the person so to be appointed as aforesaid; and upon any such person neglecting or refusing so to do on conviction thereof before a judge of the Territorial Court he shall be liable to pay a penalty not exceeding \$100. N.W.T. c. 23, s. 7. Possession of books, etc., after vacancy. Refusal to give up possession.

**8.** The sheriff after resigning office or removal from office, or his heirs, executors or administrators shall or may at any and at all time or times thereafter have the right and be at liberty to have access to search and examine into any or all accounts, books, papers, warrants, and processes of whatever kind and all other matters or things which were formerly in the possession of him the said sheriff before his resignation or removal and which at the time of making or requiring to make such search or examination are in the Ex-sheriff to have access to books.

possession or control of the succeeding sheriff, free of all costs, charges and expenses. N.W.T. c. 23, s. 8.

#### VACANCY IN OFFICE PENDING EXECUTION OF WRIT.

Sale of lands by sheriff. Procedure when vacancy occurs.

**9.** In case of the death, resignation or removal of the sheriff, or of any deputy where there is no sheriff, after he has made a sale of lands but before he has made a transfer of the same to the purchaser such transfer shall be made to the purchaser by the sheriff or the deputy sheriff who is in office acting as sheriff as aforesaid at the time when the deed of conveyance is made. N.W.T. c. 23, s. 9.

Sheriff vacating, successor to continue process.

**10.** If the sheriff goes out of office during the currency of any writ of execution against lands and before the sale, such writ shall be executed and the sale and transfer of the lands be made by his successor in office and not by the former sheriff. N.W.T., c. 23, s. 10.

#### MISFEASANCE OR DEFAULT OF SHERIFF, LIABILITY OF SURETIES.

Liability of sureties.

**11.** The sureties of the sheriff shall be liable to indemnify the party or parties to any legal proceedings against any omission or default of the sheriff in not paying over moneys received by him and against any damage sustained by any such party or parties in consequence of the sheriff's wilful or neglectful misconduct in his office and the sheriff shall be joint defendant in any action to be brought upon the covenant or security given by the sheriff. N.W.T., c. 23, s. 11.

Default of sheriff.

Action on security.

**12.** Any person sustaining any damage by reason of any such default or misconduct of any sheriff may bring and maintain an action upon the said covenant or security for such default or misconduct and such action shall not be barred by reason of any prior recovery by the same party upon the covenant or security or of any judgment rendered for the defendant in any prior action upon the same covenant or security or by reason of any other action being then depending upon the same either at the suit of the same plaintiff or of any other party for any other distinct cause of action. N.W.T., c. 23, s. 12.

Limitation of surety's liability.

**13.** If upon the trial of any action upon any such covenant or security it is made to appear that the plaintiff is entitled to recover and that the amount which such surety has paid or become liable to pay as hereinafter mentioned is not equal to the full amount for which he became surety the court after deducting from such full amount the sums



which he has so paid or become liable to pay as aforesaid shall render judgment against him for any sum not exceeding the balance of the sum for which he became surety. N.W.T., c. 23, s. 13.

**14.** Where any such surety actually and *bona fide* and of his own proper moneys and effects has paid or become liable by virtue of a judgment or judgments recovered against him upon his said covenant or security to pay an amount equal to the amount specified in the said covenant or security for which he became surety such covenant or security shall as to him be deemed to be discharged and satisfied and no other or further sum shall be recovered against him. N.W.T., c. 23, s. 14. When surety discharged from liability.

**15.** It shall be competent for the Territorial Court or a judge thereof upon proof to the satisfaction of the Court or judge of such payment or liability in a summary manner and at any stage of the cause by stay of proceedings or otherwise to prevent the recovery against any such surety of any further sum than the amount specified in his covenant or security and for which he became surety. N.W.T., c. 23, s. 15. Stay of proceedings against surety

**16.** Upon every writ of execution under a judgment recovered on such covenant or security the plaintiff or his solicitor shall by an indorsement on the writ direct the coroner or other officer charged with the execution of such writ to levy the amount thereof upon the goods and chattels of the sheriff in the first place and in default of goods and chattels of the sheriff to satisfy the amount then to levy the same or the residue thereof on the goods and chattels of the other defendant or defendants in such writ and so in like manner with any writ against lands and tenements upon a judgment on any such covenant or security. N.W.T., c. 23, s. 16. When judgment recovered upon security levy to be on sheriff's goods first.

**17.** Notwithstanding a sheriff may have forfeited his office and become liable to be removed therefrom the liability of himself and his sureties shall remain until a new sheriff has been appointed and sworn into office. N.W.T., c. 23, s. 17. Sheriff liable until successor takes office.

OFFICERS NOT TO PURCHASE AT EXECUTION SALES.

**18.** No sheriff, deputy sheriff, bailiff or constable shall directly or indirectly purchase any goods or chattels, lands or tenements by him exposed to sale under execution. N.W.T., c. 23, s. 18. Sheriff, etc., may not purchase under execution.

## MISCONDUCT OF BAILIFF OR CONSTABLE.

Liability for misconduct in execution of writ.

**19.** If any bailiff or constable entrusted with the execution of any writ, warrant, process, mesne or final, wilfully misconducts himself in the execution of the same or wilfully makes any false return to such writ, warrant or process, unless by the consent of the party in whose favour the process issued, he shall answer in damages to any party aggrieved by such misconduct or false return. N.W.T., c. 23, s. 19.

CUSTODY OF WRITS,<sup>r</sup> PROCESS, ETC.

Restoration of documents, etc., to sheriff.

**20.** Every deputy sheriff, bailiff or other sheriff's officer or clerk entrusted with the custody of any writ or process or of any book, paper or document belonging to the said sheriff or his office shall upon demand upon him by such sheriff restore and return such writ, process, book, paper or document to the custody of the said sheriff and in case of any neglect or refusal to return or restore the same as aforesaid the party so neglecting or refusing may be required by an order of the Territorial Court or of any judge of such court to return and restore such writ, process, book, paper, or document to such sheriff and if he disobeys such order may be further proceeded against by attachment as in other cases of contumacy to orders or rules of court. N.W.T., c. 23, s. 20.

Enforcement of return.

Sheriff's officer to deliver process to sheriff when required.

**21.** If any deputy sheriff, bailiff or sheriff's officer shall have in his possession, custody or control any writ of summons, *feri facias* or other writ or any bench warrant or process whatsoever and shall upon demand made by the sheriff from whom the same has been received or his successor in office or by any other party entitled to the possession of the same neglect or refuse to deliver up the same such sheriff or his successor in office or the party entitled to the possession of the same may proceed by summons and order before any judge having jurisdiction in the court out of which such writ or process issued to compel the production thereof; which order may be enforced in the same manner as like orders for the return of writs against sheriffs and with or without costs or be discharged with costs against the party applying in the discretion of the judge aforesaid. N.W.T., c. 23, s. 21.

## VACANCY IN OFFICE OF SHERIFF, DEPUTY TO ACT.

Provision in case of death, resignation or removal of sheriff.

**22.** If a sheriff dies, resigns his office and his resignation is accepted or is removed therefrom the deputy sheriff by him appointed shall nevertheless continue the office of sheriff and execute the same and all things belong-

ing thereto in the name of the sheriff so dying, resigning or being removed until another sheriff has been appointed and sworn into office; and the said deputy sheriff shall be answerable for the execution of the office in all respects and to all intents and purposes whatsoever during such interval as the sheriff so dying, resigning or having been removed would by law have been if he had been living or continuing in office and the security given to the sheriff so deceased, resigning or being removed by his said deputy sheriff and his pledges as well as the security given by the said sheriff shall remain and be a security to the King His Heirs and Successors and to all persons whatsoever for the due and faithful performance of the duties of his office during such interval by the said deputy sheriff. N.W.T., c. 23, s. 22.

#### SECURITIES AND OATHS OF OFFICE.

**23.** Every sheriff before entering upon the duties of his office and if after entering upon his duties a new security is substituted for any previously given shall file in the office of the Territorial Secretary a copy, certified as such by the Secretary of State for Canada, of the security required by and given under *The North-west Territories Act* or of such substituted security. N.W.T., c. 23, s. 23. Copy of security to be filed.

**24.** Such security shall be available to and may be sued upon by any person suffering damages, by the default, breach of duty or misconduct of such sheriff. N.W.T., c. 23, s. 24. Security may be sued upon.

**25.** A copy of such security purporting to be such, certified by the Territorial Secretary, shall be received in all courts as *prima facie* evidence of the due execution and contents thereof without further proof. N.W.T., c. 23, s. 25. Certified copy of security evidence.

**26.** Every deputy sheriff appointed under the provisions of any Ordinance of the Territory in that behalf shall upon appointment and before entering upon the duties of his office take the oath of office in the form in the schedule to this Ordinance and also the oath of allegiance. Oath of office.

(2.) All such oaths shall be filed in the office of the Territorial Secretary immediately after being taken. N.W.T., c. 23, s. 26.

#### DEPUTY SHERIFFS.

**27.** The sheriff of the Yukon Territory may appoint one or several deputy sheriffs and in the event of his being absent from Dawson or becoming incapacitated through illness, or otherwise and failing to appoint such deputy sheriff or sheriffs a judge of the Territorial Court may appoint one or several such deputy sheriffs and such Deputy sheriffs to be appointed.

deputy sheriffs shall have and perform the powers, duties and obligations hereinafter mentioned. No. 26 of 1902, s. 8, ss. (4.)

Powers and duties of deputy.

**28.** All the powers, duties and obligations which may be exercised or performed by the sheriff may be exercised and performed by any such deputy sheriff respectively and process for the purpose of binding property may be placed in the hands of such deputy sheriff and such deputy sheriff shall have and use a duplicate of the seal of the sheriff and keep such books as are kept by the sheriff. No. 26 of 1902, s. 8, ss. (6).

Deputy to give security.

**29.** Each deputy sheriff before entering on his duties shall give security to the Commissioner to the satisfaction of the Commissioner in the sum of \$2,000 for the due performance of the duties and obligations of his said office and for the due payment over to the persons entitled thereto of all moneys received by him by virtue of his said office and any person sustaining damage by reason of the non-performance or improper or undue performance of such duties or obligations by reason of the non-payment over of such moneys shall have and possess a right of action against such deputy sheriff and his sureties upon such security for the amount of such damages. N.W.T., c. 23, s. 30.

Security may be proceeded upon.

**30.** The sheriff shall not after the giving of such security by his said deputies be answerable or accountable for the acts or non-performance or improper performance of the duties and obligations of his said deputies. N.W.T., c. 23, s. 31.

Sheriff not responsible or deputy.

**31.** No sheriff or deputy sheriff while holding office shall practice as a solicitor of the Territory or be a member of any firm of solicitors practising in the Territory. N.W.T., c. 23, s. 32.

Sheriff or deputy not to act as solicitor

SCHEDULE.

DEPUTY SHERIFF'S OATH OF OFFICE.

I, \_\_\_\_\_, do swear that I will truly and faithfully perform the several duties of deputy sheriff to which I have been appointed without fear, favour or malice. So help me God.  
Sworn before me at \_\_\_\_\_ }  
in the Yukon Territory, }  
this \_\_\_\_\_ day of \_\_\_\_\_ 1 }

### CHAPTER 20.

An Ordinance respecting the procedure and practice in connection with the exercise of the civil jurisdiction of Police Magistrates.

1. The jurisdiction of each of the Police Magistrates appointed under Chapter 41 of the Dominion Acts of 1901, entitled, "An Act to amend the Yukon Territory Act and to make further provision for the administration of Justice in the said Territory," shall be exercised so far as regards procedure and practice in the same manner as the jurisdiction of a judge of the Territorial Court of the Yukon Territory and the practice and procedure in civil cases over which such magistrate has jurisdiction shall be regulated by the Ordinance respecting the Administration of Civil Justice, and the Rules of Court made thereunder. No. 34 of 1901, s. 3.

Practice in Magistrates Court to be same as in Territorial Court.

2. Every such case shall be commenced and proceeded with both before judgment and subsequently as if the same was a cause commenced in the Territorial Court save that the same may be tried and judgment given and decisions and determinations and rules, orders and decrees made in any such case by the proper Police Magistrate. No. 34 of 1901, s. 4.

Cases to be proceeded with as if brought in Territorial Court.

3. All appeals from the Police Magistrate shall be heard by the Territorial Court sitting *en banc*, and shall be by way of rehearing, and shall be brought by a notice of appeal in a summary way, and no petition, case or other formal proceeding other than such notice of appeal shall be necessary. The Appellant may, by the notice of appeal, appeal from the whole or any part of any judgment or order, and the notice of appeal shall state whether the whole or part only of such judgment or order is complained of, and in the latter case shall specify such part. No. 34 of 1901, s. 5.

Appeals from magistrates to be heard by Territorial Court *en banc*.

Appeal.

4. The notice of appeal shall be served on all parties directly affected by the appeal, and it shall not be necessary to serve parties not so affected, but the Territorial Court may direct notice of the appeal to be served upon all or any of the parties to the action or other proceeding or upon any person not a party, and in the meantime may post-

Notice of appeal, how served.

pone or adjourn the hearing of the appeal upon such terms as are just, and may give such judgment and make such order as might be given or made if the persons served with such notice had been original parties. Any notice of appeal may be amended at any time that the Court thinks fit. No. 34 of 1901, s. 6.

Time within which notice to be given.

**5.** The notice of appeal shall be served within ten days from the day the appellant or his solicitor first had notice that the order upon the decision appealed from had been made, but the court or judge may enlarge and extend the time for giving such notice of appeal either before or after the expiration thereof. No. 34 of 1901, s. 7.

Appeal shall not stay proceedings unless ordered.

**6.** An appeal shall not operate as a stay of execution or of proceedings under the decision appealed from except so far as the magistrate appealed from or the court orders, and no intermediate act or proceeding shall be invalidated except so far as the court directs. Such deposit or other security shall be made or given as directed by the court or judge. No. 34 of 1901, s. 8.

Questions of fact, how determined.

**7.** When any question of fact is involved in an appeal the evidence taken before the Magistrate bearing on such question shall, subject to any special order, be brought before the court as follows :

(a.) As to any evidence taken by affidavit by the production of copies of such affidavit ;

(b.) As to any evidence given orally, by production of the notes of the evidence as extended by the Stenographer or made by the Magistrate or such other material as the court deems expedient. No. 34 of 1901, s. 9.

## CHAPTER 21.

### An Ordinance Respecting the Office of Public Administrator.

#### ADMINISTRATION OF THE ESTATES OF DECEASED PERSONS.

**1.** The Public Administrator shall furnish security to the satisfaction of the Commissioner, in the penal sum of \$10,000 conditioned for the due performance of his duties ; but shall not otherwise be required to furnish security as Administrator unless a judge so directs, and such security may be furnished by bond or agreement of any guarantee company approved by the Commissioner. No. 50 of 1899, s. 2.

To furnish security.

**2.** During the months of January and July in each year, the Public Administrator shall furnish to the Commissioner a statement in detail, verified on oath, of the emoluments of his office for the six months preceding the first of January or the first of July, as the case may be. No. 50 of 1899, s. 3.

To report in January and July.

**3.** Unless and until letters of administration are granted by the proper court in that behalf to some person entitled thereto or letters probate of the last will of the deceased are granted to the executor or executors therein named, the Public Administrator shall be the administrator, or the administrator with the will annexed (as the case may be) of the estates, both real and personal, of all persons who have heretofore died or may hereafter die, leaving property within the Yukon Territory, and shall, without grant of letters of administration have, in respect to such estates, all the rights, powers, privileges and authority, and shall perform all the duties incumbent upon, and shall be subject to all the liabilities of, an administrator or executor, acting under the authority of letters of administration or letters probate. No. 50 of 1899, s. 4.

Public administrator to administer until some other person appointed.

**4.** Any person or persons in whose charge or care, or upon whose premises any person dies, shall forthwith give notice of such death to the Public Administrator or to the officer or constable commanding at the post of the North-West Mounted Police nearest the place where such death occurred, and shall also forthwith deliver to the Public

Death to be notified to Police and Public administrator

Administrator or to such officer or constable all moneys, goods, chattels, books, documents, papers and effects in his, or their possession or custody belonging to the estate of the deceased, and shall also inform the Public Administrator or such officer or constable of all facts within his, or their knowledge, information or belief, touching the name, age, former place of residence without the Yukon Territory, relatives and property, both real and personal of the said deceased; and any person neglecting to comply with the provisions of this section, shall be liable, upon summary conviction before a justice of the peace, to a fine not exceeding \$500, and not less than \$50 with costs. No. 50 of 1889, s. 5.

Officer to transmit notice and assets to Public administrator.

5. The officer or constable, to whom such notice and information are given, shall, as soon as possible, transmit the same to the Public Administrator, together with such assets of the estate as have been delivered under the next preceding section hereof. Whenever immediate transmission of the assets is practicable, a complete inventory (with an approximate valuation) of such assets shall be forthwith transmitted. No. 50 of 1899, s. 6.

Rule of court contained in Judicature Ordinance not to apply to Public administrator.

6. Rule 588 of the rules of court contained in the Judicature Ordinance shall not apply to the Public Administrator who shall, without order, exercise the powers and perform the duties therein set forth in such mode as to administer the estate which comes to his hands in a speedy and inexpensive manner, having due regard to the interests of all parties entitled to share in such estates. Where the Public Administrator has given such or the like notice as in the opinion of the court in which such administrator is sought to be charged, would have been given by the court in an administration suit for creditors and others to send into such Public Administrator their claims against the estate of the testator or intestate (as the same may be) the Public Administrator shall, at the expiration of the time named in the said notices, or the last of the said notices, for sending in such claims, be at liberty to distribute the assets of the testator or intestate (as the case may be) or any part thereof amongst the parties entitled thereto, having regard to the claims of which the Public Administrator has then notice, and shall not be liable for the assets or any part thereof, so distributed to any person of whose claim the Public Administrator has not notice at the time of the distribution thereof, or a part thereof (as the case may be) but nothing in this Ordinance contained shall prejudice the right of any creditor or claimant to follow the assets or any part thereof, into the hands of the person or persons who have received the same respectively. No. 50 of 1899, S. 9.

Rule to apply to administrator.

7. Rule 590 of the said rules of court, shall apply to the Public Administrator. No. 50 of 1899, S. 10.



## INFANTS AND LUNATICS.

**8.** When no other appointment has been made the Public Administrator shall be guardian of the estate within the Yukon Territory of all infants whose parents are dead or do not (one or both) reside in the Yukon Territory. No. 50 of 1899, s. 18.

Public administrator to be guardian where no other appointed.

**9.** The Public Administrator shall have power to summon before him any person or persons who, in his opinion, have knowledge of the estate and effects of any deceased person, and may examine any such person or persons, upon oath, touching his, or their knowledge of the estate and affects aforesaid, and any person so summoned who neglects to attend before the Public Administrator at the time and place by him appointed or who refuses to answer any lawful questions put to him by the Public Administrator upon such examination shall, for such neglect or refusal, be subject, upon summary conviction before any justice of the peace, to a fine not exceeding \$500 and not less than \$50. No 50 of 1899, s. 21.

Public administrator to have power to summon witnesses.

## CHAPTER 22.

### An Ordinance respecting Commissioners to administer Oaths.

Barristers  
to be  
commissioners

**1.** All Barristers entitled to practise in the Yukon Territory, and all justices of the peace, are hereby empowered to administer oaths and take and receive affidavits, declarations and affirmations in the said Territory. No. 6 of 1899, s. 1.

Commissioner  
may appoint  
commissioners

**2.** The Commissioner of the Yukon Territory may, by commission under his hand and seal from time to time, empower such and so many other persons as he thinks fit and necessary to administer oaths and take and receive affidavits, declarations and affirmations within the said Territory, and may revoke the commission or commissions of any such persons and such revocation shall operate as a revocation for all purposes. No. 6 of 1899, s. 2. No. 44 of 1900, s. 1.

Commissioner  
may appoint  
commissioners  
outside the  
Territory.

**3.** The Commissioner may, by a commission under his hand and the seal of the Yukon Territory, from time to time empower such and so many persons as he thinks fit and necessary to administer oaths and to take and receive affidavits, declarations and affirmations without the Yukon Territory, in or concerning any cause, matter or thing depending or in any wise concerning any of the proceedings in the Territorial Court of the Yukon Territory, and every oath, affidavit, declaration or affirmation taken or made as aforesaid shall be as valid and effectual and shall be of the like force and effect to all intents and purposes as if such oath, affidavit, declaration or affirmation had been administered, taken, sworn, made or affirmed before a commissioner for taking affidavits within the Yukon Territory, or other competent authority of the like nature. No 44 of 1901, s. 1.

Name of  
commissioners

**4.** The commissioners so appointed shall be styled "Commissioners for taking affidavits in and for the Territorial Court of the Yukon Territory." No 44 of 1901, s. 2.

## CHAPTER 23.

### An Ordinance Respecting Notaries Public.

**1.** All Barristers entitled to practice in the Yukon Territory shall be *ex officio* Notaries Public, and no other person shall act as such unless he receives from the Commissioner of the Territory a commission to that effect, after such an examination as the Commissioner deems to be sufficient and is enrolled in a register kept for that purpose by the Territorial Secretary, and pay an annual fee of fifty dollars, such sum to form part of the general revenue fund. Barristers to be Notaries Public.  
Other persons to pass examination and pay annual fee of \$50.  
 No. 6 of 1898, s. 1.

**2.** The Commissioner may appoint by commission under his hand and the seal of the Territory one or more notaries public for the said Territory, provided that no appointment shall be made of any person or persons who at the time is not actually residing within the said Territory. Appointments N.W.T., c. 25, s. 1.

**3.** Every such notary shall have, use and exercise the power of drawing, passing, keeping and issuing all deeds and contracts, charter parties and other mercantile transactions in the said Territory, and also of attesting all commercial instruments that are brought before him for public protestation and otherwise of acting as usual in the office of notary and may demand, receive and have all the rights, profits and emoluments rightfully appertaining and belonging to the said calling of notary public during pleasure. Powers. N.W.T., c. 25, s. 2.

## CHAPTER 24.

### An Ordinance to Abolish Priority among Execution Creditors.

#### SHORT TITLE.

Short title. **1.** This Ordinance may be cited as "*The Creditors' Relief Ordinance.*" N.W.T., c. 26, s. 1.

#### INTERPRETATION.

Interpretation **2.** In this Ordinance the expression "sheriff" includes deputy sheriffs, duly appointed bailiffs, coroners and any other person discharging the duties of sheriff in the particular case or for the time being; the expression "judge" means a judge of the Territorial Court of the Yukon Territory. N.W.T., c. 26, s. 2.

#### PROCEDURE UNDER EXECUTIONS. DISPOSITION OF MONEYS REALISED.

Priorities abolished. **3.** Subject to the provisions hereinafter contained there shall be no priority among creditors by execution from the Territorial Court of the Yukon Territory.

When levy made. Sheriff to give notice. Rateable distribution. (a.) If a sheriff levies money upon an execution against the property of a debtor he shall forthwith enter in a book to be kept in his office open to public inspection without charge a notice stating that such levy has been made and the amount and date thereof and the money levied shall at the expiration of two months from the levy unless otherwise ordered by a judge be distributed rateably amongst all execution creditors whose writs were in the sheriff's hands at the time of the levy or who have delivered executions to the said sheriff within the said two months or within such further time as is ordered by a judge subject however to the provision hereinafter contained as to the payment of the costs of the creditor under whose writ the amount was levied :

Provided that if money is realised by sale of lands for which a certificate of title has been granted under *The Land Titles Act, 1894*, the said period of two months shall be computed from the date of confirmation of the sheriff's sale under the said Act.

(b.) The notice shall state the day upon which it was entered and may be in form A given in the schedule hereto. Form of notice

(c.) Where proceedings are taken by the sheriff or other officer for relief under any provisions relating to interpleader those creditors only who are parties thereto and who agree to contribute *pro rata* (in proportion to the amount of their executions) to the expense of contesting any adverse claim shall be entitled to share in any benefit which may be derived from the contestation of such claim so far as may be necessary to satisfy their executions: Interpleader proceedings. Persons entitled after.

Provided however in case the money is ordered to be paid into court by the sheriff pending the trial of an interpleader issue the entry to be made by the sheriff shall not be made until the said money is again paid out of court to the sheriff for distribution. The Court or judge may direct that one creditor shall have the carriage of the interpleader proceedings on behalf of all creditors interested and the cost thereof as between solicitor and client shall be a first charge upon the moneys or goods which are found by the proceedings to be applicable upon the executions. Sheriff's entry, where money paid into court. Carriage of interpleader proceedings. Costs.

(d.) If the sheriff shall subsequently to the entry of the notice but within the two months levy a further amount upon the property of the debtor the same shall be dealt with as if such amount had been levied prior to the entry of the notice but if after the two months a further amount is levied a new notice shall be entered and the distribution to be made of the amount so levied and of the further amount levied within two months of the entry of the last mentioned notice shall be governed by the entry thereof in accordance with the foregoing provisions of this section and so on from time to time: Procedure where second levy made.

Provided however that the judge may on application delay any of such distributions or any part thereof to give reasonable time for obtaining judgment and fix a date for such distributions.

(e.) If a debtor voluntarily and without any sale by the sheriff pays to the sheriff part of the amount owing in respect of an execution in the sheriff's hands and there is at the time no other execution in the sheriff's hands the sheriff is to apply the same on the execution so in his hands and subsections (a) (b) (c) and (d) of this section shall not apply to the money so received by the sheriff. Part of execution debt paid before sale.

(f.) In the distribution of moneys under this Ordinance creditors who have executions against goods or lands or against goods only or lands only shall be entitled to share rateably with all others any moneys realized under execution either against goods or lands or against both. N.W.T., c. 26, s. 3. Proceeds of land available under execution goods, etc.

4. When the amount levied by the sheriff is not sufficient to pay the execution debts with costs in full the moneys shall be applied to the payment rateably of such debts and Costs made preference.

costs after retaining the sheriff's fees and after payment in full of the taxed costs and costs of execution and extra costs of seizure and sale incurred by the creditor at whose instance and under whose execution the seizure and levy were made. N.W.T., c. 26, s. 4.

Attachment proceedings.

**5.** Moneys realized by the sheriff as the result of attachment of personal property shall be distributable under the provisions of this Ordinance. N.W.T., c. 26, s. 5.

Execution creditors alone to share.

**6.** No creditor shall be entitled to share in the distribution of money levied from the property of a debtor unless by the delivery of a writ of execution he has established a claim against the debtor either alone or jointly with some other creditor or creditors. N.W.T., c. 26, s. 6.

Full amount of execution paid without sale.

**7.** If the debtor without any sale by the sheriff pays the full amount owing in respect of the executions in the sheriff's hands at the time of such payment and no other execution has been placed in his hands or in case all executions in the sheriff's hands are withdrawn no notice shall be entered as required by section 3 of this Ordinance and no further proceedings shall be taken under this Ordinance against the debtor by virtue of the executions having been in the sheriff's hands.

Procedure where writ stayed.

(2) Save as aforesaid after an execution has been filed with the sheriff the withdrawal or expiry of the writ upon which the proceedings are founded or any stay upon the writ or the satisfaction of the plaintiff's claim thereon or the setting aside or return of the writ shall not affect the proceedings to be taken under this Ordinance and except so far as the action taken in regard to the writ may affect the amount to be levied the sheriff shall proceed and levy upon the goods or lands of the debtor or both as he would have proceeded had the writ or writs remained in his hands in full force to be executed and may also take the like proceedings as he would have been entitled to take had the writ been a writ of *venditioni exponas*. N.W.T., c. 26, s. 7.

Fund in court belonging to execution debtor.

**8.** Where there is in any court a fund belonging to an execution debtor and to which he is entitled the same or a sufficient part thereof to pay the executions in the sheriff's hands may on application of the sheriff or any party interested be paid over to the sheriff and the same shall be deemed to be money levied under execution within the meaning of this Ordinance. N.W.T., c. 26, s. 8.

One seizure sufficient, all executions sharing.

**9.** One seizure by the sheriff of the goods and lands of the debtor shall be deemed sufficient and shall be deemed a seizure on behalf of all creditors sharing under such seizure as hereinbefore provided. N.W.T., c. 26, s. 9.

**10.** Where money is to be distributed under this Ordinance the sheriff shall not be entitled to poundage as upon separate writs but only upon the net proceeds of the estate distributed by him and at the same rate as if the whole amount had been payable under one writ. N.W.T., c. 26, s. 10.

Sheriff entitled to single poundage only

**11.** When money is made upon a writ the same shall be taken for the purposes of the sheriff's return and otherwise to be made upon all the writs entitled to the benefits thereof and the sheriff shall upon payment being made to the person entitled upon such writ indorse thereon a memorandum of the amount so paid but he shall not, except on the request of the party issuing the writ or by direction of the court out of which the same issued or of a judge of such court, return the writ until the same has been fully satisfied or unless the same has expired by effluxion of time in which case the sheriff shall make a formal return of the amount paid thereon.

Sheriff's return after levy.

(2) The like proceedings may be taken to compel payment by the sheriff of money payable in respect of an execution or other claim as may now be had to compel the return by the sheriff of a writ of execution. N.W.T., c. 26, s. 11.

Compelling payment by sheriff.

**12.** The sheriff shall pending the distribution of moneys levied keep in the said book mentioned in section 3 of this Ordinance a statement according to form B in the schedule hereto showing in respect of any debtor on whose property money has been levied the following particulars ;

Sheriff to keep statement of particulars.

- (a) The amounts levied and the dates of levy ;
- (b) Each execution in his hands at the time of entering the notice form A required by section 3 hereof or subsequently received during the month, the amount thereof for debt and cost and the date of receipt and such statement shall be amended from time to time as an additional amount is levied or a new execution is received. N.W.T., c. 26, s. 12.

**13.** Where the money levied is insufficient to pay all claims in full and the sheriff is *bona fide* in doubt as to how the proceeds should be distributed or where any contest arises among the creditors as to the distribution of the proceeds among them or any other real difficulty arises as to such distribution the sheriff shall prepare a statement of the proceeds in his hands for distribution and the executions in his hands and the amount thereof and such other particulars as are necessary to explain the contest or difficulty, to be verified by affidavit, and thereupon shall apply to a judge in chambers for a summons calling upon all parties interested to attend before the judge in chambers to settle a scheme of distribution and such summons shall be made returnable at such time and shall be served

Questions as to distribution Scheme.

Contestation.

on such persons and in such manner and time as the judge directs.

(2) The judge may determine any question in dispute in a summary manner or may direct an issue or action for the trial thereof and may make such order as to costs of all proceedings as is just.

(3) If several creditors are interested in a contestation the judge shall give such directions for saving the expense of an unnecessary number of parties and trials or of unnecessary proceedings as are proper and shall direct by whom and in what proportions costs incurred shall be paid and may make such costs a first charge on the moneys levied or otherwise direct that they shall be paid out of the said moneys or out of the share or shares of any one or more of the creditors interested in the same or by any party to such contestation. N.W.T., c. 26, s. 13.

Sheriff to give information.

**14.** The sheriff shall at all times, without fee, answer any reasonable question which he is asked orally in respect to the estate of the debtor by a creditor or any one acting on behalf of a creditor and shall facilitate the obtaining by him of full information as to the value of the estate and the probable dividend to be realized therefrom or any other information in connection with the estate which the creditor reasonably desires to obtain. N. W. T., c. 26, s. 14.

Undisposable money to be placed in bank

**15.** If a sheriff has money in his hands which by reason of the provisions of this Ordinance or otherwise he cannot immediately pay over to the execution creditors he shall deposit the money in some incorporated bank designated for this purpose from time to time by order of the judge or where no such order is made then in some incorporated bank in which the public money is then being deposited and such deposit shall be made in the name of the sheriff in trust. N.W.T., c. 26, s. 15.

Irregularities not to void proceeding.

**16.** No proceeding under this Ordinance shall be void for any defect of form and the rules for amending or otherwise curing irregularities or defects which may from time to time be in force in the Territorial Court of the Yukon Territory shall apply to this Ordinance and any proceedings wrongfully taken under this Ordinance may be set aside by the judge with or without costs as he thinks fit. N.W. T., c. 26, s. 16.

When Ordinance inapplicable.

**17.** The provisions of this Ordinance shall not apply to the proceeds of any seizure allowed under section 4 of chapter 25 of *The Consolidated Ordinances* N.W.T., c. 26, s. 17.

Employees to have priority of claim.

**18.** All persons in the employment of an execution debtor at the time of the notice mentioned in subsection (a) of sec-



tion 3 of this Ordinance or within one month before such notice, who shall become entitled to share in the distribution of money levied out of the property of a debtor, shall be entitled to be paid out of such money the wages or salary due to them by such judgment debtor, not exceeding one month's wages or salary, in priority to the claims of the other creditors of the execution debtor and shall be entitled to share *pro rata* with such other creditors as to the residue, if any, of their claim. N.W.T., c. 21, s. 18.

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SCHEDULE.

FORM A.

SHERIFF'S NOTICE.

Notice is hereby given that I have by virtue of certain executions delivered to me against the goods and chattels (or lands) of *C.D.*, levied and made out of the property of the said *C.D.* the sum of \$

And notice is further given that this notice is first entered in my office on the            day of            19            , and that unless otherwise ordered distribution of the said money will be made amongst the creditors of the said *C.D.* entitled to share therein at the expiration of two months from the  
                          day of            19            .

*T.G.*  
 Sheriff.

Dated, etc.

FORM B.  
SHERIFF'S STATEMENT OF EXECUTIONS IN HAND AGAINST C. D.

Cause.	Proceeding	Claim Without Costs.	Costs.	Date of Receipt by Sheriff.	Amount Levied	Date of Levy.
A. B. vs. C. D.	Fi-fa goods.	\$504	\$30.00	18 Feb'y, 1893	\$500.00	1 May, 1893.
F. G. vs. C. D. and E. G.	Fi-fa lands.	\$400	\$20.00	30 Feb'y, 1893	\$200.00	3 May, 1893. Nothing made against E. G.

## CHAPTER 25.

### An Ordinance exempting certain Property from Seizure and Sale under Execution.

#### SHORT TITLE.

**1.** This Ordinance may be cited as "*The Exemptions Ordinance.*" N.W.T., c. 27, s 1. Short title.

#### EXEMPTIONS.

**2.** The following real and personal property of an execution debtor and his family is hereby declared free from seizure by virtue of all writs of execution, namely: Exemptions from seizure.

1. The necessary and ordinary clothing of himself and his family;

2. Furniture, household furnishings, dairy utensils, swine and poultry to the extent of five hundred dollars;

3. The necessary food for the family of the execution debtor during six months which may include grain and flour or vegetables and meat either prepared for use or on foot;

4. The books of a professional man;

5. The tools and necessary implements to the extent of five hundred dollars used by the execution debtor in the practice of his trade or profession;

6. The house and buildings occupied by the execution debtor, and also the lot or lots on which the same are situate according to the registered plan of the same to the extent of fifteen hundred dollars. N.W.T., c. 27, s. 2, part.

#### GENERAL.

**3.** The execution debtor shall be entitled to a choice from the greater quantity of the same kind of articles which are hereby exempted from seizure. Debtor's choice. N.W.T., c 27, s. 3.

**4.** Nothing in this Ordinance shall exempt from seizure any article except for the food, clothing and bedding of the execution debtor and his family, the price of which forms the subject matter of the judgment upon which the execution is issued. Article forming consideration of judgment. N.W.T., c. 27, s. 4.

Rights of  
family of  
deceased  
debtor.

**5.** In case of the death of the execution debtor, his property exempt from seizure under execution shall be exempt from seizure under execution against his personal representative if the said property is in the use and enjoyment of the widow and children or widow or children of the deceased and is necessary for the maintenance and support of said widow and children or any of them. N.W.T., c. 27, s. 5.

Absconding  
debtors.

**6.** The provisions of section 2 hereof shall not apply to any case where the debtor has absconded or is about to abscond from the Territory, leaving no wife or family behind. N.W.T., c. 27, s. 6.

## CHAPTER 26.

### An Ordinance Respecting the Summoning of Juries.

**1.** Subject to the exemptions hereinafter mentioned, all male British subjects over twenty-one and under sixty-five years of age shall be qualified to serve as jurors. No. 19 of 1902, s. 1. Persons qualified as jurors.

**2.** The following persons are exempt from serving as jurors: Persons exempt.

- (a.) Ministers of religion,
- (b.) Members of the Yukon Council,
- (c.) Members of the North-west Mounted Police,
- (d.) Practising solicitors,
- (e.) Medical practitioners,
- (f.) School teachers while so employed,
- (g.) All persons employed in the running of railroad trains and steam boats,
- (h.) Telegraph officers when so employed,
- (i.) Postmasters,
- (j.) Any person in charge of a steam engine while on any mining claim,
- (k.) Any mail carrier.
- (l.) Every officer of the Dominion and Territorial Government,
- (m.) Every judge, magistrate or officer of any court of justice actually exercising the duties of his office. No. 19 of 1902, s. 2.

**3.** The same person shall not be compellable to act as juror more than twice in one year unless the list in his district has been exhausted in the selection of a panel as hereinafter provided. No. 19 of 1902, s. 3. Service twice in one year.

**4.** The Sheriff and Clerk of the Territorial Court shall forthwith prepare from all available sources an alphabetical list in Form A of the schedule hereto of all persons in the Yukon Territory qualified to serve as jurors, which list shall be posted in the Court House, the Administration Building and the Post office at Dawson for one month. No. 19 of 1902, s. 4. Sheriff and clerk to prepare list.

**5.** A similar list shall be prepared in the month of November in each year hereafter, and be posted as aforesaid not later than the first day of December. No. 19 of 1902, s. 5. Similar list to be prepared in November of each year.

Lists to be posted.

**6.** Such lists shall remain posted for one month and any person during said month or within one week thereafter may complain of the insertion of any name therein, and such complaint shall be heard and determined by a judge of the Territorial Court at ten o'clock in the forenoon on the third Monday of the month following the posting, after which such list shall be signed by such judge and shall be the jury list for that year, and all juries for the trial of criminal and civil cases shall be called from such list unless a judge of said court otherwise orders. No. 19 of 1902, s. 6.

Complaints to be heard by judge.

Sittings of court in criminal cases.

**7.** There shall, if necessary, be a sitting of the Territorial Court for the trial of criminal cases with a jury on the first Monday of each month (except in vacation unless otherwise ordered by the court or a judge). No. 19 of 1902, s. 7.

Crown Prosecutor to notify clerk of criminal cases.

**8.** The Crown Prosecutor shall six clear days before any criminal sittings notify the Clerk of the Court if a jury is required for trial of criminal cases. No. 19 of 1902, s. 8.

Clerk to prepare special list for criminal cases.

**9.** Upon such notice being received the Clerk shall from said lists of those residing within fifteen miles of the place of trial prepare a special list of forty-eight names in the order in which they appear on said jury list and submit the same to the judge holding the next criminal sittings, and the Clerk shall in the presence of said judge ballot singly until twenty-four names are attained which twenty-four shall constitute the jury panel and a precept in form B for the summoning of said panel shall issue. No. 19 of 1902, s. 9.

Names not balloted for to be added to next special list.

**10.** The names not balloted shall be added to the next special list prepared and balloted for as aforesaid, and the same shall be done in each case of selection until the end of the list is reached, when the list shall be gone over again from the beginning subject to the provision that no person shall be liable to serve more than twice in the one year. No. 19 of 1902, s. 10.

Same procedure in civil cases.

**11.** The same procedure shall be adopted for the summoning of juries for the trial of civil cases. No. 19 of 1902, s. 11.

Civil cases to be tried immediately after criminal cases.

**12.** All civil cases to be tried by a jury shall be tried immediately after the criminal cases, if any, in each month, and the same panel shall be used unless otherwise ordered by the Court or a judge, and if there is no criminal trials with jury, then the civil cases to be tried by jury, if any, shall be tried on the first Monday of each month and days following. No. 19 of 1902, s. 12.

**13.** When criminal and civil jury trials are held at the same sittings the costs of summoning the jury panel shall be apportioned between the Crown and the civil litigants in proportion to the number of cases requiring a jury, but the Crown and the civil litigants shall pay the per diem jury allowance according to the time during which the panel actually was held in the criminal or civil matters, respectively, and the trial judge shall certify to the same. But nothing herein contained shall be taken to waive the payment of the deposit now required by civil litigants requiring a jury. No. 19 of 1902, s. 13.

Costs to be apportioned between Crown and civil litigants.

**14.** The Sheriff on receipt of the precept for summoning the jury panel shall execute the same by delivering to each person, or leaving with some grown up person residing at his house, a reasonable time before the date of trial, a summons in form C in the schedule hereto. No. 19 of 1902, s. 14.

Sheriff to summon jury.

**15.** The sheriff shall on or before the opening of the court deliver to the court the precept with his return thereto. No. 19 of 1902, s. 15.

Sheriff shall return precept to court.

**16.** Every person summoned to serve as a juror who fails to obey the summons or to answer to his name when called by the Clerk shall be liable to a fine not exceeding two hundred dollars, which may be immediately imposed by the Court, provided that the Court may for good cause reduce or remit the said penalty. No. 19 of 1902, s. 16.

Penalty for failing to obey summons.

**17.** All fines for non-attendance of jurors shall if not paid forthwith be levied together with sheriff's costs and expenses as authorized for the execution of civil process by warrant of distress issued by the Clerk of the Court directed to the Sheriff, and in default of sufficient distress and upon such return of insufficient distress such person may on the order of the Court be imprisoned for a term not exceeding sixty days. No. 19 of 1902, s. 17.

How fines to be collected.

**18.** Any party to a civil cause may apply to a judge in chambers on giving two clear days' notice for a special jury and upon such application the judge may make such order as he sees fit. No. 19 of 1902, s. 18.

Special jury.

**19.** There shall be payable to the Sheriff and Clerk each out of the general revenue fund of the Territory on the certificate of the revising judge, the sum of ten cents for every name added to the list of jurors so prepared as aforesaid. No. 19 of 1902, s. 20.

Sheriff and clerks fees.

LIST OF JURORS YUKON TERRITORY FOR  
THE YEARS 19

FORM A.

Name of juror.	Residence.	Nearest post office.	Distance from P.O.	Distance from Dawson.

FORM B.

PRECEPT.

In the Territorial Court of the Yukon Territory.

Edward VII. by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Defender of the Faith, etc., etc. To the Sheriff of the Yukon Territory :

You are commanded that you cause to come before this Court on.....the..... day of.....A.D. 19..... at 10 o'clock in the forenoon at..... in the Yukon Territory for the trial of causes requiring trial by jury the good and lawful men of the said Territory whose names and places of abode are given in the schedule hereto annexed.

Given under my hand and the seal of the said Court at... ..in the said Territory this.....day of.....A.D. 19.....

SCHEDULE TO PRECEPT.

Names.	Residence.	Return of Sheriff.



FORM C.

In the Territorial Court of the Yukon Terri'ory :

To.....

By virtue of a precept to me directed you are hereby re-  
quired and commanded to be and appear at.....  
on the ..... day of ..... A. D. 19... at the hour  
of ten o'clock in the forenoon and so on from day to day  
until discharged to serve as a juror in the trial of causes  
then and there to be heard.

Herein fail not at your peril.

Sheriff's office ..... day of ..... A. D. 19.....  
No 19 of 1902.

## CHAPTER 27.

### An Ordinance Respecting Alimony.

Jurisdiction of  
the Territorial  
Court in ali-  
mony.

1. The Territorial Court of the Yukon Territory shall have jurisdiction to grant alimony to any wife who would be entitled to alimony by the law of England or to any wife who would be entitled by the law of England to a divorce and to alimony as incident thereto or to any wife whose husband lives separate from her without any sufficient cause and under circumstances which would entitle her by the law of England to a decree for restitution of conjugal rights; and alimony when granted shall continue until the further order of the court. N.W.T., c. 29, s. 1.

## CHAPTER 28.

An Ordinance to amend the Law relating to Slander.

**1.** In any action of slander founded on words spoken of the plaintiff imputing unchastity, adultery or profligacy to a female, whether married or unmarried, it shall not be necessary to allege or prove any special damage but such words shall be actionable *per se*. N.W.T., c. 30, s. 1.

Slander of females.  
Special damage.

**2.** In any action of slander founded on false and malicious defamatory words, reflecting upon the character, reputation, honesty or actions of any person, or on false or malicious statements which might tend to bring into ridicule or contempt any person, it shall not be necessary to allege or prove any special damage, but such false and malicious defamatory words or statements shall be actionable *per se*. No. 37 of 1900, c. 1.

Not necessary to prove special damage in action of slander.

## CHAPTER 29.

### An Ordinance respecting Limitation of Actions in Certain Cases.

Actions on simple contracts.

**1.** All actions for recovery of merchants' accounts, bills, notes, and all actions of debt grounded upon any lending or other contract without specialty shall be commenced within six years after the cause of such action arose. N.W.T., c. 31, s. 1.

*The Real Property Limitation Act (Imp.)* in force.

**2.** The provisions of *The Real Property Limitation Act*, 1874, being chapter 57 of the Statutes of the Imperial Parliament, passed in the thirty-seventh and thirty-eight years of Her Majesty Queen Victoria's reign, are hereby declared to be in force and to have been in force in the Territory since the passing thereof. N.W.T., c. 31, s. 2.

## CHAPTER 30.

### An Ordinance Respecting Constables.

**1.** Any justice of the peace may in writing appoint one or more constables whose powers and duties as such shall extend to the whole of the Territory ; such appointment to be in force for the time mentioned in the appointment but shall at no time be longer in force than until the thirty-first day of December then next following the date of such appointment or until any process on the said thirty-first day of December in his hands is executed. N.W.T., c. 33, s. 1.

Justices may appoint constables.

Duration of office.

**2.** Every constable so appointed shall before entering upon the duties of his office take and subscribe before a justice of the peace the following oath :

Oath.

I, \_\_\_\_\_ having been appointed constable for the Yukon Territory do solemnly swear that I will truly, faithfully and impartially perform the duties appertaining to the said office according to the best of my skill and ability. So help me God. N.W.T., c. 33, s. 2.

**3.** It shall be lawful for any Sheriff, Deputy Sheriff, Constable or other peace officer of this Territory, whether uniformed or otherwise vested with a badge or other sign showing his authority to enter, without a warrant, at any hour of the day or night, any dwelling, shop or other building, or appurtenances within the curtilage thereof, wherein any business is conducted, or supposed to be conducted, and for which a special license has been, or should have been previously obtained under any Ordinance of the Territory, or any rule, orders or by-laws thereunder, and to make such inspection of the said premises as will permit any such officer to ascertain whether any such Ordinance, rule, orders or by-laws thereunder, are in any way violated or infringed upon. No. 42 of 1899, s. 1.

Sheriff and peace officers may enter buildings at any time to see if ordinances are violated.

**4.** Any one assaulting, or obstructing, any such officer or refusing to permit any such officer to enter and inspect any such premises for the purpose aforesaid, or any one instructing or advising any person to assault, obstruct, or refuse to permit any such officer to enter and inspect such premises shall be liable on summary conviction to a fine not exceeding \$100 and costs, and in default of payment, to imprisonment not exceeding two months. No. 42 of 1899, s. 2.

Penalty for obstructing officer.

## CHAPTER 31.

### An Ordinance respecting Distress for Rent and Extra-judicial Seizure.

Costs in  
distrains  
not to exceed  
rates in  
schedule.

**1.** No person making any distress for rent nor any person employed in any manner in making such distress or doing any act in the course of such distress or for carrying the same into effect shall have, take or receive out of the proceeds of the goods and chattels distrained upon and sold or from the tenant distrained on or from the landlord or from any other person any other or more costs and charges for and in respect to such distress or any matter or thing done therein than such as are fixed in the Schedule to this Ordinance and applicable to each proceeding which has been taken in the course of such distress and no person or persons shall make any charge for any act, matter or thing mentioned in this Ordinance or in the said schedule unless such act, matter or thing has been really performed or done. N.W.T. c. 24, s. 1.

Seizure under  
chattel  
mortgages,  
etc., costs  
regulated.

**2.** No person making any seizure under the authority of any chattel mortgage, bill of sale or any other extra-judicial process nor any person employed in any manner in making such seizure or doing any act in the course of such seizure or for carrying the same into effect shall have, take or receive out of the proceeds of the goods and chattels seized and sold from the person against whom the seizure may be directed or from any other person any other or more costs and charges for and in respect of such seizure or any matter or thing done therein or thereunder than such as are fixed in the schedule hereto and applicable to each act which has been done in course of such seizure and no person or persons shall make any charge for any act or matter or thing mentioned in the said schedule unless such act, matter or thing has been really performed and done. N.W.T., c. 34, s. 2.

Penalty for  
taking  
excessive  
costs.

**3.** If any person making any distress or seizure referred to in sections 1 and 2 of this Ordinance takes or receives any other or greater costs than are set down in the said schedule or make any charge for any act, matter or thing mentioned in the said schedule and not really performed or done the party aggrieved may cause the party making the said distress or seizure to be summoned before the Territorial Court and the said court may order the party making the distress or seizure to pay to the party aggrieved treble the amount of moneys taken contrary to the provisions of this Ordinance and the costs of suit. N.W.T., c. 34, s. 3.

**4.** A landlord shall not distrain for rent on the goods and chattels the property of any person except the tenant or person who is liable for the rent although the same are found on the premises ; but this restriction shall not apply in favour of a person claiming title under or by virtue of of an execution against the tenant or in favour of any person whose title is derived by purchase, gift, transfer or assignment from the tenant whether absolute or in trust or by way of mortgage or otherwise nor to the interest of the tenant in any goods on the premises in the possession of the tenant under a contract for purchase or by which he may or is to become the owner thereof upon performance of any condition nor where goods have been exchanged between two tenants or persons by the one borrowing or hiring from the other for the purpose of defeating the claim of or the right of distress by the landlord nor shall the restriction apply where the property is claimed by the wife, husband, daughter, son, daughter-in-law or son-in-law of the tenant or by any other relative of his in case such other relative lives on the premises as a member of the tenant's family. N.W.T., c. 34, s. 4.

Distrain for rent limited to property of tenant.  
Exceptions.

**5.** The right of a mortgagee of land or his assigns to distrain for interest in arrear or principal due upon a mortgage shall notwithstanding anything stated to the contrary in the mortgage or in any agreement relating to the same be limited to the goods and chattels of the mortgagor or his assigns and as to such goods and chattels to such only as are not exempt from seizure under execution. N.W.T., c. 34, s. 5.

Distress for interest on mortgage.

**6.** Goods distrained for such interest or principal shall not be sold except after such notice as is required to be given by a landlord who sells goods distrained for rent. N.W.T., c. 34, s. 6.

Notice of sale.

SCHEDULE.

- 1. Levying distress..... \$2.50
- 2. Man in possession, per day..... 4.00
- 3. Appraisement, whether by one appraiser or more, two cents on the dollar on the value of goods up to \$500 and one cent on the dollar for each additional \$500 or fraction thereof up to \$2,000, and one half cent on the dollar on all sums over that amount.
- 4. All reasonable and necessary disbursements for advertising.
- 5. Catalogue, sale, commission and delivery of goods, three per cent on the net proceeds of the goods up to \$1.000 and one and one-half per cent thereafter.

## CHAPTER 32.

### An Ordinance respecting Arbitration.

#### SHORT TITLE.

Short title. **1.** This Ordinance may be cited as "*The Arbitration Ordinance.*" N.W.T., c. 35, s. 1.

#### INTERPRETATION.

Interpretation **2.** In this Ordinance unless the contrary intention appears :

"Submission." **1.** "Submission" means a written agreement to submit present or future difference to arbitration whether an arbitrator is named therein or not ;

"Court." **2.** "Court" means the Territorial Court of the Yukon Territory.

"Judge." **3.** "Judge" means a judge of the Territorial Court of the Yukon Territory.

"Rules of court." **4.** "Rules of Court" means the rules of the Territorial Court of the Yukon Territory. N.W.T., c. 35, s. 2.

#### REFERENCES BY CONSENT OUT OF COURT.

Effect of submission. **3.** A submission unless a contrary intention is expressed therein shall be irrevocable except by leave of the court or a judge and shall have the same effect in all respects as if it had been made an order of court. N.W.T., c. 35, s. 3.

Submission includes provisions in schedule. **4.** A submission unless a contrary intention is expressed therein shall be deemed to include the provisions set forth in the schedule to this Ordinance so far as they are applicable to the reference under submission. N.W.T., c. 35, s. 4.

Stay of proceedings. **5.** If any party to a submission or any person claiming through or under him commences any legal proceedings in any court against any other party to the submission or any person claiming through or under him in respect of any matter agreed to be referred any party to such legal proceedings may at any time after appearance and before delivering any pleadings or taking any other steps in the proceedings apply to that court to stay the proceedings and



that court and a judge thereof if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission and that the applicant was at the time when the proceedings were commenced and still remains ready and willing to do all things necessary to the proper conduct of the arbitration may make an order staying the proceedings. N.W.T., c. 35, s. 5.

**6.** In any of the following cases :

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

any party may serve the other parties or the arbitrators as the case may be with a written notice to appoint an arbitrator, umpire or third arbitrator. If the appointment is not made within seven clear days after the service of the notice the court or a judge may on application by the party who gave the notice appoint an arbitrator, umpire or third arbitrator who shall have the like powers to act in the reference and make an award as if he had been appointed by consent of all parties. N.W.T., c. 35, s. 6.

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

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

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

Provided that the court or a judge may set aside any appointment made in pursuance of this section. N.W.T., c. 35, s. 7.

Powers of arbitrator.

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

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

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

3. To correct in an award any clerical mistake or error arising from any accidental slip or omission N.W.T., c. 35, s. 8.

Summoning of witnesses.

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

(2) Such writs may be obtained from any clerk of the court or deputy clerk of the court on payment of the fees prescribed in *The Judicature Ordinance*. N.W.T., c. 35, s. 9.

Enlargement of time for award.

**10.** The time for making an award may from time to time be enlarged by order of the Court or a judge whether the time for making an award has expired or not. N.W.T., c. 35, s. 10.

Reconsideration by arbitrator.

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

(2) Where an award is remitted the arbitrators or umpire shall unless the order otherwise directs make their award within six weeks after the date of the order. N.W.T., c. 35, s. 11.

Misconduct of arbitrator.

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

Setting aside award.

(2) Where an arbitrator or umpire has misconducted himself or an arbitration or award has been improperly procured the Court may set the award aside. N.W.T., c. 35, s. 12

Enforcement of award.

**13.** An award on a submission may by leave of the Court or a judge be enforced in the same manner as a judgment or order to the same effect. N.W.T., c. 35, s. 11.

#### GENERAL.

Attendance of witness

**14.** The Court or a judge may order that a writ of subpœna *ad testificandum* or of subpœna *duces tecum* shall issue

to compel the attendance before an official or special referee before referee or arbitrator. or before any arbitrator or umpire of a witness wherever he may be within the Territory.

(2) The Court or a judge may also order that a writ of *habeas corpus ad testificandum* shall issue to bring up a prisoner for examination before an official or special referee or before any arbitrator or umpire. N.W.T., c. 35, s. 14.

**15.** Any referee, arbitrator or umpire may, at any stage Special case for opinion of court. of the proceedings under a reference, and shall if so directed by the Court or a judge state in the form of a special case for the opinion of the Court any question of law arising in the course of the reference. N.W.T., c. 35, s. 15.

**16.** Any order made under this Ordinance may be made Costs. on such terms as to costs or otherwise as the authority making the order thinks just. N.W.T., c. 35, s. 16.

**17.** Whenever it is directed by any Ordinance that any party or parties shall proceed to the appointment of arbitrators or appoint arbitrators as provided by this Ordinance or that any party or parties shall proceed to arbitration under this Ordinance or any similar direction shall be made with respect to arbitration under this Ordinance such direction shall be deemed a submission. Directions for arbitration to be deemed submission. N.W.T., c. 35, s. 17.

## SCHEDULE.

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

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

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

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

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

him may from time to time enlarge the time for making his award.

Examination  
of parties.

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

Production  
of papers.

Oath or  
affirmation.

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

Finality of  
award.

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

Costs of  
reference.

(i.) The costs of the reference and award shall be in the discretion of the arbitrators or umpire who may direct to and by whom and in what manner the costs or any part thereof shall be paid and may tax or settle the amount of costs to be so paid or any part thereof. N.W.T., c. 35.

## CHAPTER 33.

### An Ordinance respecting the Investigation of Accidents by Fire.

**1.** Any justice of the peace may subject to the provisions hereinafter contained institute an inquiry into the cause or origin of any fire and whether it was kindled by design or was the result of negligence or accident and act according to the result of such inquiry. N.W.T., c. 36, s. 1.

Magistrate empowered to inquire into cause of fires.

**2.** No justice of the peace shall institute an inquiry into the cause or origin of any such fire until a sworn statement in writing has been made before him that there is reasonable suspicion that such fire was the result of culpable or negligent conduct or design or occurred under such circumstances as in the interests of justice and for the due protection of property require an investigation. N.W.T., c. 36, s. 2.

No inquiry to be held except on reasonable suspicion.

**3.** For the purpose of any inquiry under this Ordinance such justice of the peace shall summon and bring before him all persons whom he deems capable of giving information or evidence touching or concerning such fire and shall examine such persons on oath and shall reduce their examinations to writing and return the same to the Commissioner. N.W.T., c. 36, s. 3.

Examination of witnesses.

**4.** If any person having been duly summoned as a witness to give evidence upon any such inquiry does not after being openly called three times appear and give evidence at such inquiry the justice of the peace shall be empowered to impose upon the person so making default such fine as he thinks fit not exceeding \$10; and such justice of the peace shall make out and sign a certificate containing the name, residence, trade or calling of such person together with the amount of the fine imposed and the cause of such fine and shall cause a copy of such certificate to be served on the person so fined personally or by leaving it at his residence within seven days after holding such inquiry and if the same is not paid within the space of seven days after such certificate has been served as aforesaid a warrant of distress shall be issued by the justice of the peace to be levied on the goods and chattels of such offender and in default of

Penalty for not attending as witness.

such distress or if such distress proves insufficient such justice of the peace may commit the offender to prison for any term not exceeding twenty-one days. N.W.T., c. 36, s. 4.

Justice may  
fine person  
causing fire.

5. If upon such investigation, it is made to appear to the satisfaction of the justice of the peace before whom such investigation is held, that any such fire was caused by the culpable or negligent conduct of any person, he shall have power to summon such person before him, and, upon summary conviction, to impose upon such person a fine not exceeding \$500.00 and costs, including those of the investigation, to be allowed upon the same scale as on a summary conviction. No. 2 of 1900, s. 3.



## TITLE IV.

### RELATING TO REAL PROPERTY.

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#### CHAPTER 34.

##### An Ordinance Respecting Land held by two or more Persons.

1. Whenever by any letters patent, transfer, conveyance, assurance, will or other assignment land or any interest in land is granted, transferred, conveyed, assigned or devised to two or more persons other than executors or trustees in fee simple or for any less estate legal or equitable such persons shall take as tenants in common and not as joint tenants unless an intention sufficiently appears on the face of such letters patent, conveyance, assurance, will or other assignment that they take as joint tenants. N.W.T., c. 37, s. 1.

Owners to hold as tenants in common unless intention otherwise.



## TITLE V.

### RELATING TO MERCANTILE LAW.

#### CHAPTER 35.

An Ordinance respecting the Sale of Goods.

##### SHORT TITLE.

Short title. **1.** This Ordinance may be cited as “*The Sale of Goods Ordinance.*” N.W.T., c. 39, s. 1.

##### INTERPRETATION.

Interpretation **2.** In this Ordinance unless the context or subject matter otherwise requires:

- (a.) “Action” includes counterclaim and set off;
- (b.) “Buyer” means a person who buys or agrees to buy goods;
- (c.) “Contract of sale” includes an agreement to sell as well as the sale;
- (d.) “Delivery” means voluntary transfer of possession from one person to another;
- (e.) “Document of title to goods” has the same meaning as it has in *The Factors’ Ordinance*;
- (f.) “*Factors’ Ordinance*” means *The Factors’ Ordinance* and any enactment amending or substituted for the same;
- (g.) “Fault” means wrongful act or default;
- (h.) “Future goods” means goods to be manufactured or acquired by the seller after the making of the contract of sale;
- (i.) “Goods” includes all chattels personal other than things in action or money. The term includes implements, industrial growing crops and things



attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale ;

- (i.) " Property " means the general property in goods and not merely a special property ;
- (k.) " Quality of goods " includes their state or condition.
- (l.) " Sale " includes a bargain and sale as well as a sale and delivery ;
- (m.) " Seller " means a person who sells or agrees to sell goods ;
- (n.) " Specific goods " means goods identified and agreed upon at the time a contract of sale is made ;
- (o.) " Warranty " means an agreement with reference to goods which are the subject of a contract of sale but collateral to the main purpose of such contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated.

(2.) A thing is deemed to be done " in good faith " within the meaning of this Ordinance when it is in fact done honestly whether it is done negligently or not.

(3.) A person is deemed to be insolvent within the meaning of this Ordinance who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due.

(4.) Goods are in a " deliverable state " within the meaning of this Ordinance when they are in such a state that the buyer would under the contract be bound to take delivery of them. N.W.T., c. 39, s. 2.

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## PART I.

### FORMATION OF THE CONTRACT.

#### *Contract of Sale.*

**3.** A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a money consideration called the price. There may be a contract of sale between one part owner and another.

Sale and agreement to sell.

(2.) A contract of sale may be absolute or conditional.

(3.) Where under a contract of sale the property in the goods is transferred from the seller to the buyer the contract is called a sale ; but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled the contract is called an agreement to sell.

(4.) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred. N.W.T., c. 39, s. 3.

Capacity to buy and sell.

4. Capacity to buy and sell is regulated by the general law concerning capacity to contract and to transfer and acquire property.

Proviso.

Provided that where necessaries are sold and delivered to an infant or minor or to a person who by reason of mental incapacity or drunkenness is incompetent to contract he must pay a reasonable price therefor. "Necessaries" in this section means goods suitable to the condition in life of such infant or minor or other person and to his actual requirements at the time of the sale and delivery. N.W.T., c. 39, s. 4.

#### *Formalities of the Contract.*

Contract of sale, how made.

5. Subject to the provisions of this Ordinance and of any Ordinance in that behalf a contract of sale may be made in writing (either with or without seal) or by word of mouth or partly in writing and partly by word of mouth or may be implied from the conduct of the parties :

Proviso.

Provided that nothing in this section shall affect the law relating to corporations. N.W.T., c. 39, s. 5.

Contract of sale for \$50 and upwards.

6. A contract for the sale of any goods of the value of fifty dollars or upwards shall not be enforceable by action unless the buyer accepts part of the goods so sold and actually receives the same or gives something in earnest to bind the contract or in part payment or unless some note or memorandum in writing of the contract is made and signed by the party to be charged or his agent in that behalf.

(2) The provisions of this section apply to every such contract notwithstanding that the goods may be intended to be delivered at some future time or may not at the time of such contract be actually made, procured or provided or fit or ready for delivery or some act is requisite for the making or completing thereof or rendering the same fit for delivery.

(3) There is an acceptance of goods within the meaning of this section when the buyer does any act in relation to the goods which recognizes a pre-existing contract of sale whether there is an acceptance in performance of the contract or not. N.W.T., c. 39, s. 6.

#### *Subject matter of Contract.*

Existing or future goods.

7. The goods which form the subject of a contract of sale may be either existing goods owned or possessed by the

seller or goods to be manufactured or acquired by the seller after the making of the contract of sale, in this Ordinance called "future goods."

(2.) There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency which may or may not happen

(3.) Where by a contract of sale the seller purports to effect a present sale of future goods the contract operates as an agreement to sell the goods. N.W.T., c. 39, s. 7.

**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. N.W.T., c. 39, s. 8. Goods which have perished.

**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. N.W.T., c. 39, s. 9. Goods perishing before sale but after agreement to sell.

### *The Price.*

**10.** The price in a contract of sale may be fixed by the contract or may be left to be fixed in manner thereby agreed or may be determined by the course of dealing between the parties. Ascertainment of price.

(2.) Where the price is not determined in accordance with the foregoing provisions the buyer must pay a reasonable price. What is a reasonable price is a question of fact dependent on the circumstances of each particular case. N.W.T., c. 39, s. 10.

**11.** Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party and such third party cannot or does not make such valuation the agreement is avoided: Agreement to sell at valuation.

Provided that if the goods or any part thereof have been delivered to and appropriated by the buyer he must pay a reasonable price therefor.

(2.) Where such third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain an action for damages against the party in fault. N.W.T., c. 39, s. 11.

### *Conditions and Warranties.*

**12.** Unless a different intention appears from the terms of the contract stipulations as to time of payment are not deemed to be of the essence of a contract of sale. Whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract. Stipulations as to time.

(2.) In a contract for sale "month" means *prima facie* calendar month. N.W.T., c. 39, s. 12.

When condition to be treated as warranty.

**13.** Where a contract or sale is subject to any condition to be fulfilled by the seller the buyer may waive the condition or may elect to treat the breach of such condition as a breach of warranty and not as a ground for treating the contract as repudiated.

(a) Whether a stipulation in a contract of sale is a condition the breach of which may give rise to a right to treat the contract as repudiated or a warranty the breach of which may give rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated depends in each case on the construction of the contract. A stipulation may be a condition though called a warranty in the contract.

(b) Where a contract of sale is not severable and the buyer has accepted the goods or part thereof or where the contract is for specific goods the property in which has passed to the buyer, the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated unless there is a term of the contract expressed or implied to that effect.

(2.) Nothing in this section shall effect the case of any condition or warranty fulfillment of which is excused by law by reason of impossibility or otherwise. N.W.T., c. 39, s. 13.

Implied undertaking as to title, etc.

**14.** In a contract of sale unless the circumstances of the contract are such as to show a different intention there is:

1. An implied condition on the part of the seller that in the case of a sale he has a right to sell the goods and that in the case of an agreement to sell he will have a right to sell the goods at the time when the property is to pass;

2. An implied warranty that the buyer shall have and enjoy quiet possession of the goods;

3. An implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party not declared or known to the buyer before or at the time when the contract is made. N.W.T., c. 39, s. 14.

Sale by description.

**15.** When there is a contract for the sale of goods by description there is an implied condition that the goods shall correspond with the description; and if the sale be by sample as well as by description it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description. N.W.T., c. 39, s. 15.

**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 :

Implied conditions as to quality or fitness.

1. 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 which it is in the course of the seller's business to supply (whether he be the manufacturer or not) there is an implied condition that the goods shall be reasonably fit for such purpose :

Provided that in the case of a contract for the sale of a specified article under its patent or other trade name there is no implied condition as to its fitness for any particular purpose ;

2. Where goods are bought by description from a seller who deals in goods of that description (whether he is the manufacturer or not) there is an implied condition that the goods shall be of merchantable quality :

Provided that if the buyer has examined the goods there shall be no implied condition as regards defects which such examination ought to have revealed ;

3. An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade ;

4. An express warranty or condition does not negative a warranty or condition implied by this Ordinance unless inconsistent therewith. N.W.T., c. 39, s. 16.

#### *Sale by Sample.*

**17.** A contract of sale is a contract for sale by sample where there is a term in the contract express or implied to that effect.

Sale by sample.

(2.) In a case of a contract for sale by sample :

- (a.) There is an implied condition that the bulk shall correspond with the sample in quality ;
- (b.) There is an implied condition that the buyer shall have a reasonable opportunity of comparing the bulk with the sample ;
- (c.) There is an implied condition that the goods shall be free from any defect rendering them unmerchantable which would not be apparent on reasonable examination of the sample. N.W.T., c. 39, s. 17.

## PART II.

## EFFECTS OF THE CONTRACT.

*Transfer of Property as between Seller and Buyer.*

Goods must be ascertained.

**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. N.W.T., c. 39, s. 18.

Property passes when intended to pass.

**19.** Where there is a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intended it to be transferred.

(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. N.W.T., c. 39, s. 19.

Rules for ascertaining intention.

**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 :

*Rule I.*—Where there is an unconditional contract for the sale of specific goods in a deliverable state the property in the goods passes to the buyer when the contract is made and it is immaterial whether the time of payment or the time of delivery or both be postponed.

*Rule II.*—Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state the property does not pass until such thing be done and the buyer has notice thereof.

*Rule III.*—Where there is a contract for the sale of specific goods in a deliverable state but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing is done and the buyer has notice thereof.

*Rule IV.*—When goods are delivered to the buyer on approval or “on sale or return” or other similar terms the property therein passes to the buyer.

- (a.) When he signifies his approval or acceptance to the seller or does any other act adopting the transaction ;
- (b.) If he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection then if a time has been fixed for the return of the goods, on the expiration of such time ; and, if no time has been fixed, on the expiration of a reasonable time. What is a reasonable time is a question of fact.

*Rule V.*—Where there is contract for the sale of unascertained or future goods by description and goods of that description and in a deliverable state are unconditionally appropriated to the contract either by the seller with the assent of the buyer or by the buyer with the assent of the seller the property in the goods thereupon passes to the buyer. Such assent may be expressed or implied and may be given either before or after the appropriation is made ;

- (2.) Where in pursuance of the contract the seller delivers the goods to the buyer or to a carrier or other bailee or custodier (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. N.W.T., c. 39, s. 20.

**21.** Where there is a contract for the sale of specific goods or where goods are subsequently appropriated to the contract the seller may by the terms of the contract or appropriation reserve the right of disposal of the goods until certain conditions are fulfilled. In such case, notwithstanding the delivery of the goods to the buyer or to a carrier or other bailee or custodier 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. N.W.T., c. 39, s. 21.

Risk *prima facie* passes with property.

**22.** Unless otherwise agreed the goods remain at the seller's risk until the property therein is transferred to the buyer but when the property therein is transferred to the buyer the goods are at the buyer's risk whether delivery has been made or not :

Provided that where delivery has been delayed through the fault of either buyer or seller the goods are at the risk of the party in fault as regards any loss which might not have occurred but for such fault :

Provided also that nothing in this section shall affect the duties or liabilities of either seller or buyer as a bailee or custodier of the goods of the other party. N.W.T., c. 39, s. 22.

### *Transfer of Title.*

Sale by person not owner

**23.** Subject to the provisions of this Ordinance, where goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell.

Provided also that nothing in this Ordinance shall affect:

- (a.) The provisions of *The Factors' Ordinance* or any enactment enabling the apparent owner of goods to dispose of them as if he were the true owner thereof;
- (b.) The validity of any contract or sale under any special common law or statutory power of sale or under the order of a court of competent jurisdiction. N.W.T., c. 39, s. 23.

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 provided he buys them in good faith and without notice of the seller's defect of title. N.W.T., c. 39, s. 24.

Seller or buyer in possession after sale.

**25.** Where a person having sold goods continues or is in possession of the goods or of the documents of title to the goods the delivery or transfer by that person or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale, shall have the same effect as if the person making the delivery or transfer was expressly authorized by the owner of the goods to make the same.

(2) When a person having bought or agreed to buy goods obtains with the consent of the seller possession of the goods or the documents of title to the goods, the delivery or transfer to that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge



or other disposition thereof to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods shall have the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner.

(3) In this section the term "mercantile agent" has the same meaning as in *The Factor's Ordinance*. N.W.T., c. 39, s. 25.

### PART III.

#### *Performance of the Contract.*

**26.** It is the duty of the seller to deliver the goods and of the buyer to accept and pay for them in accordance with the terms of the contract of sale. N.W.T., c. 39, s. 26. Duties of seller and buyer.

**27.** Unless otherwise agreed delivery of the goods and payment of the price are concurrent conditions; that is to say, the seller must be ready and willing to give possession of the goods to the buyer in exchange for the price and the buyer must be ready and willing to pay the price in exchange for possession of the goods. N.W.T., c. 39, s. 27. Payment and delivery are concurrent conditions.

**28.** Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract express or implied between the parties. Apart from any such contract expressed or implied the place of delivery is the seller's place of business if he has one and, if not, his residence: Rules as to delivery.

Provided that if the contract be for the sale of specific goods which to the knowledge of the parties when the contract is made are in some other place, then that place is the place of delivery.

(2) Where under the contract of sale the seller is bound to send the goods to the buyer but no time for sending them is fixed the seller is bound to send them within a reasonable time.

(3) Where the goods at the time of the sale are in possession of a third person there is no delivery by seller to buyer unless and until such third person acknowledges to the buyer that he holds the goods on his behalf:

Provided that nothing in this section shall affect the operation of the issue or transfer of any document of title to goods.

(4) Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour. What is a reasonable hour is a question of fact.

(5) Unless otherwise agreed the expenses of and incidental to putting the goods into a deliverable state must be borne by the seller. N.W.T., c. 39, s. 28.

Delivery of  
wrong  
quantity.

**29.** Where the seller delivers to the buyer a quantity of goods less than he contracted to sell the buyer may reject them but if the buyer accepts the goods so delivered he must pay for them at contract rate.

(2) Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell the buyer may accept the goods included in the contract and reject the rest or he may reject the whole. If the buyer accepts the whole of the goods so delivered he must pay for them at the contract rate.

(3) Where the seller delivers to the buyer goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods which are in accordance with the contract and reject the rest or he may reject the whole.

(4) The provisions in this section are subject to any usage of trade, special agreement or course of dealing between the parties. N.W.T., c. 39, s. 29.

Instalment  
deliveries.

**30.** Unless otherwise agreed the buyer of goods is not bound to accept delivery thereof by instalments.

(2) Where there is a contract for the sale of goods to be delivered by stated instalments which are to be separately paid for and the seller makes defective deliveries in respect of one or more instalments or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case depending on the terms of the contract and the circumstances of the case whether the breach of contract is a repudiation of the whole contract or whether it is a severable breach giving rise to a claim for compensation but not to a right to treat the whole contract as repudiated. N.W.T., c. 39, s. 30.

Delivery to  
carrier.

**31.** Where in pursuance of a contract of sale the seller is authorized or required to send the goods to the buyer delivery of the goods to a carrier, whether named by the buyer or not, for the purpose of transmission to the buyer is *prima facie* deemed to be a delivery of the goods to the buyer.

(2) Unless otherwise authorized by the buyer the seller must make such contract with the carrier on behalf of the buyer as may be reasonable having regard to the nature of the goods and the other circumstances of the case. If the seller omits so to do and the goods are lost or damaged in course of transit the buyer may decline to treat the delivery to the carrier as a delivery to himself or may hold the seller responsible in damages.

(3) Unless otherwise agreed where goods are sent by the seller to the buyer by a route involving sea transit under

circumstances in which it is usual to insure, the seller must give such notice to the buyer as may enable him to insure them during their sea transit and if the seller fails to do so the goods shall be deemed to be at his risk during such sea transit. N.W.T., c. 39, s. 31.

**32.** Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are when sold the buyer must nevertheless unless otherwise agreed take any risk of deterioration in the goods necessarily incident to the course of transit. N.W.T., c. 39, s. 32.

Risk where goods delivered at distant place.

**33.** Where goods are delivered to the buyer which he has not previously examined he is not deemed to have accepted them unless and until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract.

Buyer's right of examining goods.

(2.) Unless otherwise agreed when the seller tenders delivery of goods to the buyer he is bound on request to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract. N.W.T., c. 39, s. 33.

**34.** The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them or when the goods have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller or when after the lapse of a reasonable time he retains the goods without intimating to the seller that he has rejected them. N.W.T., c. 39, s. 34.

Acceptance.

**35.** Unless otherwise agreed where goods are delivered to the buyer and he refuses to accept them, having the right so to do, he is not bound to return them to the seller but it is sufficient if he intimates to the seller that he refuses to accept them. N.W.T., c. 39, s. 35.

Buyer not bound to return rejected goods

**36.** When the seller is ready and willing to deliver the goods and requests the buyer to take delivery and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery and also for a reasonable charge for the care and custody of the goods:

Liability of buyer for neglecting or refusing delivery of goods.

Provided that nothing in this section shall affect the rights of the seller where the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract. N.W.T., c. 39, s. 36.

## PART IV.

*Rights of Unpaid Seller against the Goods.*

Unpaid seller defined.

**37.** The seller of the goods is deemed to be an "unpaid seller" within the meaning of this Ordinance—

- (a.) When the whole of the contract price has not been paid or tendered;
- (b.) When a bill of exchange or other negotiable instrument has been received as conditional payment and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.

(2.) In this part of this Ordinance the term "seller" includes any person who is in the position of a seller, as for instance an agent of the seller to whom the bill of lading has been indorsed or a consigner or agent who has himself paid or is directly responsible for the price. N.W.T., c. 39, s. 37.

Unpaid seller's rights.

**38.** Subject to the provisions of this Ordinance and of any Ordinance in that behalf, notwithstanding that the property in the goods may have passed to the buyer the unpaid seller of goods as such has by implication of law—

- (a.) A lien on the goods or right to retain them for the price while he is in possession of them;
- (b.) In the case of the insolvency of the buyer a right of stopping the goods *in transitu* after he has parted with the possession of them;
- (c.) A right of resale as limited by this Ordinance.

(2.) Where the property in goods has not passed to the buyer the unpaid seller has in addition to his other remedies a right of withholding delivery similar to and coextensive with his rights of lien and stoppage *in transitu* where the property has passed to the buyer. N.W.T., c. 39, s. 38.

*Unpaid Seller's Lien.*

Seller's lien.

**39.** Subject to the provisions of this Ordinance the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price, in the following cases, namely:

- (a.) Where the goods have been sold without any stipulation as to credit;
- (b.) Where the goods have been sold on credit but the term of credit has expired;
- (c.) Where the buyer becomes insolvent.

(2.) The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer. N.W.T., c. 39, s. 39.

**40.** Where an unpaid seller has made part delivery of the goods he may exercise his right of lien or retention on the remainder unless such part delivery has been made under such circumstances as to show an agreement to waive the lien or right of retention. N.W.T., c. 39, s. 40. Part delivery.

**41.** The unpaid seller of goods loses his lien or right of retention thereon— Termination of lien.

(a.) When he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;

(b.) When the buyer or his agent lawfully obtains possession of the goods;

(c.) By waiver thereof.

(2.) The unpaid seller of goods having a lien or right of retention thereon does not lose his lien or right of retention by reason only that he has obtained judgment or decree for the price of the goods. N.W.T., c. 39, s. 41.

### *Stoppage in Transitu.*

**42.** Subject to the provisions of this Ordinance when the buyer of goods becomes insolvent the unpaid seller who has parted with the possession of the goods has the right of stopping them *in transitu* that is to say he may resume possession of the goods as long as they are in course of transit and may retain them until payment or tender of the price. N.W.T., c. 39, s. 42. Right of stoppage in transitu.

**43.** Goods are deemed to be in course of transit from the time when they are delivered to a carrier, by land or water, or other bailee for the purpose of transmission to the buyer, until the buyer or his agent in that behalf takes delivery of them from such carrier or other bailee. Duration of transit.

(2.) If the buyer or his agent in that behalf obtains delivery of the goods before their arrival at the appointed destination the transit is at an end.

(3.) If after the arrival of the goods at the appointed destination the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in possession of them as bailee for the buyer or his agent the transit is at an end and it is immaterial that a further destination for the goods may have been indicated by the buyer.

(4.) If the goods are rejected by the buyer and the carrier or other bailee continues in possession of them the transit is not deemed to be at an end even if the seller has refused to receive them back.

(5.) When goods are delivered to a ship chartered by the buyer it is a question depending on the circumstances of

the particular case whether they are in the possession of the master as a carrier or as agent to the buyer.

(6.) Where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agent in that behalf the transit is deemed to be at an end.

(7.) Where part delivery of the goods has been made to the buyer or his agent in that behalf the remainder of the goods may be stopped *in transitu* unless such part delivery has been made under such circumstances as to show an agreement to give up possession of the whole of the goods. N.W.T., c. 39, s. 43.

How stoppage  
*in transitu*  
effected.

**44.** The unpaid seller may exercise his right of stoppage *in transitu* either by taking actual possession of the goods or by giving notice of his claim to the carrier or other bailee in whose possession the goods are. Such notice may be given either to the person in actual possession of the goods or to his principal. In the latter case the notice to be effectual must be given at such time and under such circumstances that the principal by the exercise of reasonable diligence may communicate it to his servant or agent in time to prevent a delivery to the buyer.

(2) When notice of stoppage *in transitu* is given by the seller to the carrier or other bailee in possession of the goods he must redeliver the goods to or according to the direction of the seller. The expenses of such redelivery must be borne by the seller. N.W.T., c. 39, s. 44.

#### *Resale by Buyer or Seller.*

Effect of  
subsale or  
pledge by  
buyer.

**45.** Subject to the provisions of this Ordinance the unpaid seller's right of lien or retention or stoppage *in transitu* is not affected by any sale or other disposition of the goods which the buyer may have made unless the seller has assented thereto :

Provided that where a document of title of goods has been lawfully transferred to any person as buyer or owner of the goods and that person transfers the document to a person who takes the document in good faith and for valuable consideration then if such last mentioned transfer was by way of sale, the unpaid seller's right of lien or retention or stoppage *in transitu* is defeated and if such last mentioned transfer was by way of pledge or other disposition for value the unpaid seller's right of lien or retention or stoppage *in transitu* can only be exercised subject to the rights of the transferee. N.W.T., c. 39, s. 45.

Sale not  
generally  
rescinded by  
lien or  
stoppage  
*in transitu*.

**46.** Subject to the provisions of this section a contract of sale is not rescinded by the mere exercise by an unpaid seller of his right of lien or retention or stoppage *in transitu*.

(2) Where an unpaid seller who has exercised his right of lien or retention or stoppage *in transitu* resells the goods the buyer acquires a good title thereto as against the original buyer ;

(3.) Where the goods are of a perishable nature or where the unpaid seller gives notice to the buyer of his intention to resell and the buyer does not within a reasonable time pay or tender the price the unpaid seller may resell the goods and recover from the original buyer damages for any loss occasioned by his breach of contract.

(4.) Where the seller expressly reserves a right of resale in case the buyer should make default and on the buyer making default resells the goods the original contract of sale is thereby rescinded but without prejudice to any claim the seller may have for damages. N.W.T., c. 39, s. 46.

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## PART V.

### ACTIONS FOR BREACH OF THE CONTRACT.

#### *Remedies of the Seller.*

**47.** When under a contract of sale the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract the seller may maintain an action against him for the price of the goods. Action for price.

(2.) Where under a contract of sale the price is payable on a day certain, irrespective of delivery, and the buyer wrongfully neglects or refuses to pay such price the seller may maintain an action for the price although the property in the goods has not passed and the goods have not been appropriated to the contract.

(3.) Nothing in this section shall prejudice the right of the seller to recover interest on the price from the date of tender of the goods or from the date on which the price was payable, as the case may be. N.W.T., c. 39, s. 47.

**48.** Where the buyer wrongfully neglects or refuses to accept and pay for the goods the seller may maintain an action against him for damages for non-acceptance. Damages for non-acceptance.

(2.) The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from buyer's breach of contract.

(3.) Where there is an available market for the goods in question the measure of damages is *prima facie* to be ascertained by the difference between the contract price and the market or current price at the time or times when the goods ought to have been accepted or if no time was fixed

for acceptance then at the time of the refusal to accept. N.W.T., c. 39, s. 48.

*Remedies of the Buyer.*

Damages for non-delivery.

**49.** Where the seller wrongfully neglects or refuses to deliver the goods to the buyer the buyer may maintain an action against the seller for damages for non-delivery.

(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. N.W.T., c. 39, s. 49.

Specific performance.

**50.** In any action for breach of contract to deliver specific or ascertained goods the Court may if it thinks fit on the application of the plaintiff by its judgment or decree direct that the contract shall be performed specifically without giving the defendant the option of retaining the goods on payment of damages. The judgment or decree may be unconditional or upon such terms and conditions as to damages, payment of the price and otherwise as to the Court seems just and the application by the plaintiff may be made at any time before judgment or decree. N.W.T., c. 39, s. 50.

Remedy for breach of warranty.

**51.** Where there is a breach of warranty by the seller or where the buyer elects or is compelled to treat any breach of a condition on the part of the seller as a breach of warranty the buyer is not by reason only of such breach of warranty entitled to reject the goods; but he may—

- (a.) Set up against the seller the breach of warranty in diminution or extinction of the price; or
- (b.) Maintain an action against the seller for damages for the breach of warranty.

(2.) The measure of damages for breach of warranty is the estimated loss directly and naturally resulting in the ordinary course of events from the breach of warranty.

(3.) In the case of breach of warranty of quality such loss is *prima facie* the difference between the value of the goods at the time of delivery to the buyer and the value they would have had if they had answered to the warranty.

(4.) The fact that the buyer has set up the breach of warranty in diminution or extinction of the price does not prevent him from maintaining an action for the same breach of warranty if he has suffered further damage. N.W.T., c. 39, s. 51.



**52.** Nothing in this Ordinance shall affect the right of the buyer or the seller to recover interest or special damages in any case where by law, interest or special damages may be recoverable or to recover money paid where the consideration for the payment of it has failed. N.W.T., c.39, s.52.

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 be such as to bind both parties to the contract. N.W.T., c. 39, s. 53.

Exclusion of implied terms and conditions

**54.** Where by this Ordinance any reference is made to a reasonable time the question what is a reasonable time is a question of fact. N.W.T., c. 39, s. 54.

Reasonable time a question of fact.

**55.** Where any right duty or liability is declared by this Ordinance it may unless otherwise by this Ordinance provided be enforced by action. N.W.T., c. 39, s. 55.

Rights, etc., enforceable by action.

**56.** In the case of a sale by auction :

Auction sales.

1. Where goods are put up for sale by auction in lots each lot is *prima facie* deemed to be the subject of a separate contract of sale.

2. A sale by auction is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner. Until such announcement is made any bidder may retract his bid.

3. Where a sale by auction is not notified to be subject to a right to bid on behalf of the seller it shall not be lawful for the seller to bid himself or to employ any person to bid at such sale or for the auctioneer knowingly to take any bid from the seller or any such person. Any sale contravening this rule may be treated as fraudulent by the buyer.

4. A sale by auction may be notified to be subject to a reserve or upset price and the right to bid may also be reserved expressly by or on behalf of the seller. Where a right to bid is expressly reserved, but not otherwise, the seller or any one person on his behalf may bid at the auction. N.W.T., c. 39, s. 56.

**57.** Where a buyer has elected to accept goods which he might have rejected and to treat a breach of contract as only giving rise to a claim for damages he may in an action by the seller for the price be required, in the discretion of the

Payment into court when breach of warranty alleged.

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. N. W.T., c. 39, s. 57.

Existing laws  
preserved  
subject hereto.

**58.** The rules of the common law including the law merchant save in so far as they are inconsistent with the express provisions of this Ordinance and in particular the rules relating to the law of principal and agent and the effect of fraud, misrepresentation, duress or coercion, mistake or other invalidating cause shall continue to apply to contracts for the sale of goods.

(2.) Nothing in this Ordinance shall affect the enactments relating to bills of sale or any enactment relating to the sale of goods which is not expressly repealed by this Ordinance.

Mortgages or  
pledges.

(3) The provisions of this Ordinance relating to contracts of sale do not apply to any transaction in the form of a contract of sale which is intended to operate by way of mortgage, pledge, charge or other security. N.W.T., c. 39, s. 58.

## CHAPTER 36.

### An Ordinance respecting Factors and Agents.

#### SHORT TITLE.

1. This Ordinance may be cited as "*The Factors Ordinance.*" N.W.T., c. 40, s. 1. Short title.

#### INTERPRETATION.

2. For the purposes of this Ordinance—

1 The expression "mercantile agent" means a mercantile agent having, in the customary course of his business as such agent, authority either to sell goods or to consign goods for the purpose of sale or to buy goods or to raise money on the security of goods ; Interpretation  
"Mercantile agent."

2. A person is to be deemed to be in possession of goods or of the documents of title to goods where the goods or documents are in his actual custody or are held by any other person subject to his control or for him or in his behalf ;

3. The expression "goods" includes wares and merchandise ; "Goods."

4. The expression "document of title" includes any bill of lading, dock warrant, warehousekeeper's certificate or warrant or order for the delivery of goods and any other document used in the ordinary course of business as proof of the possession or control of goods or authorising or purporting to authorise either by indorsement or delivery the possessor of the document to transfer or receive goods thereby represented ; "Document of title."

5. The expression "pledge" includes any contract pledging or giving a lien or security on goods whether in consideration of an original advance or of any further or continuing advance or of any pecuniary liability ; "Pledge."

6. The expression "person" includes any body of persons corporate or incorporate. N.W.T., c. 40, s. 2. "Person."

#### DISPOSITIONS BY MERCANTILE AGENTS.

3. Where a mercantile agent is, with the consent of the owner, in possession of goods or of the documents of title to goods any sale, pledge or other disposition of the goods made by him when acting in the ordinary course of business Powers of mercantile agents respecting disposition of goods.

ness of a mercantile agent shall subject to the provisions of this Ordinance be as valid as if he were expressly authorized by the owner of the goods to make the same ;

Provided that the person taking under the disposition acts in good faith and has not at the time of the disposition notice that the person making the disposition has not authority to make the same.

(2.) Where a mercantile agent has, with the consent of the owner, been in possession of goods or of the documents of title to goods any sale, pledge or other disposition which would have been valid if the consent had continued, shall be valid notwithstanding the determination of the consent ;

Provided that the person taking under the disposition has not at the time thereof notice that the consent has been determined.

(3.) Where a mercantile agent has obtained possession of any 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 of any other documents of title to the goods his possession of the first-mentioned documents shall for the purposes of this Ordinance be deemed to be with the consent of the owner.

(4.) For the purposes of this Ordinance the consent of the owner shall be presumed in the absence of evidence to the contrary. N.W.T., c. 40, s. 3.

Effect of  
pledge of  
documents  
of title.

4. A pledge of the documents of title to goods shall be deemed to be a pledge of the goods. N.W.T., c. 40, s. 4.

Pledge for  
antecedent  
debt.

5. Where a mercantile agent pledges goods as security for a debt or liability due from the pledgor to the pledgee before the time of the pledge, the pledgee shall acquire no further right to the goods than could have been enforced by the pledgor at the time of the pledge. N.W.T., c. 40, s. 5.

Rights  
acquired by  
exchange of  
goods or  
documents.

6. The consideration necessary for the validity of a sale, pledge or other disposition of goods in pursuance of this Ordinance may be either a payment in cash or the delivery or transfer of other goods or of a document of title to goods or of a negotiable security or any other valuable consideration ; but where goods are pledged by a mercantile agent in consideration of the delivery or transfer of other goods or of a document of title to goods or of a negotiable security the pledgee shall acquire no right or interest in the goods so pledged in excess of the value of the goods, documents or security when so delivered or transferred in exchange. N.W.T., c. 40, s. 6.

Agreements  
through  
clerks, etc.

7. For the purposes of this Ordinance an agreement made with a mercantile agent through a clerk or other person authorized in the ordinary course of business to make con-

tracts of sale or pledge on his behalf shall be deemed to be an agreement with the agent. N.W.T., c. 40, s. 7.

**8.** Where the owner of goods has given possession of the goods to another person for the purpose of consignment or sale or has shipped the goods in the name of another person and the consignee of the goods has not had notice that such person is not the owner of the goods the consignee shall in respect of advances made to or for the use of such person have the same lien on the goods as if such person were the owner of the goods and may transfer any such lien to another person.

Provisions as to consignors and consignees

(2.) Nothing in this section shall limit or affect the validity of any sale, pledge or disposition by a mercantile agent. N.W.T., c. 40, s. 8.

#### DISPOSITIONS BY BUYERS AND SELLERS OF GOODS.

**9.** Where a person having sold goods continues or is in possession of the goods or of the documents of title to the goods the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge or other disposition thereof or under any agreement for sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale shall have the same effect as if the person making the delivery or transfer were expressly authorized by the owner of the goods to make the same. N.W.T., c. 40, s. 9.

Disposition by seller remaining in possession.

**10.** Where a person having bought or agreed to buy goods obtains with the consent of the seller possession of the goods or the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge or other disposition thereof or under any agreement for sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods shall have the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner. N.W.T., c. 40, s. 10.

Disposition by buyer obtaining possession.

**11.** Where a document of title to goods has been lawfully transferred to a person as buyer or owner of the goods and that person transfers the document to a person who takes the document in good faith and for valuable consideration the last mentioned transfer shall have the same effect for defeating any vendor's lien or right of stoppage *in transitu* as the transfer of a bill of lading has for defeating the right of stoppage *in transitu*. N.W.T., c. 40, s. 11.

Effect of transfer of documents on vendor's lien or right of stoppage *in transitu*.

## SUPPLEMENTAL.

Mode of transferring documents.

**12.** For the purposes of this Ordinance the transfer of a document may be by indorsement or where the document is by custom or by its express terms transferable by delivery or makes the goods deliverable to the bearer then by delivery. N.W.T., c. 40, s. 12.

Liability of agent.

**13.** Nothing in this Ordinance shall authorise an agent to exceed or depart from his authority as between himself and his principal or exempt him from any liability civil or criminal for so doing.

Saving for rights of true owner.

(2.) Nothing in this Ordinance shall prevent the owner of goods from recovering the goods from an agent or assignee under an assignment for the benefit of creditors at any time before the sale or pledge thereof or shall prevent the owner of goods pledged by an agent from having the right to redeem the goods at any time before the sale thereof on satisfying the claim for which the goods were pledged and paying to the agent, if by him required, any money in respect of which the agent would by law be entitled to retain the goods or the documents of title thereto or any of them by way of lien as against the owner or from recovering from any person with whom the goods have been pledged any balance of money remaining in his hands as the produce of the sale of the goods after deducting the amount of his lien.

(3.) Nothing in this Ordinance shall prevent the owner of goods sold by an agent from recovering from the buyer the price agreed to be paid for the same or any part of that price subject to any right of set-off on the part of the buyer against the agent. N.W.T., c. 40, s. 13.

Saving for common law, powers of agent.

**14.** The provisions of this Ordinance shall be construed in amplification and not in derogation of the powers exercisable by an agent independently of this Ordinance. N.W.T., c. 40, s. 14.

## LIABILITY OF AGENT OF NON-RESIDENT PRINCIPAL.

Person acting as agent to be liable unless full name, etc. of principal disclosed.

**15.** Any one acting either as an agent, partner or otherwise in any trading, business or calling in the Yukon Territory, for or on behalf of any person, partnership, association or company, not having his or their principal place of business in the Yukon Territory, or not having a regular place of business in the Yukon Territory, is hereby declared to be and shall be held to be personally liable upon any contract, transaction or obligation whatsoever which may be entered into, made, or incurred in the Yukon Territory for, or in, the course of business, trade or calling of such person, partnership, association or company, unless he or they have

previously disclosed the full name and residence of such person, and if a partnership, the full names and residences of the partners composing said partnership, and if an association or a company, the principal place of business of that association or company, by a declaration to be made, in all cases, to that effect, and registered at the registration office according, or in addition to whatever may be already required by any law or Ordinance in force in this Territory concerning the registration of trading, partnership, association or company. No. 32 of 1899, s. 1.

**16.** Upon any judgment obtained against any such person acting as such agent, partner or otherwise, based upon a contract, transaction or obligation entered into, made or incurred for, or on behalf of any such person, partnership, association or company; execution may be issued upon and satisfied out of the assets of such person, agent or partner, as well as out of the assets of such person, partner, association or company. No. 32 of 1899, s. 2.

Execution  
may issue  
against  
principal as  
well as agent.

## CHAPTER 37.

### An Ordinance respecting Choses in Action.

Assignment  
of debts and  
*choses in*  
*action.*

**1.** Every debt and any *chose in action* arising out of contract shall be assignable at law by any form of writing which shall contain apt words in that behalf but subject to such conditions and restrictions in respect to the right of transfer as may appertain to the original debt or as may be connected with or be contained in the original contract and the assignee thereof may bring an action thereon in his own name as the party might to whom the debt was originally owing or to whom the right of action originally arose or he may proceed in respect of the same as though this Ordinance had not been passed. N.W.T., c. 41, s. 1.

“Assignee.”

**2.** The term “assignee” in the next preceding section includes any person now being or hereafter becoming entitled to any first or subsequent assignment or transfer or any derivative title to a debt or *chose in action* and possessing, at the time of the suit or action being instituted, the whole and entire beneficial interest therein and the right to receive the subject or proceeds thereof and to give effectual discharge therefor. N.W.T., c. 41, s. 2.

Action for  
debt on  
assignment.

**3.** The plaintiff in any action or suit for the recovery of the subject of any assignment made in conformity with the two next preceding sections shall in his statement of claim set forth briefly the chain of assignments showing how he claims title but in all other respects the proceedings may be the same as if the action was brought in the name of the original creditor or of the person to whom the cause of action accrued. N.W.T., c. 41, s. 3.

Equities of  
debtor against  
assignor  
before notice.

**4.** In case of any assignment of a debt or *chose in action* arising out of contract and not assignable by delivery such assignment shall be subject to any defence or set-off in respect of the whole or any part of such debt or *chose in action* arising out of contract existing at the time of the notice of assignment to the debtor or person sought to be made liable in the same manner and to the same extent as such defence or set-off would be effectual in case there had been no assignment thereof and such defence or set-off shall apply as between the debtor and any assignee of such debt or *chose in action* arising out of contract. N.W.T., c. 41, s. 4.



**5.** In case of any assignment made in conformity with the provisions hereof and notice thereof given to the debtor or person liable in respect of the subject of such assignment the assignee shall have, hold and enjoy the same free of any claims, defences or equities which may have arisen subsequent to such notice by any act of the assignor or otherwise. Assignee's rights after notice to debtor. N.W.T., c. 41, s. 5.

**6.** The bonds or debentures of corporations made payable to bearer or any person named therein or bearer may be transferred by delivery alone and such transfer shall vest the property in such bonds or debentures in the transferee or in the holder thereof and any such holder may bring any action or suit on or in respect of any such bonds or debentures in his own name. Securities transferable by delivery. N.W.T., c. 41, s. 6.

**7.** The provisions of the preceding sections shall not be construed to apply to bills of exchange or promissory notes or instruments which are negotiable or in respect of which the property therein passes by mere delivery. Negotiable instruments. N.W.T., c. 41, s. 7.

## CHAPTER 38.

### An Ordinance respecting Preferential Assignments.

Fraudulent  
and  
preferential  
assignments.

**1.** Every gift, conveyance, assignment or transfer, delivery over or payment of goods, chattels or effects or of bonds, bills, notes, securities or of shares, dividends, premiums or bonus in any bank, company or corporation made by any person at any time when he is in insolvent circumstances or is unable to pay his debts in full or knows that he is on the eve of insolvency with intent to defeat or delay or prejudice his creditors or to give to any one or more of them a preference over his other creditors or over any one or more of them or which has such effect shall as against them be utterly void. N.W.T., c. 42, s. 1.

Pressure.

**2.** Every such gift, conveyance, assignment, transfer, delivery over or payment whether made owing to pressure or partly owing to pressure or not, which has the effect of defeating, delaying or prejudicing creditors or giving one or more of them a preference shall as against the other creditors of such debtor be utterly void. N.W.T., c. 42, s. 2.

Assignments  
for creditors  
and *bona fide*  
transactions.

**3.** Nothing in this Ordinance shall apply to any deed of assignment made and executed by a debtor for the purpose of paying and satisfying rateably and proportionately and without preference or priority all the creditors of such debtor their just debts or any *bona fide* sale of goods or payment made in the ordinary course of trade or calling, to innocent purchasers or parties. N.W.T., c. 42, s. 3.

## CHAPTER 39.

### An Ordinance respecting Mortgages and Sales of Personal Property.

#### SHORT TITLE.

**1.** This Ordinance may be cited and known as "*The Bills of Sale Ordinance.*" N.W.T., c. 43, s. 1. Short title.

#### REGISTRATION DISTRICTS.

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

1. The registration district of "White Horse" comprising that part of the Yukon Territory lying to the north of the White Horse registration district. White Horse district.

2. The registration district of "Dawson," comprising all of the Yukon Territory lying to the north of the White Horse registration district. Dawson district.

(2) The Commissioner may from time to time constitute any other portion of the Territory a registration district and appoint a registration clerk therefor and designate at what place the office of such clerk shall be kept. N.W.T., c. 43, s. 2. New districts.

#### REGISTRATION CLERKS.

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

(2.) In the event of any vacancy occurring in the office of registration clerk by reason of death, resignation or otherwise, the vacancy shall be filled by the Commissioner. N.W.T., c. 43, s. 2.

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

the afternoon and during office hours only shall registrations be made. N.W.T., c. 43, s. 4.

**5.** No registration clerk shall draw or prepare any document or conveyance which may be filed or registered in his office under the provisions of this or any other Ordinance. N.W.T., c. 43, s. 5.

**MORTGAGES AND SALES OF CHATTELS. FORM AND  
REGISTRATION.**

Mortgages unaccompanied by delivery and change of possession of goods.

**6.** Every mortgage or conveyance intended to operate as a mortgage of goods and chattels which is not accompanied by an immediate delivery and an actual and continued change of possession of the things mortgaged shall within thirty days from the execution thereof be registered as hereinafter provided together with the affidavit of a witness thereto of the due execution of such mortgage or conveyance and also with the affidavit of the mortgagee or one of several mortgagees or the agent of the mortgagee or mortgagees if such agent is aware of all the circumstances connected therewith and is properly authorised by power in writing to take such mortgage in which case a copy of such authority shall be attached thereto (save as hereinafter provided under section 20 hereof) such last mentioned affidavit stating that the mortgagor therein named is justly and truly indebted to the mortgagee in the sum mentioned in the mortgage, that it was executed in good faith and for the express purpose of securing the payment of money justly due or accruing due and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagor or of preventing the creditors of such mortgagor from obtaining payment of any claim against him ; and every such mortgage or conveyance shall operate or take effect upon from and after the day and time of the filing thereof. N.W.T., c. 43, s. 6.

Mortgage may be in form appended.

**7.** Except as to cases provided in the next following section of this Ordinance a mortgage or conveyance intended to operate as a mortgage of goods and chattels may be made in accordance with form A in the schedule to this Ordinance. N.W.T., c. 43, s. 7.

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

**8.** In case of an agreement in writing for future advances for the purpose of enabling the borrower to enter into and carry on business with such advances and in case of a mortgage of goods and chattels for securing the mortgagee repayment of such advances or in case of a mortgage of goods and chattels for securing the mortgagee against the indorsement of any bills or promissory notes or any other liability by him incurred for the mortgagor not extending

for a longer period than two years from the date of the mortgage and in case the mortgage is executed in good faith and sets forth fully by recital or otherwise the terms, nature and effect of the agreement and the amount of liability intended to be created and in case such mortgage is accompanied by the affidavit of a witness thereto of the due execution thereof and by the affidavit of the mortgagee or one of several mortgagees or in case the agreement has been entered into and the mortgage taken by an agent duly authorized by writing to make such agreement and take such mortgage, in which case a copy of such authority shall be attached thereto, and if the agent is aware of the circumstances connected therewith, then, if accompanied by the affidavit of such agent, such affidavit whether of the mortgagee or his agents, stating that the mortgage truly sets forth the agreement entered into between the parties thereto and truly states the extent of the liability intended to be created by such agreement and covered by such mortgage and that such mortgage is executed in good faith and for the express purpose of securing the mortgagee repayment of his advances or against the payment of the amount of his liability for the mortgagor, as the case may be, and not for the purpose of securing the goods and chattels mentioned therein against the creditors of the mortgagor nor to prevent such creditors from recovering any claims which they may have against such mortgagor and in case such mortgage is registered as hereinafter provided within thirty days from the execution thereof the same shall be as valid and binding as mortgages mentioned in the sixth section of this Ordinance. N.W.T.; c. 43, s. 8.

9. Every sale, assignment and transfer of goods and chattels not accompanied by an immediate delivery and followed by an actual and continued change of possession of the goods and chattels sold shall be in writing and such writing shall be a conveyance under the provisions of this Ordinance and shall be accompanied by an affidavit of a witness thereto of the due execution thereof and an affidavit of the bargainee or one of several bargainees or of the agent of the bargainee or bargainees duly authorized in writing to take such conveyance (a copy of which authority shall be attached to the conveyance) that the sale is *bona fide* and for good consideration as set forth in the said conveyance and not for the purpose of holding or enabling the bargainee to hold the goods mentioned therein against the creditors of the bargainor; and such conveyance and affidavits shall be registered as hereinafter provided within thirty days from the execution thereof otherwise the sale shall be absolutely void as against the creditors of the bargainor and as against subsequent purchasers or mortgagees in good faith. N.W.T., c. 43, s. 9.

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

Registration only affects district where made.

**10.** Such registration shall only have effect in the registration district wherein such registration has been made. N.W.T., c. 43, s. 10.

Omission to register or false statement of consideration.

**11.** In case such mortgage or conveyance and affidavits are not registered as hereinbefore provided or in case the consideration for which the same is made is not truly expressed therein the mortgage or conveyance shall be absolutely null and void as against creditors of the mortgagor and against subsequent purchasers or mortgagees in good faith for valuable consideration. N.W.T., c. 43, s. 11.

Description of property.

**12.** All the instruments mentioned in this Ordinance whether for the mortgage or sale, assignment or transfer of goods and chattels shall contain such sufficient and full description thereof that the same may be readily and easily known and distinguished except in the case of assignments for the general benefit of creditors in which case the description shall be sufficient if it is in the following words : "All my personal property which may be seized and sold under execution," or words to that effect. N.W.T., c. 43, s. 12.

Assignment for benefit of creditors.

Registration to be in district where property situate.

**13.** The proper registration officer for instruments being mortgages and transfers of personal property shall be the clerk of the registration district in which the property described in the mortgage or transfer is at the time of the execution of the instrument ; such registration clerks shall file all such instruments presented to them respectively for that purpose and shall indorse thereon the time of receiving same in their respective offices and the same shall be kept there for the inspection of the public, subject to the payment of the proper fees. N.W.T., c. 43, s. 13.

Clerk to enter instruments in a book.

**14.** Every such clerk shall number each instrument or copy filed in his office and shall enter in alphabetical order in a book to be provided by him the names of all the parties to such instrument with the number indorsed thereon opposite to each name ; and such entry shall be repeated alphabetically under the name of every party thereto. N.W.T., c. 43, s. 14.

#### PROCEDURE UNDER MORTGAGE ON DEFAULT.

Cause for seizure by mortgagee.

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

Default in payment or

1. If the grantor makes default in payment of the sum or sums of money thereby secured at the time therein

provided for payment or in the performance of any covenant or agreement contained in the mortgage or conveyance intended to operate as a mortgage and necessary for maintaining the security ; performance of agreements.

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

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

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

5. If the grantor attempts to sell or dispose of or in any way part with the possession of the said goods. N.W. T., c. 43, s. 16. Attempt to dispose of goods.

RENEWAL OF MORTGAGES.

**16.** Every mortgage filed in pursuance of this Ordinance shall cease to be valid as against the creditors of the persons making the same and against subsequent purchasers or mortgagees in good faith for valuable consideration after the expiration of two years from the filing thereof unless, within thirty days next preceding the expiration of the said term of two years, a statement exhibiting the interest of the mortgagee, his executors, administrators or assigns in the property claimed by virtue thereof and a full statement of the amount still due for principal and interest thereon and of all payments made on account thereof is again filed in the office of the registration clerk of the district where the property is then situate with an affidavit of the mortgagee or of one of several mortgagees or of the assignee or one of several assignees or of the agent of the mortgagee or assignee or mortgagees or assignees duly authorised for that purpose, as the case may be, stating that such statements are true and that the said mortgage has not been kept on foot for any fraudulent purpose, which statement and affidavit shall be deemed one instrument. N.W.T., c. 43, s. 17. Mortgage filed to cease to be valid after two years unless renewed.

**17.** Such statement and affidavit shall be in the following form or to the like effect : Renewal of chattel mortgage.

STATEMENT exhibiting the interest of *C.D.* in the property mentioned in the chattel mortgage dated the day of *A.D.* 19, made between *A.B.* of  of the one part and *C.D.* of  of the other part and filed in the office of the registration clerk of the registration

district of \_\_\_\_\_ (as the case may be) on the day of \_\_\_\_\_ 19 \_\_\_\_\_, and of the amount due for principal and interest thereon and of all payments made on account thereof.

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

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

\_\_\_\_\_ 19 \_\_\_\_\_ .— Jan. 1—Cash received \$ \_\_\_\_\_ )

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

(Here give the computation.)

C.D.

Affidavit.

YUKON TERRITORY, } I \_\_\_\_\_ of  
To Wit: } the mort-  
gag-gee named in the chattel mortgage mentioned in the fore-  
going (or annexed) statement (or assignee of \_\_\_\_\_ the  
mortgagee named in the chattel mortgage mentioned in the  
foregoing or annexed statement, as the case may be) make  
oath and say :

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

Sworn before me at \_\_\_\_\_ }  
in the Yukon Territory, }  
this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ }

N.W.T. c. 43, s. 18.

Further  
renewal yearly  
after first  
renewal.

**18.** Another statement in accordance with the provisions of section 16 hereof duly verified as required by that section shall be filed in the office of the registration clerk of the district where the property is then situate within thirty days next preceding the expiration of the term of one year from the day of the filing of the statement required by the said section 16 and in default thereof such mortgage shall cease to be valid as against the creditors of the person making the same and as against purchasers and mortgagees in good faith for valuable consideration and so on from year to year ; that is to say another statement as aforesaid duly verified shall be filed within thirty days next preceding the expiration of one year from the day of the filing of the former statement and in default thereof such mortgage shall cease to be valid as aforesaid. N.W.T., c. 43, s. 19.



**19.** The affidavit required by section 16 of this Ordinance may be made by any next of kin, executor or administrator of any deceased mortgagee or by an assignee claiming by or through any mortgagee or any next of kin, executor or administrator of any such assignee; but if the affidavit is made by any assignee, next of kin, executor or administrator of any such assignee the assignment or the several assignments through which such assignee claims shall be filed in the office in which the mortgage is originally filed at or before the time of such refileing by such assignee, next of kin, executor or administrator of such assignee. N.W.T. c. 43, s. 20.

Personal representative or assignee.  
Filing assignments.

#### AGENTS' AUTHORITY TO TAKE CONVEYANCES.

**20.** An authority for the purpose of taking or renewing a mortgage or conveyance intended to operate as a mortgage or sale, assignment or transfer of goods and chattels under the provisions of this Ordinance may be a general one to take and renew all or any mortgages or conveyances to the mortgagee or bargainee; and provided such general authority is duly filed with the clerk it shall not be necessary to attach a copy thereof to any mortgage filed. N.W.T. c. 43, s. 21.

Authority for taking instruments may be general.

**21.** For the purpose of making the affidavit of *bona fides* required by sections 6, 8 and 9 of this Ordinance and the affidavit required by section 16 of this Ordinance the expressions "mortgagee," "bargainee," or "assignee" in addition to their primary meaning, means and includes the agent or manager of any mortgagee, bargainee or assignee being an incorporated company. N.W.T., c. 43, s. 22.

"Mortgagee" to include agent or manager of company.

#### OMISSIONS AND ERRORS.

**22.** Subject to the rights of third persons accrued by reason of such omissions as are hereinafter defined any judge of the Territorial Court of the Territory on being satisfied that the omission to register a mortgage or other transfer of personal property or any authority to take or renew the same or any statement and affidavit of renewal thereof within the time prescribed by this Ordinance or the omission or misstatement of the name, residence or occupation of any person was accidental or due to inadvertence or impossibility in fact, may in his discretion order such omission or misstatement to be rectified by the insertion in the register of the true name, residence or occupation or by extending the time for such registration on such terms and conditions if any as to security, notice by advertisement or otherwise or as to any other matter as he thinks fit to direct. N.W.T., c. 43, s. 23.

Rectification of omissions and errors.

ASSIGNMENT OF MORTGAGES.

Filing assignments of mortgages.

23. In case any registered chattel mortgage has been assigned such assignment may upon proof by the affidavit of a subscribing witness be numbered and entered in the book mentioned in section 14 hereof in the same manner as a chattel mortgage and the proceedings authorized by sections 25 and 26 of this Ordinance may and shall be had upon a certificate of the assignee proved in manner aforesaid. N.W.T., c. 43, s. 24.

DISCHARGE OF MORTGAGES.

Discharge of mortgage.

24. Where any mortgage of goods and chattels is registered under the provisions of this Ordinance such mortgage may be discharged by the filing in the office in which the same is registered of a certificate signed by the mortgagee, his executors or administrators in form B in the schedule hereto or to the like effect. N.W.T., c. 43, s. 25.

Entry and indorsement of discharge of mortgage.

25. The officer with whom such chattel mortgage is filed upon receiving such certificate duly proved by the affidavit of a subscribing witness shall at each place where the number of such mortgage has been entered with the name of any of the parties thereto in the book kept under section 14 of this Ordinance or wherever otherwise in the said book the said mortgage has been entered, write the words " Discharged by certificate number (stating the number of certificate) "; and he shall also indorse the fact of such discharge upon the instrument discharged and shall affix his name to such indorsement. N.W.T., c. 43, s. 26.

Certificate of discharge.

26. Any person filing a discharge of mortgage or a partial discharge of mortgage as aforesaid shall be entitled to ask for and receive from such clerk a certificate (other than the certificate which might be indorsed on a copy or duplicate of the mortgage as aforesaid) of such discharge or partial discharge in the form following or to the like effect:

Form of certificate.

Yukon Territory. }  
Registration District of }

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

E.M., Clerk.  
N.W.T., c. 43, s. 27.

## REMOVAL OF CHATTELS MORGAGED.

**27.** No goods or chattels under mortgage shall be removed into another registration district without a notice of the intention to remove be mailed post paid and registered to the mortgagee at his last known place of address not less than twenty days prior to such removal. N.W.T., c. 43, s. 28.

Mortgaged goods not to be removed without notice

**28.** In the event of the permanent removal of goods and chattels mortgaged as aforesaid from the registration district in which they were at the time of the execution of the mortgage, to another registration district before the payment and discharge of the mortgage a certified copy of such mortgage under the hand of the registration clerk in whose office it was first registered and of the affidavit and documents and instruments relating thereto filed in such office, shall be filed with the registration clerk of the district to which such goods and chattels are removed within three weeks from such removal otherwise the said goods and chattels shall be liable to seizure and sale under execution and in such case the mortgage shall be null and void as against subsequent purchasers and mortgagees in good faith for valuable consideration as if never executed. N.W.T., c. 43, s. 29.

Removal of goods to another district.

## EVIDENCE, CERTIFIED COPIES.

**29.** Copies of any instrument filed under this Ordinance, certified by the registration clerk, shall be received as *prima facie* evidence for all purposes as if the original instrument was produced and also as *prima facie* evidence of the execution of the original instrument according to the purport of such copy and the clerk's certificate shall also be *prima facie* evidence of the date and hour of registration and filing. N.W.T., c. 43, s. 30.

Certified copies.

## AFFIDAVITS.

**30.** All affidavits and affirmations required by this Ordinance may be taken and administered by the registration clerk or any person whether in or out of the Territory authorised to administer oaths or take affidavits for use in the Territorial Court of the Territory and the sum of 25 cents shall be payable for every oath thus administered. N.W.T., c. 43, s. 31.

Officers for oaths.

## EXPIRY ON HOLIDAY OF TIME FOR FILING.

**31.** Where under any provisions of this Ordinance the time for registering or filing any mortgage, bill of sale, instrument, document, affidavit or other paper expires on a

Time for filing expiring on Sunday or holiday.

Sunday or other day on which the office in which the registering or filing is to be made or done is closed and by reason thereof the filing or registering cannot be made or done on that day the registering or filing shall so far as regards the time of doing or making the same be held to be duly done or made if done or made on the day on which the office shall next be open. N.W.T., c. 43, s. 32.

#### CLERK'S FEES.

Clerk's fees.

**32.** For services under this Ordinance each clerk aforesaid shall be entitled to receive the following fees:

1. For filing each instrument and affidavit, including the certificate on a duplicate, if any, and for entering the same in a book as aforesaid, \$2.00;

2. For filing assignment of each instrument and for making all proper indorsements in connection therewith, \$2.00;

3. For filing certificate of discharge of each instrument and for making all proper entries and indorsements connected therewith, \$2.00;

4. For searching for each paper, 25 cents;

5. For copies of any document filed under this Ordinance with certificate thereof, 20 cents for every hundred word;

6. For every certificate under section 26 of this Ordinance, \$2.00. N.W.T., c. 43, s. 33.

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#### SCHEDULE.

##### FORM A.

(Section 7.)

#### MORTGAGE OF CHATTLES.

This Indenture made the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 1 \_\_\_\_\_ between *A.B.*, of \_\_\_\_\_ of the one part and *C.D.*, of \_\_\_\_\_ of the other part.

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

sum aforesaid together with the interest then due on the day of \_\_\_\_\_ A.D. 19\_\_\_\_ (or whatever else may be the stipulated time or times for payment.) And the said A.B. doth agree with the said C.D. that he will (here insert terms as to insurance, payment of rent, collateral securities or otherwise which the parties may agree to for the maintenance or defeasance of the security.)

Provided always that the chattels hereby assigned shall not be liable to seizure or to be taken possession of by the said C.D. for any cause other than those specified in section 15 of *The Bills of Sale Ordinance* except as is otherwise specially provided herein.

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

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

(Section 24.)

DISCHARGE OF CHATTEL MORTGAGE.

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

Witness my hand this _____ day of _____ A.D. 19____	
Witness (stating residence and occupation.)	} . A.B.
E. F.	

## CHAPTER 40.

### An Ordinance respecting Hire Receipts and Conditional Sales of Goods.

Conditional sales of goods.

**1.** Whenever on a sale or bailment of goods of the value of \$15 or over it is agreed, provided or conditioned that the right of property or right of possession in whole or in part shall remain in the seller or bailor notwithstanding that the actual possession of the goods passes to the buyer or bailee the seller or bailor shall not be permitted to set up any such right of property or right of possession as against any purchaser or mortgagee of or from the buyer or bailee of such goods in good faith for valuable consideration or as against judgments, executions or attachments against the purchaser or bailee unless such sale or bailment with such agreement, proviso or condition is in writing signed by the bailee or his agent and registered as hereinafter provided. Such writing shall contain such a description of the goods the subject of the bailment that the same may be readily and easily known and distinguished :

Proviso.

Provided that nothing in this section shall apply to any bailment where it is not intended that the property in the goods shall eventually pass to the bailee on payment of purchase money in whole or in part or the performance of some condition by the bailee. N.W.T., c. 41, s. 1.

Registration.

**2.** Such writing or a true copy thereof shall be registered in the office of the registration clerk for chattel mortgages in the registration district within which the buyer or bailee resides within 30 days of such sale or bailment and also in the registration district in which the goods are delivered or to which they may be removed within 30 days of such delivery or removal verified by the affidavit of the seller or bailor or his agent, stating that the writing (or copy) truly sets forth the agreement between the parties, and that the agreement therein set forth is *bona fide* and not to protect the goods in question against the creditors of the buyer or bailee as the case may be. N.W.T., c. 41, s. 2.

Renewal of registration.

**3.** The seller or bailor, his executors, administrators or assigns or his or their agent shall within 30 days next preceeding the expiration of two years from the date of such registration file with such registration clerk a renewal statement verified by affidavit showing the amount still

due to him for principal and interest if any and of all payments made on account thereof and whether or to what extent the condition if any of the bailment is still unperformed and thereafter from year to year a similar statement similarly verified within the 30 days next preceding the expiration of the year from the filing of the last renewal statement and in default of such filing the seller or bailor shall not be permitted to set up any right of property or right of possession in the said goods as against the creditors of the buyer or bailee or any purchaser or mortgagee of or from the buyer or bailee in good faith for valuable consideration. N.W.T., c. 44, s. 3.

4. Any seller or bailor or agent of such seller or bailor making any false statement in such renewal statement shall be guilty of an offence and liable on summary conviction thereof to a fine not exceeding \$100. N.W.T., c. 44, s. 4.

Penalty for false statement.

5. Any such seller or bailor shall be bound by any statement made by him or his agent in such renewal statement and the goods shall be liable to redemption and the seller or bailor to be divested of his property and right of possession if any in the goods upon payment of the amount actually due and owing in respect thereof or upon performance of the condition of the bailment by the buyer, bailee or any person claiming by, through or under the buyer or bailee. N.W.T., c. 44, s. 5.

Seller bound by statement made in renewal.

6. The seller or bailor shall upon payment or tender of the amount due in respect of such goods, or performance of the conditions of the bailment sign and deliver to any person demanding it a memorandum in writing stating that his claims against the goods are satisfied, and such memorandum shall thereupon operate to divest the seller or bailor of any further interest or right of possession if any in the said goods. Any such memorandum if accompanied by an affidavit of execution of an attesting witness may be registered. N.W.T., c. 44, s. 6.

Memorandum of satisfaction of seller.

7. In case the seller or bailor shall retake possession of the goods he shall retain the same in his possession for at least 20 days and the buyer, bailee or any one claiming by or through or under the buyer or bailee may redeem the same upon payment of the amount actually due thereon and the actual necessary expenses of taking possession. N.W.T., c. 44, s. 7.

Retaking possession.

8. The goods or chattels shall not be sold without five days notice of the intended sale being first given to the buyer or bailee or his successor in interest. The notice may be personally served or may in the absence of such

Five days' notice of sale to be given.

buyer, bailee or his successor in interest be left at his residence or last place of abode, or may be sent by registered letter deposited in the post office at least seven days before the time when the said five days will elapse addressed to the buyer or bailee or his successor in interest at his last known post office address in Canada. The said five days or seven days may be part of the 20 days mentioned in section 7 hereof. N.W.T., c. 44, s. 8.

Copies of instrument to be evidence.

**9.** Copies of any instrument filed under this Ordinance certified by the registration clerk shall be received as *prima facie* evidence for all purposes as if the original instrument were produced and also as *prima facie* evidence of the execution of the original instrument according to the purport of such copy. And the clerk's certificate shall also be *prima facie* evidence of the date and hour of registration or filing. N.W.T., c. 44, s. 9.

Registration fees.

**10.** The registration clerk shall be entitled to charge a fee of \$2.00 for each registration including certificate of same on registration, 50 cents for each search, 20 cents per 100 words for copies of documents and 50 cents for each certificate. N.W.T., c. 44, s. 10.



## CHAPTER 41.

### An Ordinance Respecting Partnerships.

#### REGISTRATION OF COPARTNERSHIPS.

**1.** All persons associated in partnership for trading, manufacturing or mining purposes in the Territory shall cause to be filed in the office of the registration clerk of the registration district for registration of chattel mortgages and other transfers of personal property in the Territory in which they carry on or intend to carry on business a declaration in writing signed by the several members of such partnership:

Declaration of partnerships to be filed in certain cases.

Provided however that if any of the said members be absent from the place where they carry on or intend to carry on business at the time of making such declaration then such declaration shall be signed by the members present, in their own names and also for their absent co-members under their special authority to that effect; such special authority to be at the same time filed with the said registration clerk and annexed to such declaration. N.W.T., c. 45, s. 1.

Where parties absent.

**2.** Such declaration shall be in the form A in the schedule to this Ordinance and shall contain the names, surnames, additions and residences of each and every partner or associate as aforesaid and the name, style or firm under which they carry on or intend to carry on such business and stating also the time during which the partnership has existed and is to exist also declaring that the persons therein named are the only members of such copartnership or association. N.W.T., c. 45, s. 2.

Contents of declaration.

**3.** Such declaration shall be filed within two months next after formation of any such partnership and a similar declaration shall in like manner be filed when and so often as any change or alteration of partnership takes place in the membership of such partnership or in the name, style or firm under which they intend to carry on business or in the place of residence of each member of said firm and every new declaration shall state the alteration in the partnership. N.W.T., c. 45, s. 3.

Time for filing declaration.

Changes in firm.

## PERSON USING TRADE NAME, REGISTRATION.

Individual using trade name.

**4.** Every person engaged in business for trading, manufacturing or mining purposes and who is not associated in partnership with any other person or persons but who uses as his business style some name or designation other than his own name or who in such business uses his own name with the addition of "and company" or some other word or phrase indicating a plurality of members in the firm shall cause to be filed as aforesaid a declaration of the fact in writing signed by such person. N.W.T., c. 45, s. 4.

Contents of individual declaration.

**5.** The declaration last aforesaid shall contain the name, surname, addition and residence of the person making the same and the name, style or firm under which he carries on or intends to carry on business and shall also state that no other person is associated with him in partnership and the same shall be filed within two months of the time when such style is first used. N.W.T., c. 45, s. 5.

## REGISTRATION BOOKS.

Registration books.

**6.** It shall be the duty of the registration clerk aforesaid to keep two alphabetical index books of all declarations of copartnership filed in his office in pursuance of the provisions hereof. N.W.T., c. 45, s. 6.

"Firm index book."

**7.** In one of such books, hereinafter called the "firm index book," the registration clerk shall enter in alphabetical order the style of the respective firms in respect of which declarations have been filed in his office, and shall place opposite each entry the names of the person or persons composing such firm, and the date of the receipt by him of the declaration in the manner shown in form B in the schedule to this Ordinance. N.W.T., c. 45, s. 7.

"Individual index book."

**8.** In the second of such books, hereinafter called the "Individual index book," the said registration clerk shall enter in alphabetical order the names of the respective members of each of such firms and shall place opposite such entry the style of the firm of which such person is a member and the date of the receipt of the declaration in the manner shown in form C in the schedule to this Ordinance. N.W.T., c. 45, s. 8.

## PENALTY FOR NON REGISTRATION.

Failure to comply with Ordinance.

**9.** Each and every member of any partnership or other persons required to register a declaration under the provisions of this Ordinance who fails to comply with the

requirements aforesaid shall be liable to a penalty not exceeding \$500 on summary conviction before a justice of the peace, and thereafter to a penalty of \$20 for each and every day during which default in compliance with the provisions of this Ordinance continues, on summary conviction thereof before a justice of the peace, such penalties to belong to the general revenue fund. N.W.T., c. 45, s. 9. No. 3 of 1901, s. 3

**10.** The Commissioner of the Yukon Territory may from time to time appoint a person, with a salary, to prosecute all persons who fail to comply with the requirements of this Ordinance. No. 3 of 1901, s. 4. Commissioner may appoint officer to prosecute.

#### EFFECT OF DECLARATION.

**11.** The allegations made in the declaration aforesaid cannot be controverted by any person who has signed the same nor can they be controverted as against any party not being a partner by a person who has not signed the same but who was really a member of the partnership therein mentioned at the time such declaration was made. N.W.T., c. 45, s. 10. Binding effect of declaration.

**12.** Until a new declaration is made and filed by him or by his co-partners or any of them as aforesaid no such signer shall be deemed to have ceased to be a partner; but nothing herein contained shall exempt from liability any person who being a partner fails to declare the same as already provided and such person may notwithstanding such omission be sued jointly with the partners mentioned in the declaration or they may be sued alone and if judgment is recovered against them any other partner or partners may be sued jointly or severally in an action on the original cause of action upon which such judgment was rendered nor shall anything in this Ordinance be construed to affect the rights of any partners with regard to each other except that no such declaration as aforesaid shall be controverted by any signer thereof. N.W.T., c. 45, s. 11. Liability of persons signing declaration. Failure to declare does not exempt from liability. Partners' rights *inter se*.

#### DECLARATION OF DISSOLUTION.

**13.** Upon the dissolution of any partnership any or all of the persons who compose such partnership may sign and file a declaration certifying the dissolution of the partnership in the form D in the schedule to this Ordinance. N.W.T., c. 45, s. 12. Declaration of dissolution.

#### REGISTRATION FEES.

**14.** The said registration clerk shall be entitled for filing a declaration under this Ordinance to a fee of \$2 including Fees.

the certificate on the duplicate thereof and for searches made in each of such books the following fees and no more:  
 For searching in the firm index book, each firm .....\$0 50  
 For searching in the individual index book, each name 0 50  
 No. 42 of 1900, s 1.

SCHEDULE.

FORM A.

DECLARATION OF CO-PARTNERSHIP.

YUKON TERRITORY, } We,  
 of in (occupation) and of  
 (occupation) hereby certify:

1. That we have carried on and intend to carry on trade and business as at in partnership under the name and firm of (or I or we) the undersigned of in hereby certify that I (or we) have carried on and intend to carry on trade and business as at in partnership with of and of (as the case may be.)

2. That the said partnership has subsisted since the day of one thousand nine hundred

3. And that we (or I or we) and the said and are and have been since the said day the only members of the said partnership.

Witness our hands at this day of one thousand nine hundred

FORM B.

FIRM INDEX BOOK.

Style of Firm.	Names of Persons Com- posing the Firm and their Residences.	Date of filing declaration.
John Smith & Co.....	John Smith, Dawson..... Edward Ives, Dawson...	15 Sept. 1889
James Abbott & Son.	Jas. Abbott, White Horse George Abbott, Calgary.	10 " 1889
Bernard & Johnson..	Arthur Bernard, Dawson Alex. Johnson, Bonanza.	1 Mar., 1899

## FORM C.

## INDIVIDUAL INDEX BOOK.

Name of Individual and Residence.	Style of Firm of which a member.	Date of filing declaration.
Abbott James, Dawson...	James Abbott & Son.	10 Sept. 1889
Abbott George        "	James Abbott & Son.	10 Sept. 1889
Bernard A., White Horse	Bernard & Johnson ..	1 Mar., 1889
Johnson Alex.,       "	Bernard & Johnson ..	1 Mar., 1889

## FORM D.

## DECLARATION OF DISSOLUTION OF PARTNERSHIP.

YUKON TERRITORY, } I,

formerly a member of the firm of        carrying on business  
as        at        in the        of  
under the style of        do hereby certify that the said  
partnership was on the        day of        dissolved.  
Witness my hand at        the        day  
of        one thousand nine hundred

A.B.



## TITLE VI.

### RELATING TO SPECIAL RELATIONSHIPS.

#### CHAPTER 42.

#### An Ordinance respecting Marriages.

##### SHORT TITLE.

Short title.

**1.** This Ordinance may be cited as "*The Marriage Ordinance.*" N. W. T., c. 46, s. 1.

##### SOLEMNIZATION OF MARRIAGE.

Who may perform marriage ceremony.

**2.** The ministers and clergymen of every church or religious denomination duly ordained or appointed according to the rites and ceremonies of the churches, denominations or religious bodies to which they respectively belong and commissioners and staff officers of the Salvation Army may by virtue of such ordination or appointment and according to the rites and usages of such churches, denominations or religious bodies respectively and commissioners appointed for that purpose by the Commissioner may solemnize or perform the ceremony of marriage between any two persons not under a legal disqualification or disability to contract such marriage. N. W. T., c. 46, s. 2.

Marriage ceremony not to be performed without license or banns.

**3.** No marriage commissioner shall solemnize marriage unless the parties to the intended marriage produce to him the license provided for by this Ordinance; and no minister or clergyman or other person authorized to perform the ceremony or marriage shall solemnize marriage unless the parties to the intended marriage produce to him such license or unless the intention of the two persons to intermarry has

been proclaimed by publication of banns at least thrice openly on two successive Sundays in some public religious assembly. N. W. T., c. 46, s. 3.

**4.** All marriages shall be solemnized in the presence of two or more credible witnesses besides the minister, clergyman, marriage commissioner or other person performing the ceremony; and every person solemnizing a marriage shall register the same according to the provisions of *The Vital Statistics Ordinance*. N. W. T., c. 46, s. 4.

Witnesses.  
Registration.

**5.** No person duly authorized who solemnizes a marriage in conformity with the provisions of section 2 of this Ordinance shall be subject to any action or liability for damages or otherwise by reason of there having been any legal impediment to the marriage unless at the time when he performed the ceremony he was aware of the impediment. N. W. T., c. 46, s. 5.

No action against person solemnizing marriage.

#### ISSUE OF MARRIAGE LICENSES.

**6.** The marriage license shall be in form "A" in the schedule to this Ordinance and shall be supplied from the office of the Commissioner and shall be issued to persons requiring the same by such persons as the Commissioner may name for that purpose or by any minister or clergyman of any church or religious denomination who are hereby declared *ex officio* issuers of licenses. No. 10 of 1901, s. 1.

Issue of licenses.

**7.** Such licenses shall be signed by the Commissioner and shall be and remain valid notwithstanding that the Commissioner has ceased to hold office before the time of the issue of the license. N. W. T. c. 46, s. 7.

Signature of licenses.

**8.** Every issuer of marriage licenses shall sign each license as the same is issued by him. N. W. T., c. 46, s. 8.

Signature by issuer.

**9.** Before a license is granted by any issuer one of the parties to the intended marriage shall personally make an affidavit before him to the effect of form B in the schedule hereto.

Affidavit prior to grant of license.

(2) The affidavit may be made before any justice of the peace in any case where it is inconvenient for either of the parties to be married to attend personally before an issuer of marriage licenses:

Provided always that the reason that neither party can so attend shall be set forth in such affidavit as a justification for the issuer granting license without a personal application by one of said parties. N. W. T., c. 46, s. 9.

Further evidence may be required.

**10.** In case the issuer has knowledge or reason to suspect that any of the statements in the affidavit of any applicant for a marriage license are not correct the said issuer shall require further evidence to his satisfaction before issuing the license; and a copy of all such affidavits and evidence shall be placed on file in his office. N. W. T., c. 46, s. 10.

Consent to marriage of minors.

**11.** The father, if living, of any person under twenty-one years of age (not being a widower or widow) or if the father is dead then the mother of the minor or if both parents are dead then the lawfully appointed guardian or the acknowledged guardian who may have brought up or for three years immediately preceding the intended marriage supported or protected the minor shall have authority to give consent to such marriage. N. W. T., c. 46, s. 11.

Quarterly returns of licenses issued.

**12.** Every issuer of marriage licenses shall on the fifteenth day of January, April, July and October in each year make a sworn return to the Territorial Treasurer of all licenses issued by him during the preceding three months with the names of the parties to whom issued and shall accompany such return with the original affidavit taken in each instance. The said return shall further state the number of unissued licenses in the custody of the issuer and shall be made in the form prescribed by the Commissioner.

(2) The Commissioner may in special cases dispense with the provisions of this section and may make regulations for special returns to be made in such cases. N. W. T., c. 46, s. 12.

Return of unissued licenses.

**13.** Every issuer of marriage licenses shall whenever called upon by the Commissioner make a sworn return of all licenses at any time supplied to him and shall return all unissued licenses if so required. N. W. T., c. 46, s. 13.

Fees for licenses.

**14.** There shall be payable to every issuer of marriage licenses on the issue of each license by him the sum of \$5 of which such issuer shall be entitled to retain \$2 as his fee; the remainder he shall pay over to the Territorial Treasurer at the time of each return made by such issuer to form part of the general revenue fund of the Territory. N. W. T., c. 46, s. 14.

Unauthorised issue of licenses or solemnization of marriage.

Penalty.

**15.** Any person unlawfully issuing a marriage license, any issuer of marriage license granting a license without first having obtained the affidavit required by this Ordinance, and any person solemnizing a marriage contrary to the provisions of this Ordinance shall, on summary conviction thereof before two justices of the peace, for every such contravention forfeit and pay a fine not exceeding \$100 and costs. N. W. T., c. 46 s. 15.



## SCHEDULE.

## FORM A.—SECTION 6.

CANADA.

Yukon Territory. }

These are to certify that *A.B.* of \_\_\_\_\_ and *C.D.* of \_\_\_\_\_ being minded as it is said to enter into the contract of marriage and being desirous of having the same duly solemnized the said *A.B.* (or *C.D.*) has made oath that he (or she) believes that there is no affinity consanguinity or any other lawful cause or legal impediment to bar or hinder the solemnization of the said marriage.

And these are therefore to certify that the requirements in this respect of the Ordinance respecting marriages have been complied with.

Given under my hand at Dawson in the Yukon Territory  
this \_\_\_\_\_ day of \_\_\_\_\_  
A.D. 19 \_\_\_\_\_ .

*Commissioner of the Yukon Territory.*

Issued at \_\_\_\_\_ in the Yukon Territory  
this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 19 \_\_\_\_\_ .

*Issuer.*

## FORM B.—SECTION 9.

I *A.B.* Bachelor (or Widower)

or

*C. D.* Spinster (or Widow)

make oath and say as follows:

1. I and *C.D.*, of \_\_\_\_\_ Spinster or Widow, (or *A.B.* of \_\_\_\_\_ Bachelor or Widower) are desirous of entering into the contract of marriage and of having our marriage duly solemnized at \_\_\_\_\_

2 According to the best of my knowledge and belief there is no affinity, consanguinity or any other lawful cause or legal impediment to bar or hinder the solemnization of the said marriage.

3. I am of the age of \_\_\_\_\_ years and the said *C.D.* (or *A.B.*) is of the age of \_\_\_\_\_ years.

4 (In case one of the parties is under the age of twenty-one years add)

*E.F.* of \_\_\_\_\_ is the person whose consent to the said marriage is required by law and the said *E.F.* has formally consented to the said marriage.

(Or if both parties are under age)

*E.F.* of \_\_\_\_\_ and *G.H.* of \_\_\_\_\_ are the persons whose consent to the said marriage is required by law and the said *E.F.* and *G.H.* have formally consented to the said marriage.

*(Or if in the case of one of the minors there is no person whose consent is required by law add according to the facts)*

The father of the said *C.D.* (or *A.B.*) is dead and the mother of the said *C.D.* (or *A.B.*) is dead and the said *C.D.* (or *A.B.*) having no lawfully appointed or acknowledged guardian there is no person who has authority to give consent to the said marriage.

*(In case both the parties are minors and there is no person whose consent is required by law add a similar statement concerning the other party according to the facts.)*

*(Signed)*

*A.B (or C.D.)*

Sworn before me at  
 in the Yukon Territory  
 this      day of      A.D.  
 19  
*(Signed)*              *I.J.*

## CHAPTER 43.

### An Ordinance respecting the Personal Property of Married Women.

1. A married woman shall in respect of personal property be under no disabilities whatsoever heretofore existing by reason of her coverture or otherwise but shall in respect of the same have all the rights and be subject to all the liabilities of a *feme sole*. N.W.T., c. 47, s. 1,

## CHAPTER 44.

### An Ordinance respecting Compensation to the Families of Persons Killed by Accidents.

- Interpretation **1.** The following words and expressions have in this Ordinance the meanings hereby assigned to them respectively so far as such meanings are not excluded by the context or by the nature of the subject matter:
- “Parent.” **1.** “Parent” includes father, mother, grandfather, grandmother, stepfather, stepmother, and
- “Child.” **2.** “Child” includes son, daughter, grandson, granddaughter, stepson, stepdaughter. N.W.T., c. 48, s. 1.
- When compensation recoverable. **2.** Whenever the death of a person has been caused by such wrongful act, neglect or default as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, in each case the person who would have been liable if death had not ensued shall be liable to an action for damages notwithstanding the death of the party injured. N.W.T., c. 48, s. 2.
- Who to benefit by action. **3.** Every such action shall be for the benefit of the wife, husband, parent, child, brother or sister of the person whose death has been so caused and shall be brought by and in the name of the executor or administrator of the person deceased and in every such action the court may give such damages as it thinks proportioned to the injury resulting from such death to the parties respectively for whom and for whose benefit such action has been brought. N.W.T., c. 48, s. 3.
- Limitation of action. **4.** Not more than one action shall lie for and in respect of the same subject matter of complaint and every such action shall be commenced within twelve months after the death of the deceased person. N.W.T., c. 48, s. 4.

## CHAPTER 45.

### An Ordinance respecting Insurance for the benefit of Wife and Children.

**1.** In this Ordinance "maturity of the policy" or "maturity of the contract," means the happening of the event or the expiration of the term at which the benefit under the policy or contract accrues due. N.W.T., c. 49, s. 1. Interpretation

**2.** Any person may insure his life for the whole term thereof or for any definite period for the benefit of his wife and children or of his wife and some one of his children or of his children only or of some one of them and where the insurance is effected for the benefit of more than one he may apportion the amount of the insurance money as he deems proper. N.W.T., c. 49, s. 2. Husband may insure for benefit of wife or children.

**3.** The insurance may be effected either in the name of the person whose life is insured or in the name of his wife or of any other person (with the assent of such other person) as trustee. N.W.T., c. 49, s. 3. May be in name of wife or trustee.

**4.** In case a policy or written contract of life insurance effected by a man on his life, is expressed upon the face of it to be for the benefit of his wife or his wife and children or any of them or in case he has heretofore indorsed or may hereafter indorse or by any writing identifying the policy by its number or otherwise has made or may hereafter make a declaration that the policy is for the benefit of his wife or of his wife and children or any of them such policy shall enure and be deemed a trust for the benefit of his wife for her separate use and of his children or any of them according to the intent so expressed or declared and so long as any object of the trust remains, the money payable under the policy shall not be subject to the control of the husband or his creditors or form part of his estate when the sum secured by the policy or written contract becomes payable but this shall not be held to interfere with any pledge of the policy to any person prior to such declaration. Insurance may be declared for benefit of wife or children.

(2.) In the case of a policy or written contract of life insurance effected before marriage a declaration under this section shall be and be deemed to have been as valid and effectual as if such policy or contract had been effected after marriage but nothing herein contained shall affect any action or proceeding now pending. N.W.T., c. 49, s. 4. Antenuptial policy.

Apportionment may be varied.

**5.** The insured may by an instrument in writing attached to or indorsed on or identifying the policy by its number or otherwise, vary an apportionment previously made so as to extend the benefits of the policy to the wife or the children to one or more of them although the policy is expressed to be for the benefit of the wife alone or the child or children alone or although a prior declaration was so restricted; and he may also apportion the insurance money among the persons intended to be benefitted; and may from time to time by an instrument in writing attached to or indorsed on the policy or referring to the same alter the apportionment as he deems proper; he may also by his will make or alter the apportionment of the insurance money; and an apportionment made by his will shall prevail over any other made before the date of the will except so far as such other apportionment has been acted on before notice of the apportionment by the will.

Apportionment by will.

(2.) This section applies to policies heretofore issued as well as to future policies. N.W.T., c. 49, s. 5.

Provision where no apportionment.

**6.** Where no apportionment is made all persons entitled to be benefitted by the insurance shall be held to share equally in the same; and where it is stated in the policy or declaration that the insurance is for the benefit of the wife and children generally or of the children generally without specifying the names of the children the word children means all the children of the insured living at the maturity of the policy whether by his then or any former wife and the wife to benefit by the policy shall be the wife living at the maturity thereof. N.W.T., c. 49, s. 6.

Surrender or assignment of policy.

**7.** Any such policy may be surrendered or assigned:

- (a) Where the policy is for the benefit of children only and the children surviving are of the full age of twenty-one years if the person insured and all such surviving children agree to so surrender or assign; or
- (b) Where the policy is for the benefit of both a wife and children and the surviving children are all of the full age of twenty-one years if the person insured and his then wife if any and all such surviving children agree to so surrender or assign; or
- (c) Where the policy is for the benefit of a wife only or of a wife and children and there are no children living of the person insured and his then wife agrees to so surrender or assign. N.W.T., c. 49, s. 7.

Apportioned policy.

**8.** Where an apportionment as in sections 2 and 5 hereof provided for has been made if one or more of the persons in whose favour the apportionment has been made die in the lifetime of the insured the insured may by an instrument in writing attached to or indorsed on or otherwise referring to and

identifying the policy of insurance declare that the share formerly apportioned to the person so dying shall be for the benefit of such other person or persons as he names in that behalf not being other than the wife and children of the insured and in default of any such declaration the share of the person so dying shall be the property of the insured and may be dealt with and disposed of by him as he sees fit and shall at his death form part of his estate. N.W.T., c. 49, s. 8.

Death of beneficiary before person insured.

**9.** Where no apportionment as in sections 2 and 5 hereof provided for has been made if one or more of the persons entitled to the benefit of the insurance die in the lifetime of the insured and no apportionment is subsequently made by the insured the insurance shall be for the benefit of the survivor or of the survivors of such persons in equal shares if more than one; and if all the persons so entitled die in the lifetime of the insured the policy and the insurance money shall form part of the estate of the insured; or after the death of all the persons entitled to such benefit the insured may by an instrument executed as aforesaid make a declaration that the policy shall be for the benefit of his then or any future wife or children or some one of them. N.W.T., c. 49, s. 9.

No apportionment. Death of beneficiary.

**10.** When the insurance money becomes due and payable it shall be paid according to the terms of the policy or of any declaration or instrument as aforesaid as the case may be free from the claims of any creditors of the insured except as herein provided. N.W.T., c. 49, s. 10.

Payment of insurance money.

**11.** Where the insurance money or part thereof is for the benefit in whole or in part of the children of the insured and the children are mentioned as a class and not by their individual names the money shall not be payable to the children until reasonable proof is furnished to the company of the number, names and ages of the children. N.W.T., c. 49, s. 11.

Insurance for children.

Proof to be adduced.

**12.** The insured may by the policy or by his will or by any writing under his hand appoint a trustee or trustees of the money payable under the policy and may from time to time revoke such appointment in like manner and appoint a new trustee or new trustees and make provision for the appointment of a new trustee or trustees and for the investment of the money payable under the policy. Payment made to such trustee or trustees shall discharge the company. N.W.T., c. 49, s. 12.

Appointment of trustees.

**13.** If no trustee is named in the policy or appointed as mentioned in section 12 hereof to receive the shares to which infants are entitled their shares may be paid to the executors of the last will and testament of the insured or to a guardian

Payment where no trustees.

of the infants duly appointed by the Territorial Court of the Yukon Territory or a judge thereof upon the application of the wife or of the infants or their guardian and such payment shall be a good discharge to the insurance company. N.W.T., c. 49, s. 13.

Investment  
by trustees.

**14.** Any trustee named as provided for in the next preceding two sections and any executor or guardian may invest the money received in government securities or municipal or school debentures or in mortgages of real estate or in any other manner authorised by the will of the insured and may from time to time alter, vary and transpose the investments and apply all or any part of the annual income arising from the share or presumptive share of each of the children in or towards his or her maintenance and education in such manner as the trustee, executor or guardian thinks fit and may also advance to and for any of the children notwithstanding his or her minority the whole or any part of the share of the child of and in the money for the advancement or preferment in the world or on the marriage of such child. N.W.T., c. 49, s. 14.

Security by  
guardian.

**15.** A guardian appointed as provided in section 13 hereof shall give security to the satisfaction of the Court or judge for the faithful performance of his duty as guardian and for the proper application of the money which he may receive. Where the amount of the insurance money payable to a guardian of infants does not exceed \$400 and probate is sought in respect of a will for the sole purpose of obtaining insurance money to an amount not exceeding \$400 the fees payable on the appointment of such guardian or executor shall be \$4 and no more and such fees shall be regulated in the manner prescribed. N.W.T., c. 49, s. 15.

Payment of  
insurance  
money into  
court where  
no trustee, etc.

**16.** If there is no trustee, executor or guardian competent to receive the share of any infant in the insurance money and the insurance company admits the claim or any part thereof the company at any time after the expiration of two months from the date of their admission of the claim or part thereof may obtain an order from the Territorial Court of the Yukon Territory, or a judge thereof for the payment of the share of the infant into court; and in such case the costs of the application shall be paid out of the share (unless the Court or judge otherwise directs) and the residue shall be paid into Court pursuant to the order; and such payment shall be a sufficient discharge to the company for the money paid; and the money shall be dealt with as the Court or judge directs.

Order for  
payment of  
insurance  
moneys.

(2) If the company does not within four months from the time the claim is admitted either pay the same to some person competent to receive the money under this Ordinance or pay the same into the Territorial Court the said Court or



judge thereof may upon application made by some one competent to receive the said money or by some other person on behalf of the infant order the insurance money or any part thereof to be paid to any trustee, executor or guardian competent to receive the same or to be paid into court to be dealt with as the Court or judge directs and any such payment shall be a good discharge to the company.

(3) The Court or judge may order the costs of the application and any costs incidental to establishing the authority of the party applying for the order to be paid out of such moneys or by the company or otherwise as seems just and the Court or judge may also order the costs of and incidental to obtaining out of Court moneys voluntarily paid in by a company to be paid out of such moneys. N.W.T., c. 49, s. 16. Costs.

**17.** If a person who has heretofore effected or who hereafter effects an insurance for the purposes contemplated by this Ordinance whether the purpose appears by the terms of the policy or by indorsement thereon or by an instrument referring to and identifying the policy finds himself unable to continue to meet the premiums he may surrender the policy of the company and accept in lieu thereof a paid up policy for such sum as the premiums paid would represent payable at death or at the endowment age or otherwise (as the case may be) in the same manner as the money insured by the original policy if not surrendered, would have been payable; and the company may accept the surrender and grant the paid up policy notwithstanding any declaration or direction in favour of the wife and children or any of them. N.W.T., c. 49, s. 17. Surrender of policy for paid up policy.

**18.** The person insured may from time to time borrow from the company insuring or from any other company or person on the security of the policy such sums as are necessary and the same shall be applied to keep the policy in force on such terms and conditions as are agreed on; and the sums so borrowed together with such lawful interest thereon as is agreed upon shall so long as the policy remains in force be a first lien on the policy and on all moneys payable thereunder notwithstanding any declaration or direction in favour of the wife or children or any or either of them. N.W.T., c. 49, s. 18. Borrowing for payment of premiums.

**19.** Any person insured under the provisions of this Ordinance may in writing require the insurance company to pay the bonuses or profits accruing under the policy or portions of the same to the insured; or to apply the same in the reduction of the annual premiums payable by the insured in such way as he directs; or to add the said bonuses or profits to the policy; and the company shall pay Bonuses and profits.

or apply such bonuses or profits as the insured directs and according to the rates and rules established by the company;

Provided always that the company shall not be obliged to pay or apply such bonuses or profits in any other manner than stipulated in the policy or the application therefor. N.W.T., c. 49, s. 19.

Several actions.  
Consolidation.

**20.** In case of several actions being brought for insurance money the Court is to consolidate or otherwise deal therewith so that there shall be but one action for and in respect of the shares of all the persons entitled under a policy. If an action is brought for the share of one or more infants entitled all the other infants or the trustees, executors or guardians entitled to receive payment of the shares of such other infants shall be made parties to the action and the rights of all the infants shall be dealt with and determined in one action. The persons entitled to receive the shares of the infants may join with any adult persons claiming shares in the policy. In all actions where several persons are interested in the money the Court or judge shall apportion among the parties entitled any sum directed to be paid and shall give all necessary directions and relief. N.W.T., c. 49, s. 20.

Parties.

Notice to insurance company.

**21.** No declaration or appointment affecting the insurance money or any portion thereof nor any appointment or revocation of a trustee shall be of any force or effect as respects the company until the instrument or a duplicate or copy thereof is deposited with the company. Where a declaration or indorsement has been heretofore made and notice has not been given the company may until they receive notice thereof deal with the insured or his executors, administrators or assigns in respect of the policy in the same manner and with the like effects as if the declaration or indorsation had not been made. N.W.T., c. 49, s. 21.

Rights of creditors.

**22.** If the policy was effected and premiums paid by the insured with intent to defraud his creditors the creditors shall be entitled to receive out of the sum secured an amount equal to the premiums so paid. N.W.T., c. 49, s. 22.

No interference with other modes of assignment, etc.

**23.** Nothing contained in this Ordinance shall be held or construed to restrict or interfere with the right of any person to effect or assign a policy for the benefit of his or her father, mother, husband or wife or children or some one of them in any other mode allowed by law. N.W.T., c. 49, s. 23.

Surrender or assignment of policy.

**24.** Where all the persons entitled to be benefitted whether by original insurance, by written declaration or instrument of variation or apportionment under any policy

are of full age they and the person insured may surrender the policy or assign the same either absolutely or by way of security. N.W.T., c. 49, s. 24.

**25.** Where any policy of insurance or written contract of life insurance or the declaration indorsed upon or attached to any policy of insurance to which this Ordinance applies whether such declaration has heretofore been or shall hereafter be made provides that the policy shall be for the benefit of a person and in the event of the death of such person for the benefit of another person such first mentioned person shall if living be deemed for the purposes of section 24 of this Ordinance the person entitled to be benefitted under such policy. N.W.T., c. 49, s. 25.

Persons  
entitled in  
succession.

## CHAPTER 46.

### An Ordinance respecting Masters and Servants.

Contracts of hiring.

**1.** Every contract or hire of personal service shall be subject to the provisions of this Ordinance and if such contract is for any period more than one year it shall be in writing and signed by the contracting parties. N.W.T., c. 50, s. 1.

Servant guilty of misconduct.

**2.** Any person engaged, bound or hired whether as clerk, journeyman, apprentice, servant, labourer or otherwise howsoever, guilty of drunkenness or of absenting himself by day or night without leave from his proper service or employment or of refusing or neglecting to perform his just duties or to obey the lawful commands of his master or of dissipating his employer's property or effects shall be deemed guilty of a violation of his contract and upon summary conviction of one or more of the said violations, forfeit and pay such sum of money not exceeding \$30 as to the justice seems meet together with costs of prosecution and in default of payment thereof forthwith shall be imprisoned for any period not exceeding one month. N.W.T., c. 50, s. 2.

Penalty.

Nonpayment of wages.

**3.** Any justice, upon oath of any employee, servant or labourer complaining against his or her master or employer concerning any nonpayment of wages (not exceeding six months' wages, the same having been first demanded) ill-usage or improper dismissal by such master or employer, may summon the master or employer to appear before him at a reasonable time to be stated in the summons and the justice shall upon proof on oath of the personal service of the summons examine into the matter of the complaint, whether the master or employer appears or not, and upon due proof of the cause of complaint the justice may discharge the servant or labourer from the service or employment of the master and direct the payment to him or her of any wages found to be due (not exceeding six months' wages as aforesaid) and the justice shall make such order for payment of the said wages as to him seems just and reasonable with costs. N.W.T., c. 50, s. 3.

Limit of time for proceedings.

**4.** Proceedings may be taken under this Ordinance within three months after the engagement or employment has ceased or within three months after the last instalment

of wages under the agreement of hiring has become due whichever shall last happen. N.W.T., c. 50, s. 4.

**5.** The provisions of this Ordinance shall be held to apply in the Territory to contracts and agreements made at any place outside the same. N.W.T., c. 50, s. 5.

Ordinance to apply to contracts made outside the Territory.

**6.** Nothing in this Ordinance shall in any wise curtail, abridge or defeat any civil or other remedy for the recovery of wages or damages which employers or masters may have against servants or employees or which servants or employees may have against their masters or employers. N.W.T., c. 50, s. 6.

Civil remedies preserved.

**7.** Notwithstanding any disposition to the contrary of any law or Ordinance in force in this Territory, whenever any proceedings are taken before one or more justices of the peace under section 4, of this Ordinance, no warrant for the imprisonment of any master or employer for non-payment of wages shall be issued, unless it is established before the justice or justices, trying the case, that said master or employer has committed some act of fraud tending to deprive his creditors generally, or the complainant in particular of his recourse against him, or that he is about to leave the Yukon Territory, with the same intent. No. 30 of 1899, s. 1.

Master not to be imprisoned unless guilty of fraud.



## TITLE VII.

RELATING TO PROFESSIONS, TRADES, &c.

### CHAPTER 47.

An Ordinance Respecting the Legal Profession.

#### SHORT TITLE.

Short title.

**1.** This Ordinance may be cited as "*The Legal Profession Ordinance.*" No. 33 of 1901, s. 1.

#### BARRISTERS' AND SOLICITORS' ROLL.

Territorial Secretary to prepare roll of Barristers.

**2.** The Territorial Secretary shall cause to be prepared a Roll to be called the Barristers' and Solicitors' Roll for the Yukon Territory. No. 33 of 1901, s. 2.

Who to be entered on roll

**3.** He shall forthwith cause to be entered on such Roll, in proper order according to the time of admission to the Bar in the Yukon Territory, the names of all persons who are at the date of the passing of this Ordinance enrolled as Advocates of the Yukon Territory on the Roll prepared by, and in the custody of, the Clerk of the Territorial Court, together with the respective dates of their admission as such Advocates. The Secretary shall also, from time to time enter on such roll the name of the person who fills the office of Legal Adviser for the Commissioner of the Yukon Territory and for the Yukon Council together with the date of the appointment of such persons to such office.

Clerk of court to furnish Territorial Secretary with list.

(2.) The Clerk of the Territorial Court shall forthwith furnish the Territorial Secretary with a list of persons so enrolled as advocates.

(3.) The Territorial Secretary shall, upon production of the certificate of the Territorial Court hereinafter provided for, that any person is entitled to be called to the Bar as a Barrister and admitted to practice as a Solicitor in said Court, cause the name of such person to be entered on the said Roll with the date of such entry :

Territorial Secretary to enter persons producing certificate from court.

(4.) If any name is improperly omitted from or inserted in said Roll, or if any mistake occurs in any name on such Roll, the Territorial Court may, upon proper notice being given, cause such name to be added to, or struck from such Roll, or to be properly corrected, and the Territorial Secretary shall add, strike off or correct such name in the manner directed by the Court, and shall note opposite the name affected, the date and authority for the change.

Mistakes in roll to be corrected.

(5.) The Roll prepared by the Secretary shall be and remain deposited with the said Secretary and shall be open to inspection by any person upon payment of a fee of fifty cents.

Roll to be kept by Territorial Secretary.

(6.) The Clerk of the Territorial Court shall keep on file at his office at Dawson, in said Territory, a copy of the said Roll, with the additions, alterations and changes made therein from time to time, and such copy shall be open to inspection at all reasonable times at the said office.

Clerk of the court to keep copy.

(7.) Until such Roll is prepared by the Territorial Secretary, the Roll of Advocates prepared by, and in the custody of, the Clerk of said Court, shall be the Roll of Barristers and Solicitors in the Yukon Territory.

Until roll prepared clerk of the courts roll to be the roll.

(8.) Whether any person is enrolled as a Barrister and Solicitor or not shall be sufficiently proved by production of the copy of the Roll in the custody of the Clerk of the Court or by production of a certificate of the Territorial Secretary as to the fact. No. 33 of 1901, s. 3.

Copy of roll to be evidence.

#### ADMISSION OF BARRISTERS AND SOLICITORS.

4. In addition to the persons entitled at the time of coming into force of this Ordinance to be enrolled as Barristers and Solicitors, as provided in the next preceding section of this Ordinance, every person who is a British subject of the age of twenty-one years and upwards, and of good moral character, and possesses any one of the following qualifications, that is to say :

Additional person to be admitted.

(a.) Is a Member of the Bar of England, Scotland or Ireland (excluding the Bar of Courts of merely local jurisdiction), or,

Barristers of Great Britain.

(b.) Has been duly called to the Bar of any of His Majesty's Superior Courts in any of His Majesty's Provinces or Territories of the Dominion of Canada, or,

Barristers of the Provinces or

(c.) Has duly served under articles of Clerkship for a period of three years in any such Province with a duly qualified Barrister of such Province, and has passed the ex-

Students who have served three years in Province

and passed examinations.

Barristers of any other colony.

Articled clerks who have served three years

and passed examinations.

aminations and possesses the other qualifications entitling him to be called and admitted to such Bar, or,

(d.) Has been called to the Bar of any of His Majesty's Dominions or Colonies, and would, by reason thereof, be entitled to admission to the Bar in any of His Majesty's Provinces of the Dominion of Canada, or,

(e.) Has passed the prescribed preliminary and final examinations and has served under articles of clerkship for a period of three years after filing such articles with the Territorial Secretary, or,

(f.) Has passed the preliminary examination prescribed in any Province or Territory of Canada and has served under articles of clerkship in such Province or Territory time which would be counted on the time of service required in such Province or Territory for admission to the Bar thereof and has also served under articles of clerkship in the Yukon Territory, after filing such articles with the Territorial Secretary, such time as together with the time so served in such Province or Territory equals three years, and has passed the prescribed final examination, shall be entitled to a certificate from the Territorial Court that he is entitled to be enrolled as a Barrister and Solicitor.

(2.) Such certificates shall be signed by the Clerk of the Court and sealed with the seal of the Court.

(3.) The Court may allow as part of the time of service under articles of clerkship required by this section, time spent by a clerk at a recognized law school of such standing as the Court deems satisfactory. No. 33 of 1901, 34.

Notice of application for admission to be published.

5. No such certificate shall be granted by the Court unless notice of application thereof has been given by publication of such notice in the *Yukon Official Gazette* for two consecutive weeks before such application. Such notice shall state the name and residence of the person seeking a certificate, the qualification upon which he relies, and the time and place at which the application will be made. Provided that this section shall not apply to any articled clerk who has passed the prescribed final examination in this Territory. No. 23 of 1901, s. 4. No. 14 of 1902.

Fee to be paid.

6. Before any person is enrolled by the Secretary such person shall pay to the Territorial Treasurer a fee of fifty dollars, and shall satisfy such Secretary that such payment has been made. No. 23 of 1901, s. 6.

Other articled clerks to be admitted.

7. Any person who has become an articled clerk under any Ordinance in force in the Yukon Territory before the passing of this Ordinance, shall be entitled to be enrolled as a Barrister and Solicitor upon completing the term of service prescribed by such Ordinance if he has passed the examination, and produces the evidence of educational attain-



ment that he would have been required to pass and produce under such Ordinance, upon producing to the Secretary a certificate to that effect of the Territorial Court and paying the fee prescribed by such Ordinance. No. 33 of 1901, s. 7.

**8.** In case any person gives evidence of such educational attainments and service in the office of a Barrister and Solicitor of the Yukon Territory, whether in active practice or occupying an official position in said Territory, whether under articles or otherwise, or of a course in a law school, as in the opinion of a judge of the Territorial Court, are equivalent to the preliminary examination and service required by this Ordinance, and passes the final examination prescribed for articled clerks, the said judge may recommend the admission of such person as a Barrister and Solicitor, and the Court upon the production of a certificate in writing from the said judge to such effect, and a certificate of his having passed such final examination, may admit such person as a Barrister and Solicitor notwithstanding the non-compliance of such person with the requirements contained in section 4 of this Ordinance. No. 14, 1902, s. 2.

In other cases judge may certify to sufficiency of service.

**9.** No person shall be called to the Bar as a Barrister or admitted to practice as a Solicitor in the Territorial Court save in accordance with the provisions of this Ordinance. No. 33 of 1901, s. 8.

No person to practice except as provided herein.

#### OATH OF BARRISTER AND SOLICITOR.

**10.** Before any person enrolled as a Barrister and Solicitor begins the practice of his profession as such he shall be presented to the Court by a Barrister in good standing and shall in open Court take the oath set out in the schedule to this Ordinance. Such oath shall be administered by the Clerk of the Court. No. 38 of 1901, s. 9.

Oath to be taken.

#### ANNUAL FEE.

**11.** There shall be due and payable annually by every practising Barrister and Solicitor to the Territorial Treasurer on or before the thirtieth day of June in each year the sum of twenty-five dollars, and each such Barrister and Solicitor shall obtain from the said Treasurer and file with the Territorial Secretary on or before said date a receipt for said sum.

Annual fee.

(2.) Upon presentation of such receipt the said Secretary shall issue to the practising Barrister and Solicitor presenting the same a certificate stating that such Barrister and Solicitor is entitled to practice within the Yukon Territory for one year from the thirtieth day of June of the year in which the certificate is issued.

Certificate to be given on payment of annual fee.

Penalty for practicing without taking out annual certificate.

(3.) If any Barrister and Solicitor, or any member of any firm of Barristers and Solicitors, either in his own name or in the name of the firm, or in the name of any person or persons practices the profession of law in the Yukon Territory, or any of the Courts thereof, without having taken out a certificate for the current year, as directed by this section, he shall for every such offence be liable to a penalty of one hundred dollars, and shall be, after the thirtieth day of June on or before which such payment is due, disqualified from the practice of such profession until the said sum of twenty-five dollars and the said penalty of one hundred dollars are paid to the said Treasurer and a certificate obtained from the Territorial Secretary as aforesaid. Such certificate shall be in force only from the thirtieth day of June, on or before which such sum of twenty-five dollars was due and payable.

Form of certificate.

(4.) Such certificate may be in the form in the schedule to this Ordinance. No. 33 of 150, s. 10.

List of subjects to be prepared by judges.

**12.** The Judges or a Judge of the Territorial Court shall prepare, whenever application is made to them for that purpose, a list of subjects for examination of persons seeking to become articulated clerks, and also a list of subjects for persons seeking to pass the final examination for admission to the bar. Such list shall contain the text books upon which the respective candidates shall be examined.

(2.) Any such person may make application to the Court by directing a notice to the Clerk of the Court, giving his name and address and stating which of the examinations he desires to pass.

(3.) The Judges or a Judge may at any time before any such application is made, prepare and publish, by posting in the office of the clerk of the Court, such lists of subjects, and in such case no application or further preparation or publication shall be necessary. No. 33 of 1901, s. 10.

Annual examination.

**13.** There shall be an examination held annually of persons seeking to be enrolled as articulated clerks and of persons seeking to be enrolled as Barristers and Solicitors. Such examinations shall be conducted by one or more examiners, appointed by the Commissioner of the Yukon Territory, and shall be held at such time in the month of September and at such place or places as the Commissioner directs.

(2.) Every such person shall give notice of his intention to take any such examination to the Territorial Secretary, not later than the twenty-fifth day of August preceding such examination.

(3.) The Commissioner may at any time direct that a special, additional or supplemental examination of any such person be held. No. 33 of 1901, s. 11.

## ARTICLED CLERKS.

**14.** Before any person is entitled to be enrolled as an articulated clerk he shall pass the prescribed preliminary examination, and shall be bound by contract, in writing, to serve as a clerk to a duly qualified Barrister or Solicitor practicing in the Yukon Territory. Preliminary examination.

(2) Such contract, with a declaration of the execution thereof by the parties, thereto, shall within three month after the execution of such contract be filed with the Territorial Secretary. The Secretary shall indorse upon such contract the memorandum of the date of filing. Articles to be filed.

(3) Every assignment of such contract, together with a declaration of the execution thereof, shall be filed within three months after the execution of such assignment. Every such declaration shall show that the Barrister and Solicitor with whom the clerk is articulated is in good standing and shall also show that such contract or assignment was executed by the several parties thereto and shall state the name of every such party and his place of abode, and shall also state the day on which such contract or assignment was actually executed by the parties thereto. Assignment of articles to be filed.

(4) The Legal Adviser for the Commissioner of the Yukon Territory and for the Yukon Council shall be deemed a duly qualified Barrister and Solicitor practising in the Yukon Territory, No. 33 of 1901, s. 12. Legal adviser to be duly qualified Barrister.

**15.** The Territorial Secretary shall enter upon a roll, to be called The Roll of Articled Clerks, the name, residence, and addition of every articulated clerk whose articles have been filed with him and who has also filed a certificate of the examiner appointed as aforesaid of such clerk having passed the preliminary examination ; such roll shall show the date upon which the articles of every clerk were filed, the date of any assignment of such articles and the date of entry of the name of such clerk on such roll. No. 38 of 1901, s. 13. Roll of articulated clerks.

**16.** No Barrister and Solicitor shall have under such articles as aforesaid more than two clerks at one time, nor shall he have any such clerk after he has discontinued practising his profession or while he is employed as a clerk by any other Barrister or Solicitor. Services by a clerk in contravention of this section shall not be deemed service under this Ordinance. No. 33 of 1901, s. 14. No Barrister to have more than two articulated clerks.

**17.** If any Barrister and Solicitor, before the termination of the articles of a clerk bound to him becomes bankrupt or insolvent, or discontinues practice, or becomes or is employed as a clerk by any other Barrister and Solicitor, or dies, the Court may, upon application of the clerk so bound, Articles may be discharged or assigned on Barrister ceasing to practice.

permit such articles to be discharged or assigned to such other person upon such terms and in such manner as the Court shall state. No. 33 of 1901, s. 15.

Clerk may enter into other articles for balance of term.

**18.** Whenever any such articles as aforesaid have been discharged as aforesaid or cancelled by consent of the parties thereto, or determined by the death of a Barrister and Solicitor, the clerk may be bound by other articles in writing to serve as a clerk to any other practising Barrister and Solicitor during the residue of the term for which he was bound by such first mentioned articles and service under such second articles subject to the provisions herein contained shall be as effectual for the purpose of this Ordinance as if such service had been performed under the first articles. No. 33 of 1901, s. 16.

Time to count only from date of filing articles or assignment.

**19.** If any such articles or assignments, with a statutory declaration or declarations in respect thereto hereinbefore required are not filed as aforesaid within the time hereinbefore limited therefor, the same may afterwards be filed with the said Secretary, but the service of the clerk shall be reckoned only from the day of such filing unless the Court in its discretion for special reasons otherwise orders. No. 33 of 1901, s. 17.

#### DISCIPLINARY.

Court to have same powers over Barristers as Supreme Court of Judicature in England.

**20.** All Barristers and Solicitors shall be officers of the Territorial and other Civil Courts of the Territory, and the Territorial Court, or any Judge thereof shall possess and exercise the same powers and jurisdiction over and in respect of such Barristers and Solicitors as at the time of the passing hereof is possessed by the Supreme Court of Judicature in England over and in respect of Solicitors of the said last mentioned Court. No. 33 of 1901, s. 18.

Barrister not to act as agent of unqualified person.

**21.** No Barrister and Solicitor shall wilfully and knowingly act as the professional agent of any person not duly enrolled and qualified to act as a Barrister and Solicitor or suffer his name to be used in any such agency on account of or for the profit of an unqualified person, or send any process to such person, or do any other act to enable such person to practice in any respect as a Barrister and Solicitor, knowing him not to be qualified, and no Barrister and Solicitor shall enter into any partnership, agreement or arrangement in the nature of a partnership, or into any agreement or arrangement for sharing or dividing costs, proceeds or profits, or the fruits of any litigation or of any legal business transacted by such Barrister and Solicitor with any person not duly enrolled and qualified to practice as a Barrister and Solicitor in the Yukon Territory. No. 13 of 1901, s. 19.

**22.** The Legal Adviser shall inquire into and thoroughly investigate any complaint made to such Legal Adviser by any person against any Barrister or Solicitor for any just cause whatsoever, or against any person for any violation of any of the provisions of this Ordinance, and it shall be the duty of such Legal Adviser to whom such complaint is made if the same is well founded, to take such proceedings for disciplining or otherwise punishing such Barrister and Solicitor or other such person in the manner provided therefor in this Ordinance. No. 33 of 1901, s. 20.

Legal adviser to investigate complaints made against Barrister.

**23.** If, upon application, at the instance of any person, supported by affidavit made to the Court, it shall *prima facie* appear that a Barrister and Solicitor has been guilty of professional misconduct or of conduct unbecoming a Barrister and Solicitor, or for default by him in payment of moneys received by him as a Barrister and Solicitor, or has been guilty of such misconduct as would, in England, be sufficient to bring a Solicitor under the punitive powers of the Supreme Court of Judicature, or has been guilty of any breach of the provisions of this Ordinance, the Court shall cause notice to be given to such Barrister and Solicitor, calling upon him to answer the facts, and at the time appointed by such notice shall hear the complainant and the Barrister and Solicitor, and any evidence adduced by them or either of them, and if the Court finds the complaint well founded it may direct that the name of such Barrister and Solicitor be struck off the roll of Barristers and Solicitors, or may suspend such Barrister and Solicitor from practising for such period as may be considered just. No. 33 of 1901, s. 21.

Proceedings against Barrister for unprofessional conduct.

**24.** The Court may order that notice of any application made under the next preceding section be given by the complainant to the Legal Adviser, and to such other person or persons as the Court thinks proper, and the Legal Adviser or the person or persons so notified, may appear in person or by Barrister and Solicitor on such application, and the conduct of such application may be entrusted by the Court to the Legal Adviser. No. 33 of 1901, s. 22.

Court may order notice of application to be given Legal Adviser.

**25.** In any application to the Court under the provisions of the next three preceding sections the name of the Barrister and Solicitor complained of shall be suppressed and all proceedings shall be headed: "In the matter of ———, a Barrister and Solicitor" until the Court directs the insertion of the name of such Barrister and Solicitor. No. 33 of 1901, s. 23.

Name of Barrister not to be inserted on proceedings unless ordered by court.

**26.** Whenever any Barrister and Solicitor is struck off the Roll of Barristers and Solicitors or suspended from practising, the Clerk of the Court shall certify the same

When Barrister struck off rolls or suspended

Clerk of Court  
to notify  
Territorial  
Secretary.

under his hand and seal of the Court to the Territorial Secretary, who shall file such certificates and shall make a note opposite the name of such person on the said Roll of his having been struck off the same or suspended (as the case may be), and in case of suspension, the time of such suspension. No. 33 of 1901, s. 24.

Privilege of  
Barrister to  
cease on being  
struck off roll.

**27.** Upon a Barrister and Solicitor being struck off the roll as aforesaid, all his rights and privileges as a Barrister and Solicitor shall cease and determine, or in case he is suspended, he shall, during the period of his suspension possess no rights or privileges as a Barrister and Solicitor, and notice of his being struck off the roll or suspended shall forthwith be given by the Secretary to the Judges of the Territorial Court. No. 33 of 1901, s. 25.

Court may  
order  
Barrister  
struck off rolls  
to be resto.ed.

**28.** The Territorial Court may, on application made for that purpose, and when in the opinion of such Court the subsequent conduct of the Barrister and Solicitor, or the facts warrant it, order the name of any Barrister and Solicitor struck off the Roll to be restored thereto upon such terms as to the payment of money or otherwise as the Court directs, and in such case the Clerk of the Court shall certify the same under his hand and the seal of the Court to the Territorial Secretary, who shall file such certificate and make a note opposite the name of such person on the said Roll of his having been restored thereto. No. 33 of 1901, s. 26.

Notice of  
application to  
be given to  
Territorial  
Secretary.

**29.** Notice of such application shall be given to the Territorial Secretary and such other person or persons as the Court or a Judge upon ex parte application directs and the person so notified may, in person or by Barrister and Solicitor appear and oppose or consent to such application. No. 33 of 1901, s. 27.

Barrister to  
pay all fees in  
arrears before  
being restored  
to roll.

**30.** Provided that before being entitled to be restored to the Roll hereunder such person whose name is sought to be restored shall pay all arrears of fees due by him to the said Treasurer, including the fees for the period which has elapsed since he was struck off the Roll. No. 33 of 1901, s. 28.

Articled clerk  
guilty of  
unprofessional  
conduct to be  
struck off roll.

**31.** Whenever a person being an articled clerk shall be found by the Court or a Judge, after due inquiry, to have been, either before or after the coming into force of this Ordinance guilty of professional misconduct or conduct unbecoming an articled clerk, it shall be lawful for the Court or Judge to strike the name of such clerk from the roll of articled clerks. No. 33 of 1901, s. 29.

No one to  
practice

**32.** No person other than Barristers and Solicitors duly qualified and admitted to practice in the Yukon Territory

shall act as Barrister and Solicitor in the Yukon Territory or practice in any Court in the said Territory, or advise for fee or reward, directly or indirectly in matters pertaining to the law, or sue out any writ or process, or commence, carry on, solicit or defend any action or proceeding in any such Court, or assume to act or hold himself out to the public in any way as a person qualified to act as a Barrister or Solicitor, or shall in this Territory hold himself out with the object of obtaining legal practice in the Territory to be a Barrister at Law, Advocate, Solicitor or Attorney of any other Province, Territory or country, or be, or hold himself out as a partner or agent of any Barrister or Solicitor, or participate in the profits, as profits of the office, or any business of any Barrister or Solicitor of the Yukon Territory carried on or transacted as such Barrister or Solicitor, and any person contravening any provision of this section or assisting any person to contravene any provision of this section, shall be liable to and shall pay a fine or penalty (if not less than three hundred and not more than five hundred dollars for the first offence, which fine or penalty may be imposed upon summary conviction by any justice of the peace upon an information being laid in the name of the Bar of the Yukon Territory, upon the oath of the Secretary thereof that he is informed and believes that the person charged has committed the acts alleged, or may be recovered by action brought by the Territorial Secretary in the Territorial Court, and such person, if a Barrister and Solicitor, shall be struck off the Roll, and for every subsequent offence such person contravening any provision of this section or assisting any person to contravene any provision of this section, shall be liable to and shall pay a fine or penalty of five hundred dollars, to be imposed or recovered as aforesaid, and if a Barrister and Solicitor shall be struck off the Roll and disqualified from practising as a Barrister and Solicitor.

except  
Barrister duly  
entered on roll

(2.) Any contravention of any provision of this section shall constitute a contempt of court and may be dealt with by the Territorial Court as such.

Contravention  
of this section  
to be contempt  
of Court.

(3.) Any person doing any of the acts prohibited by this section shall be incapable of recovering any fee, reward or disbursement on account thereof, and any sum paid to such person therefor may be recovered back by the person paying the same.

Barrister not  
on roll not to  
collect fees or  
disbursements

(4.) This section shall not be deemed to prevent any person acting on his own behalf in any action, cause, suit or matter. No. 33 of 1901, s. 30.

Not to prevent  
person acting  
in his own  
behalf.

**33.** The Legal Adviser may institute or authorize the institution of any proceedings under this Ordinance for any breach of its provisions. No. 35 of 1901, s. 31.

Legal adviser  
may institute  
proceedings.

## SCHEDULE.

## OATH OF BARRISTER AND SOLICITOR.

Oath British  
subject.

I, A. B., do swear (or being one of the persons allowed by law to affirm in judicial cases, do affirm) that I am a British subject by birth (or naturalization as the case may be) and that I am of full age of twenty-one years. So help me God.

Oath of  
allegiance.

I, A. B., do sincerely promise and swear (or affirm) that I will be faithful and bear true allegiance to His Majesty, King Edward VII., as lawful sovereign of Great Britain and Ireland and of the Dominion of Canada, dependent on and belonging to the said United Kingdom, and that I will defend him to the utmost of my power against all traitorous conspiracies and attempts whatever which shall be made against his power, Crown and Dignity; and that I will do my utmost endeavour to disclose and make known to His Majesty, his heirs and successors, all treason and traitorous conspiracies and attempts which I shall know to be against him or any of them, and all that I do swear (or affirm) without any equivocation, mental evasion or secret reservation. So help me God.

The proper officer under the direction of the court shall say to the barrister :

“ You are called to the degree of barrister to protect and defend the rights and interests of such persons as may employ you. You shall conduct all causes faithfully and to the best of your ability. You shall neglect no man's interest nor seek to destroy any man's property. You shall not be guilty of champerty or maintenance. You shall not refuse causes of complaint reasonably founded, nor shall you promote suits upon frivolous pretenses. You shall not pervert the law to favour or prejudice any man, but in all things shall conduct yourself truly and with integrity. In fine the King's interests and your fellow subjects you shall uphold and maintain according to the constitution and laws of this Territory.”

Oath of  
Barrister.

To which the barrister shall answer :

“ All this I swear (or affirm) to observe and perform to the best of my knowledge and ability. So help my God.”

“ I, A. B., do further swear that I will truly and honestly demean myself in the practice of a solicitor according to the best of my knowledge and ability. So help me God.”



## CERTIFICATE OF PAYMENT OF ANNUAL FEE.

Yukon Territory.

Annual Certificate No.

This is to certify that \_\_\_\_\_ has paid to the Territorial Treasurer under the provision of the Ordinance respecting the legal profession the sum of twenty-five dollars, and that the said \_\_\_\_\_ is hereby entitled to practice as a barrister and solicitor in the Yukon Territory for one year from the thirtieth day of June, A.D. 19 .

Dated \_\_\_\_\_, A.D. 19 .

Territorial Secretary.

## CHAPTER 48.

### An Ordinance Respecting the Profession of Medicine and Surgery.

#### SHORT TITLE.

Short title. **1.** This Ordinance may be cited as "*The Yukon Medical Ordinance.*" No. 1 of 1898, s. 1.

#### COLLEGE OF PHYSICIANS AND SURGEONS.

"The College of Physicians and Surgeons of Yukon Territory."  
**2.** The members of the medical profession shall be a body corporate under the name of "The College of Physicians and Surgeons of the Yukon Territory," and shall have perpetual succession as hereinafter provided, and a common seal with power to acquire, hold and dispose of chattel property and real estate for the purposes of this Ordinance, and to sue and be sued. No. 1 of 1898, s. 2.

Members of college.  
**3.** Every person hereinafter registered under the provisions of this Ordinance shall be a member of the College. No. 1 of 1898, s. 3.

Physicians and surgeons practising at date of Ordinance members.  
**4.** All persons duly licensed to practice at present as physicians and surgeons in the Yukon Territory and these latter will form the present college. No. 1 of 1898, s. 4.

#### COUNCIL OF COLLEGE—ELECTION OF MEMBERS.

The council.  
**5.** There shall be a Council of the said college of physicians and surgeons of the Yukon Territory to be appointed in the manner hereinafter provided for in this Ordinance and hereinafter referred to as "The Council." No. 1 of 1898, s. 5.

Voters for council.  
**6.** The persons entitled to vote at elections of members of the Council, shall be the persons who are duly and legally licensed to practice as physicians and surgeons in the said Yukon Territory, and registered as medical practitioners in pursuance of this Ordinance. No. 1 of 1898, s. 6.

**7.** No person shall be eligible to be elected a member of the Council at any election of the said Council, unless he is a member in good standing of the college aforesaid. No. 1 of 1898, s. 7. Members of council.

**8.** The number of persons in good standing to be elected as members of said Council shall be five, and the mode of election shall be by voting papers as hereinafter mentioned. No. 1 of 1898, s. 8. Five members election.

**9.** The charge and conduct of elections shall be under the management of the Registrar of the Council. No. 1 of 1898, s. 9. Elections for Council.

**10.** Elections shall be held at such time and place as may be determined on by the Council. No. 1 of 1898, s. 10. Council to fix time of elections.

**11.** Every person entitled to vote may vote for five persons. No. 1 of 1898, s. 11. Votes.

**12.** Such votes shall be given by closed voting papers, to be mailed to each registered practitioner by the Registrar, at least ten days prior to the day of the election, in the form of schedule 1 of this Ordinance, or to the like effect to be signed by the voter and delivered to the Registrar of such Council on any day of the days preceding the day of election. Any voting papers delivered to the Registrar, during the respective times aforesaid, shall be deemed delivered to him. No. 1 of 1898, s. 12. Method of voting.

**13.** The members for the time being of the Council of the College of Physicians and Surgeons shall appoint two persons who shall, together with the Registrar of the Council, act as scrutineers at the election. On the day succeeding the day of the election, the voting papers shall be opened by the Registrar in the presence of the scrutineers, who shall scrutinize and count the votes and keep a record thereof in a proper book, to be provided by said Council. No. 1 of 1898, s. 14. Scrutineers subsequent elections.

**14.** The five persons elected shall be the members of the Council for the two years following the date of such election and until their successors are appointed. No. 1 of 1898, s. 15. Members elected. Term.

**15.** Any persons entitled to vote at any election shall be entitled to be present at the opening of the voting papers at such election. No. 1 of 1898, s. 16. Voters may be at count.

**16.** In case of an equality of votes between two or more persons, which leaves the election of one or more of the members of the Council undecided, then, the scrutineers shall Equality of votes.

forthwith put into a ballot box a number of papers with the names of the candidates having such equality of votes written thereon, one for each candidate, and the Registrar of the Council in the presence of the scrutineers, shall draw by chance from such ballot one or more of such ballot papers, sufficient to make up the required number, and the persons whose names are upon such papers so drawn, shall be such members. No. 1 of 1898, s. 17.

Fees to be paid.

**17.** No person shall be entitled to vote at any election other than the first unless his fees to the Council have been paid. No person shall be eligible for election unless qualified to vote at such election, and any votes cast for any person who is ineligible to be elected a member, shall be null and void, and the election shall be declared as if such votes had not been cast. No. 1 of 1898, s. 18.

Excess of names.

**18.** In the event of any person placing more than five names on his voting paper, the first five that are eligible shall be counted. No. 1 of 1898, s. 19.

Register to be made.

**19.** The Registrar of the Council shall one month prior to the day on which the election is held, make out an alphabetical list or register of the medical practitioners who are entitled to vote at the election about to be held, and such register may then be examined at all reasonable times. In case any medical practitioner entitled to vote complains to the Registrar of the Council, in writing, of the improper omission or insertion of any name in said list, it shall be the duty of said Registrar, forthwith to examine into the complaint, and rectify such error if any there be; and in case any person is dissatisfied with the decision of the said Registrar, he may appeal to a judge of the Territorial Court in a summary way, and the decision of such judge shall be final, and such list shall remain or be altered in accordance with such decision. No. 1 of 1898, s. 20.

Official register.

**20.** The list or register so made out shall be held to be the register of persons entitled to vote. No. 1 of 1898, s. 21.

Regulations.

**21.** The members of the Council may, as to elections, make such regulations as they consider expedient, not contrary to the provisions of this Ordinance, for regulating the procedure under this Ordinance. No. 1 of 1898, s. 22.

Voting papers to be returned.

**22.** The voting papers belonging to any election shall not be destroyed until after all petitions, in respect to such elections have been decided, but the same, together with all other papers in connection with the election, shall be retained by the Registrar. No. 1 of 1898, s. 23.

**23.** No petition against the return of any member shall be entertained unless such petition is filed, with the Registrar of the Council, within thirty days after the election, and shall contain a statement of the grounds on which such election is disputed, and unless a copy of such petition is served upon the member whose election is disputed within thirty days of the date of the election. No. 1 of 1898, s. 24.

Petition  
against  
election.

**24.** In case of any doubt or dispute as to the legality of the election of any member of the Council, it shall be lawful for the Council to hold an inquiry, and decide who is the legally elected member of the Council; and the person whom they decide to have been elected shall be, and be deemed to be the member legally elected; and if the election is found to be illegal, the Council shall have power to order a new election. No. 1 of 1898, s. 25.

Legal inquiry.

**25.** The Council shall annually appoint a President, Vice-President, Registrar, and such other officers as may from time to time be necessary for the working of this Ordinance, who shall hold office during the pleasure of the Council; and the said Council shall have power to fix by by-laws, or from time to time, the salaries or fees to be paid to such officers, and to a Board of Examiners hereinafter appointed. No. 1 of 1898, s. 26.

Officers to be  
appointed.

**26.** The Council shall appoint annually from among its members an 'Executive Committee' to take cognizance of, and action upon, all such matters as may be delegated to it by the Council, or as may require immediate interference or attention between the adjournment of the Council and its next meeting; and all such elections shall be valid only till the next meeting of the Council; but the Committee shall have no power to alter, repeal or suspend any by-law of the Council. No. 1 of 1898, s. 27.

Executive  
committee.

**27.** In case of the failure in any instance to elect the requisite number of duly qualified members of the Council, or in case of any vacancy caused by the death or resignation of any member of the Council, or by any other cause, then it shall be the duty of the remaining members to supply the deficiency by appointing to such vacant place or places, as the same may occur, any person or persons duly qualified, according to the provisions of this Ordinance to be elected as a member or members of the Council. No. 1 of 1898, s. 28.

Vacancies.

**28.** The Council may make such rules and regulations at its first meeting as to the times and places of the future meetings of the Council, and the mode of announcing the same, as to the Council seems expedient, which rules and

Rules and  
regulations as  
to meetings,  
etc.

regulations shall remain in force until altered at any subsequent meeting; and in the absence of any rule or regulation as to the summoning meetings of the Council, it shall be lawful for the President thereof, or in the event of his absence or death, for the Registrar to summon the same at such time and place as to him seems fit, by circular letter to be mailed to each member.

Absence of  
President.

(2.) In the event of the absence of the President from any meeting, the Vice-President, or in his absence, some other member to be chosen from among the members present, shall act as President.

Majority.

(3.) All acts of the Council shall be decided by the majority of the members present, not being less than three in number.

Casting vote.

(4.) At all meetings the President for the time being shall have a casting vote, but shall not have a deliberative vote. No. 1 of 1898, s. 29.

Exemption  
from fee.

**29.** Every person who is now duly and legally licensed to practice shall be entitled to be registered under this Ordinance, without payment of any fee whatever. No. 1 of 1898, s. 30.

Duties of  
registrar.

**30.** The Council shall cause to be kept by an officer appointed by them, and to be called the Registrar, a book or register, in which shall be entered the name of every person registered according to the provisions of this Ordinance, and from time to time the names of all persons who have complied with the enactments hereinafter contained, and with the rules and regulations made, or to be made by the Council respecting the qualifications to be required from practitioners of medicine, surgery or midwifery in the Territory, and those persons only whose names are inscribed in the book or register above mentioned shall be deemed to be qualified and licensed to practice medicine, surgery or midwifery in the said Yukon Territory, and such book or register shall at all times be open and subject to inspection of any person. No. 1 of 1898, s. 31.

Duties of re-  
gistrar.

**31.** It shall be the duty of the Registrar to keep his register correct in accordance with the provisions of this Ordinance, and the rules, orders and regulations of the Council, and he shall from time to time make the necessary alterations in the addresses or qualifications of the persons registered under this Ordinance, and the said Registrar shall perform such other duties as may be imposed upon him by the Council. No. 1 of 1898, s. 32.

Persons  
eligible to  
register.

**32.** The Council shall admit upon the register :

(a) Any person who at the time of his application shall furnish proof that his name is on the register in Great Britain and Ireland.

- (b) Any person duly licensed by the proper authority in that behalf to practice medicine and surgery in any Province or Territory of Canada or in any British colony.
- (c) Any person who shall produce from any recognized college or school of medicine and surgery a certificate or certificates that he has taken a four year course of study, or a diploma of qualification from such recognized college or school; provided also that the applicant shall furnish to the said Council satisfactory evidence of identification and pass before the members thereof, or such examiners as may be appointed for the purpose, a satisfactory examination touching his fitness and capacity to practice as a physician and surgeon, and provided that every applicant for such examination shall pay to the Registrar of the College of Physicians and Surgeons the sum of one hundred dollars towards defraying the expenses of the examining board. No. 2 of 1898, s. 33.

**33.** Each member shall pay to the Registrar or to any person deputed by the Registrar to receive it, such annual fee as may be determined by by-law of the Council, not being less than five and not more than twenty dollars towards the general expenses of the College, which last mentioned fee shall be deemed to be a debt owed by each member of the College, and shall be recoverable with the costs of suit in the name of the College of Physicians and Surgeons of the Yukon Territory, in the Territorial court. No. 1 of 1898, s. 34. Fees to be paid.

**34.** The members of the Council shall, from time to time, as occasion requires, make orders, regulations or by-laws for regulating the register to be kept under this Ordinance, and shall, from time to time, make rules and regulations for the guidance of the examiners, and may prescribe the subjects and modes of examinations, not contrary to the provisions of this Ordinance, as they deem expedient and necessary. No. 1 of 1898, s. 35. By-laws.  
Examinations

**35.** If any registered medical practitioner shall be convicted of any felony or misdemeanor, or shall after one inquiry be judged by the Council to have been guilty of infamous conduct in any professional respect, such Council may, if it sees fit, direct the Registrar to erase the name of such practitioner from the register, and the name of such person shall be erased from the register by him. No. 1 of 1898, s. 36. Misdemeanor.  
Unprofessional conduct

**36.** Every person registered and duly licensed under the provisions of this Ordinance, shall be entitled to practice May sue for services.

Medicine and Surgery, including Midwifery, or any one of them, as the case may be, in the Territory, and to demand and recover in any court in said Territory, with full cost of suit, reasonable charges for professional aid, advice and visits, and the cost of any medicine or surgical appliance rendered or supplied by him to his patients. No. 1 of 1898, s. 37.

Suits for negligence.

**37.** No duly registered member of the College of Physicians and Surgeons of the Yukon Territory shall be liable to any action for negligence and malpractice, by reason of professional services requested or rendered, unless such action be commenced within one year from the date when in the matter complained of such professional services terminated. No. 1 of 1898, s. 38.

Alphabetical list of names.

**38.** The Registrar of the Council shall, from time to time, under direction of the Council, cause to be printed and published a correct register of the names, in alphabetical order, according to the surnames, with their respective residences, in the form set forth in schedule II of this Ordinance, or to the like effect, together with the medical titles, diplomas and qualifications, conferred by any college or body, of all persons appearing on the register, as existing on the day of publication and such register shall be called "The Yukon Territory Medical Register," and a copy of the register for the time being, properly attested by the Registrar or President shall be *prima facie* evidence in all courts and before all justices of the peace, and all others, that the persons therein specified are registered according to the provisions of this Ordinance and subject to the provisions of subsection (2) of this section. The absence of the name of any person from such copy shall be *prima facie* evidence that such person is not registered according to the provisions of this Ordinance.

(2.) In the case of any person whose name does not appear in such copy, a certified copy under the hand of the Registrar of the Council, of the entry of the name of such person on the register shall be evidence that such person is registered under this Ordinance. No. 1 of 1898, s. 39.

#### OFFENCES AND PENALTIES.

Neglect to register.

**39.** Any person entitled to be registered under this Ordinance, who neglects, or omits to be so registered, shall not be entitled to any of the rights or privileges conferred by the registration under the provisions of this Ordinance, so long as such neglect or omission continues, and he shall be liable to all the penalties imposed by this Ordinance or any other Ordinance in force against unqualified or unregistered practitioners. No. 1 of 1898, s. 40.



**40.** It shall not be lawful for any person not registered to practice medicine or surgery or midwifery for hire or hope of reward ; and if any person, not registered pursuant to this Ordinance for hire, gain or hope of reward practices or professes to practice medicine, surgery or midwifery, he shall upon a summary conviction thereof before any justice of the peace, for any and every such offence be liable to a penalty not exceeding one hundred dollars. No. 1 of 1898, s. 41.

Penalty for practising without registering.

**41.** Any person who wilfully or falsely, pretends to be a physician, doctor of medicine, surgeon or general practitioner, or assumes any titles, additions or description other than he possesses actually and is legally entitled to under this Ordinance, shall be liable, on conviction thereof, before a justice of the peace, to a penalty not exceeding one hundred dollars, nor less than fifty dollars. No. 1 of 1898, s. 42.

Misrepresentation.

**42.** Any person not registered pursuant to this Ordinance who takes or uses any name, title, addition or description, implying or calculating to lead people to infer that he is registered under this Ordinance or that he is recognized by law as a physician, surgeon or licentiate in medicine, surgery or midwifery, shall be liable upon summary conviction thereof before any justice of the peace to a penalty not exceeding one hundred dollars nor less than twenty-five dollars. No. 1 of 1898, s. 43.

Title calculated to deceive.

**43.** No person shall be entitled to recover any charge in any court of law for any medical or surgical advice, or for attendance, or for the performance of any operation, or for any medicine, which he may have prescribed, unless he is registered under this Ordinance, except in cases falling within the proviso to section 46 of this Ordinance. No. 1 of 1898, s. 44.

Fees cannot be collected.

**44.** No person shall be appointed as medical officer, physician or surgeon in any branch of the public service of the Yukon Territory or in any hospital or other charitable institution, unless he is registered under the provisions of this Ordinance. No. 1 of 1898, s. 45.

Must be registered to hold Government Medical office.

**45.** No certificate required by any Ordinance in force, or that may hereafter be passed, from any physician or surgeon or medical practitioner, shall be valid, unless the person signing the same is registered under this Ordinance. No. 1 of 1898, s. 46. .

Certificate not valid unless registered.

**46.** Any prosecutions under this Ordinance may be brought or heard before any one or more of His Majesty's justices of the peace, and such justice or justices may

Prosecutions.

award payment of costs in addition to the penalty; and in case the penalty and costs awarded by him, or them, are not upon conviction forthwith paid may commit the offender to the common goal, there to be imprisoned for any term not exceeding one month, unless the penalty or costs are sooner paid. Provided that if it shall appear on any prosecution under this Ordinance that by reason of unforeseen and sudden sickness or accident any person has needed medical or surgical treatment and that no medical practitioner qualified under this Ordinance then resided within ten miles of the place where such person needed treatment the judge or other presiding magistrate may dismiss any complaint against any person who under such circumstance rendered medical or surgical assistance and may order the costs to be paid by the complainant. No. 1 of 1898, s. 47.

Burden of proof.

**47.** In any prosecution under this Ordinance, the burden of proof as to registration shall be upon the person charged. No. 1 of 1898, s. 48.

Certified copy, sufficient.

**48.** In all cases where proof of registration under this Ordinance referred to, is made, the production of a printed or other copy of the register certified under the hand of the Registrar of the Council for the time being shall be sufficient evidence of all persons, in lieu of the production of the original register; and any certificate on such printed or other copy of the register, signed by any person in his capacity of Registrar of the Council under this Ordinance shall be *prima facie* evidence that such person is such registrar, without any proof of his signature, or of his being, in fact, such registrar. No. 1 of 1898, s. 49.

Prosecution within six months.

**49.** Every prosecution under this Ordinance shall be commenced within six months from the date of the alleged offence. No. 1 of 1898, s. 50.

Stay of proceedings.

**50.** The Council by an order signed by the President, having the seal of the Council appended thereto, may stay proceedings in any prosecutions under this Ordinance where it is deemed expedient. No. 1 of 1898, s. 51.

Complainant.

**51.** Any person may be prosecutor or complainant under this Ordinance. No. 1 of 1898, s. 52.

Fines, etc.

**52.** All fines and penalties imposed under any of the provisions of this Ordinance, and all moneys to be received and levied thereunder, shall after the receipt thereof by the person authorized to receive the same, be forthwith paid by such person to the treasurer for the use of the college. No. 1 of 1893, s. 53.

**53.** The words "legally qualified medical practitioner" <sup>Legal qualification.</sup> or other words implying legal recognition of any person as a medical practitioner, when used in any Ordinance or law applied to this Territory shall be construed to mean a person registered under this Ordinance. No. 1 of 1898, s. 54.

**54.** The fee for registration under any clause of this <sup>Fee.</sup> Ordinance is one hundred dollars. No. 1 of 1898, s. 55.

**55.** The Council may by by-law delegate to the Registrar <sup>Admission of qualified persons.</sup> power to admit and to register any person having the necessary qualifications entitling him to be registered by said Council. The Council may at any time direct the name of any person improperly registered to be erased from the register and such name shall be erased by the Registrar. No. 1 of 1898, s. 56.

**56.** The members of the Council may from time to time, <sup>May amend rules.</sup> make, alter or amend and repeal rules and regulations for the well-being and discipline of the Council, the conduct of its affairs and the promotion of medical and surgical knowledge and disposition of the funds of the Council, provided such rules and regulations are not repugnant to the provisions of this Ordinance. No. 1 of 1898, s. 57.

**57.** Homeopathic physicians may be registered under <sup>Homeopathic physicians.</sup> this Ordinance on complying with the terms mentioned in section 34 of this Ordinance. No. 1 of 1898, s. 58.

**58.** The Council shall make a return to the Commissioner <sup>Return to be made.</sup> of the Yukon Territory in Council showing all orders, regulations, by-laws or other transactions relating to charges for professional services by members of the college, and such return shall be made forthwith after such order, regulation, by-law or other transaction is made or done. No. of 1898, s. 59.

## SCHEDULE I.

## YUKON TERRITORY MEDICAL ACT.

*Voting Paper for Annual Election.*

I, James Brown, a registered medical practitioner, vote for the five persons hereafter named to form the members of the Medical Council of the Yukon Territory :—

1. GEO. SMITH, Dawson City.
- 2.
- 3.
- 4.
- 5.

And I declare that I am entitled to vote at this election and am not in default in payment of my fees to the Council.

Dated at                      this                      day of                      19 .

Witness :

*Signature.*

## SCHEDULE II.

Name.	Residence.	Qualification.
T. DYNON,	Dawson,	M.D.C.M.;M.C.F.S., &c., Galt.
AB. LINCON,	Hunker Creek,	M.B., Tor., Selkirk.

## CHAPTER 49.

### An Ordinance respecting the Practice of Dentistry.

#### SHORT TITLE.

**1.** This Ordinance may be cited as "*The Dental Ordinance.*" No. 32 of 1901, s. 1. Short title.

#### REGISTER.

**2.** The Territorial Secretary shall cause to be prepared a register to be called the Dental Register for the Yukon Territory. No. 32 of 1901, s. 2. Dental register.

**3.** He shall forthwith cause to be entered in such register with the date of entry the name of— Who to be entered on register.

1. Every person who at the time of the passing of this Ordinance is and has been for twelve months next preceding such time actively engaged within the Yukon Territory in the practice of the profession of Dentistry or Dental Surgery and who verifies such fact by statutory affirmation. And shall from time to time upon application and production of satisfactory evidence enter in such Register with the date of entry the name of:

2. Every person who possesses a diploma of graduation in Dental Surgery from any Dental College in Canada or from any University in Canada having a special Dental department or from any Dental College or University having such department in Great Britain or in any of her dependencies, or from any Dental College or University having such department in any foreign country if the Commissioner deems a diploma of graduation from such last-mentioned College or University a sufficient proof of qualification to practice Dentistry or Dental Surgery.

3. Every person who has served two years as an apprentice to a dental practitioner within the Yukon Territory having at the time of the commencement of such apprenticeship and during such two years the qualifications contained in any one of the preceding sub-sections of this section or whose name was at such time and during such two years entered in such register under this Ordinance, if such person has passed such examination as is prescribed by the Commissioner of the Yukon Territory, and obtains

from such practitioner to whom he was apprenticed a certificate of satisfactory service and good moral character. No. 32 of 1901, s. 3.

No person to be entered unless fees paid.

**4.** The Territorial Secretary shall not enter in such register any person until such person has paid to the Territorial Treasurer a fee of Twenty-five Dollars, if he is entitled to be so entered under sub-section [1] of the next preceding section, or a fee of Fifty Dollars, if he is entitled to be so entered under any other sub-section of said section. No. 32 of 1901, s. 4.

No person to practice unless entered on register.

**5.** From and after the first day of December, A.D. 1901 no person shall practice the profession of Dentistry or Dental Surgery within the Yukon Territory unless his name has been entered in such register under the provisions of this Ordinance. No. 32 of 1901, s. 5.

Commissioner may appoint examiners.

**6.** The Commissioner may from time to time appoint one or more examiners in Dentistry and Dental Surgery and may obtain from them a report of the subjects suitable and proper for the examination of candidates under this Ordinance, and may upon such advice as he deems proper fix and publish the list of such subjects. No. 32 of 1901, s. 6.

Examination papers may be examined by person appointed by commissioner.

**7.** The list of subjects, the papers prepared for such examinations and the answers of candidates, or any of them, may be submitted by the Commissioner to any authority he sees fit to determine the fair and proper character of such list and papers and of such answers. No. 32 of 1901, s. 7.

Certificate of entry of name on register to be given.

**8.** The Territorial Secretary shall upon request issue to any person whose name is entered in such register a certificate of such entry and of the date thereof and such certificate shall be sufficient evidence of the facts so certified. No. 32 of 1901, s. 9.

Apprentices to give notice to Territorial Secretary and file articles.

**9.** Every person who proposes to become entitled to be entered on the register by reason of service of apprenticeship in the Yukon Territory to be performed after the passing of this Ordinance shall give notice to the Territorial Secretary of the fact and file with such Secretary a verified copy of his articles of apprenticeship. No. 32 of 1901, s. 10.

No person to be entered in register until two years after filing articles.

**10.** The Secretary shall keep a record of such notices and copies and shall enter no such person in the Dental Register unless two years have passed since the receipt by the Secretary of such notice and copy. No. 32 of 1901, s. 11.

## PAYMENT OF ANNUAL FEE.

**11.** Every person whose name is entered in the Dental Register shall on or before the thirtieth day of June in each year, pay to the Territorial Treasurer a fee of Ten Dollars and obtain a receipt therefor. No. 32 of 1901, s. 12. Annual fee.

**12.** The Territorial Secretary shall erase from such register the name of every person who does not on or before the 30th day of June in any year produce to him such receipt, signed by the Treasurer, showing payment of said fee. The name of such person may be re-entered upon payment of a fee of Twenty-five Dollars to the Treasurer, and production to the Secretary of proof of such payment. No. 32 of 1901, s. 13. Names to be erased if annual fee not paid.

## ONLY REGISTERED DENTISTS TO PRACTICE.

**13.** Subject to the exceptions hereinafter made no person shall practice Dentistry or Dental Surgery in any of its several branches in the Yukon Territory unless his name is entered in the Dental Register. No. 32 of 1901, s. 14. No person to practice dentistry unless name on register.

## STRIKING NAME OFF THE REGISTER.

**14.** Every person who makes any false representations for the purpose of securing the entry in the register of his name, or in the course of applying to have his name so entered shall forfeit the right to have his name entered and if the same has been entered in the register the same shall be erased therefrom and a note made by the Secretary of the ground of such erasure. No. 32 of 1901, s. 15. Persons entered in register by false representation to be struck off.

**15.** Every practitioner who has:

1. After due inquiry been adjudged by a Board appointed by the Commissioner to have been guilty of infamous conduct in any professional respect, or Names to be erased for cause.

2. Made any material misrepresentation to the Secretary in order to procure the entry of his name on the register, or

3. Been convicted of any crime punishable by imprisonment in the penitentiary, shall forfeit the right to have his name entered in the register and his name, if entered, shall be erased from the register and his name shall be published in the *Yukon Official Gazette* as having been so erased. No. 32 of 1901, s. 15.

## PUBLICATION OF REGISTER.

**16.** The Secretary shall on or before the tenth day of July in each year publish in the Gazette aforesaid a list of the persons whose names are entered in the Dental Register and who are entitled to practice Dentistry and Dental Surgery. No. 32 of 1901, s. 16. List of names registered to be published annually.

## OFFENCES AND PENALTIES.

No charge to recovered unless registered.

**17.** No person shall be entitled to recover any charge in any court of justice for any professional advice or attendance or for the performance of any operation appertaining to the practice of dentistry or dental surgery or for any surgical or dental appliances which he has supplied, unless his name is registered under this Ordinance, but this section shall not apply to duly qualified medical practitioners or to duly qualified druggists or chemists in the course of their practice or business. No. 32 of 1901, s. 18.

Penalties.

**18.** Every person whose name is not registered under the provisions of this Ordinance who,

(a.) practices dentistry or dental surgery for hire, gain or hope of reward, or

(b.) wilfully or falsely pretends to be a practitioner of dentistry or dental surgery, or

(c.) takes or uses any name, title, addition or description implying or calculated to lead people to infer that his name is registered under this Ordinance, or

(d.) professes by public advertisement, card, circular, sign or otherwise to practice dentistry or dental surgery or to give advice therein or in any wise to lead people to infer that he is qualified to practice dentistry or dental surgery in the Yukon Territory, shall be liable to a penalty of fifty dollars, and every day on which any such offence occurs shall be deemed a separate offence. No. 32 of 1901, s. 19.

Penalty for registering by false representations.

**19.** Every person who wilfully procures or attempts to procure his name to be registered under this Ordinance by making or producing or causing to be made or produced any false or fraudulent representation or declaration either verbally or in writing and every person knowingly aiding and assisting him therein shall be liable to a penalty of five hundred dollars. No. 32 of 1901, s. 20.

Penalties. How recovered.

**20.** Every penalty under this Ordinance shall be recoverable with costs and may be sued for and recovered in the same manner as a private debt by the Territorial Secretary or by any dental practitioner whose name is registered under this Ordinance in the Territorial Court and being recovered shall belong to the general revenue fund of the Yukon Territory. No. 32 of 1901, s. 21.

Burden of proof to be on defendant to show right to practice.

**21.** Upon the trial of any action under the provisions of this Ordinance the burden of proof as to the right of defendant to practice dentistry or dental surgery in the Yukon Territory shall be upon the defendant. No. 32 of 1901, s. 22.



**22.** No such action shall be commenced after one year Action.  
 from the date of the offence or cause of action. No. 32 of When to be  
 1901, s. 23. commenced.

GENERAL PROVISIONS.

**23.** Nothing in this Ordinance shall prevent any person Aid given in  
 from giving necessary aid to any one in urgent need of it; need not  
 provided that such aid is not given for hire or gain nor the prevented by  
 giving of such aid made a business or way of gaining a this Ordinance  
 livelihood. No. 32 of 1901, s. 24. provided no  
charge made.

## CHAPTER 50.

### An Ordinance respecting Chemists and Druggists.

#### SHORT TITLE.

Short title.      **1.** This Ordinance may be cited as the "*Pharmaceutical Chemists' Ordinance*." No. 25 of 1902, s. 1.

#### REGISTERED QUALIFICATIONS.

Pharmaceutical Register.      **2.** The Territorial Secretary shall cause to be prepared a register to be called a "Pharmaceutical Register" for the Yukon Territory. No. 25 of 1902, s. 2.

Names to be entered in register.      **3.** He shall forthwith cause to be entered in such register the date of entry and name of:—

Persons who have practised two years.      **1.** Any person who shall produce satisfactory evidence that he has been engaged in the actual practice of the profession or business of a chemist and druggist, or dispensing chemist, or apothecary in the Yukon Territory for at least two years prior to the passing of this Ordinance and who was then a resident of the Yukon Territory.

Persons having certificates from British college.      **2.** Any person possessing a diploma or certificate of permission to practice as a pharmaceutical chemist in any part of His Majesty's dominions by any Pharmaceutical Association or College of Pharmacy empowered by law to grant such diplomas or certificate.

Persons having served two years.      **3.** Any person at the time of the passing of this Ordinance serving or acting as clerk in any drug store in the Yukon Territory who has served two years with a registered pharmaceutical chemist carrying on business in the Yukon Territory who has passed any examination prescribed by or under the provisions of this Ordinance and in all other respects complied with the provisions thereof and produces from such pharmaceutical chemist with whom he has served a certificate of service and good character. No. 25 of 1902, s. 3.

Fee of \$25 to be paid.      **4.** The Territorial Secretary shall enter in such register no person until he has paid to the Territorial Treasurer a fee of \$25. No. 25 of 1902, s. 4.

**5.** From and after the 31st day of December, A.D. 1902, no person shall carry on business in the Yukon Territory as a pharmaceutical chemist unless his name has been entered in such register under the provisions of this Ordinance. No. 25, of 1902, s. 5.

No person to carry on business unless registered.

**6.** No name shall be entered in the register except the Territorial Secretary is satisfied by proper evidence that the person claiming is entitled to be registered, and any entry fraudently or incorrectly made may be erased by the Territorial Secretary. No. 25, of 1902, s. 6.

Name not to be entered on register unless entitled.

**7.** Upon any person being registered as aforesaid he shall be entitled to receive a certificate in Form B, in schedule 1 hereto or to like effect, signed by the Territorial Secretary and shall be entitled to a similar certificate annually upon payment of the annual fee as provided in section 14 of this Ordinance. No. 25 of 1902, s, 7.

Person registered to receive certificate.

#### EXAMINATION OF STUDENT CLERKS.

**8.** The Commissioner may from time to time appoint a board of two or more examiners in pharmacy who shall prepare all examination papers and make rules to govern the qualification, service and registration of clerks as qualified pharmaceutical chemists, subject however to the approval of the Commissioner. No. 25, of 1902, s. 8.

Commissioner to appoint board of examiners.

**9.** Every candidate for examination shall produce evidence that he has served at least two years in a drug store in the Yukon Territory and shall pass an examination which shall embrace chemistry, pharmacy, botany, materia medica, reading and translating prescriptions and practical dispensing and such other subjects as may be prescribed under the provisions of this Ordinance, and upon producing the required certificates, shall be registered as a pharmaceutical chemist. No. 25 of 1902, s. 9.

Candidates to produce evidence of having served two years and passed examinations.

**10.** The examination referred to shall take place and be regulated by such rules and regulations as may be in force at the time such examination is held, and all candidates for the same shall pay such fees as may be imposed by such rules or regulations. No. 25 of 1902, s. 10.

Examinations how regulated

**11.** The board of examiners shall have authority notwithstanding anything contained in this Ordinance to prescribe the subjects which candidates for competency shall be examined in, and to establish a scale of fees to be paid by persons applying for examination, subject, however to the approval of the Commissioner. No. 25 of 1902, s. 11.

Board to prescribe subjects.

Fix fees.

Certificate of examiners.

**12.** A certificate of the examiners recommending the registration of any clerk as qualified and entitled to be registered as a qualified pharmaceutical chemist shall entitle such clerk to be registered on payment of the registration fee. ++++++

“Clerk.”

(2.) “Clerk” under this Ordinance shall mean any person who has given notice in accordance with section 13 of this Ordinance. No. 25 of 1902, s. 12.

#### SERVICE OF CLERKS—NOTICE.

Clerks to give notice.

**13.** Every person who proposes to become entitled to be entered on the register by reason of services rendered as a clerk in the Yukon Territory, to be performed after the passing of this Ordinance shall give notice to the Territorial Secretary within two months after the passing hereof or the commencement of such service as a clerk and such notice shall state:

- (a) The name and place of business of the registered chemist or druggist with whom he is serving;
- (b) The date of commencement of his service;
- (c) The full name and age of the person giving such notice; and
- (d) Similar particulars of any previous service claimed.

What service to be allowed.

(2.) Any person having before the passing of this Ordinance served as a clerk in the drug store of any registered druggist or chemist carrying on business as such in the Yukon Territory for a period of two years or under shall be allowed such service as if the same had been rendered after the passing of this Act, upon making satisfactory proof of such service.

Record of notices.

(3.) The Territorial Secretary shall keep a record of all such notices and of the particulars required to be set forth as provided in the next preceding section. No. 25 of 1902, s. 13.

#### ANNUAL FEE.

Annual fee.

**14.** Every person whose name is entered on the chemists' or druggists' register shall on or before the 30th day of June in each year pay the Territorial Treasurer a fee of \$10 and be entitled to a receipt therefor. No. 25 of 1902, s. 14.

#### PHARMACEUTICAL CHEMISTS.—PRESCRIPTIONS.

Only registered person to be pharmaceutical chemist.

**15.** Any person registered and no other shall be entitled a “Pharmaceutical Chemist” and no other except a pharmaceutical chemist as aforesaid or his clerk shall be authorized to compound as aforesaid prescriptions of medical practitioners or other persons. No. 25 of 1902, s. 15.

## REMOVAL OF NAME FROM REGISTER.

**16.** The Territorial Secretary shall erase from such register the name of every person who does not on or before the 30th day of June in any year produce such receipt signed by the Treasurer, or other satisfactory evidence showing payment of such annual fee and the name of any such person may be re-entered on the register upon payment to the Treasurer of a fee of \$25 on the production of the receipt of the Treasurer therefor or giving other satisfactory proof of such payment to the Territorial Secretary. No. 25 of 1902, s. 16.

Names of persons not paying fee to be erased.

**17.** Any person who makes any false representation for the purpose of securing the entry in the register of his name or in the course of applying to have his name entered in the register shall forfeit the right to have his name entered in the register and if the same has been entered in the register it shall be erased therefrom and a note made by the Territorial Secretary of the cause of such erasure. No. 25 of 1902, s. 17.

Name of person making false representation to be erased.

**18.** Every registered pharmaceutical chemist who has after due inquiry been adjudged or found by the board of examiners appointed by the Commissioner to be guilty of infamous conduct in any professional respect, or,

If guilty of unprofessional conduct to be erased

(2) To have made any material misrepresentation to the Territorial Secretary in order to secure his name on the register, or,

Or of misrepresentation

(3) To have been convicted of any crime punishable by imprisonment in the penitentiary, shall forfeit the right to have his name entered on the register and his name if entered shall be erased from the register and a note made therein by the Territorial Secretary stating the reasons for such erasure and thereupon his name shall be published in the *Yukon Official Gazette* as having been so erased. No. 26 of 1902, s. 18.

Or if convicted of crime.

## PUBLICATION OF LIST.

**19.** The Territorial Secretary shall on or before the 10th day of July in each year publish in the *Yukon Official Gazette* a list of the persons whose names are entered in the chemists' and druggists' register and who are entitled to carry on business as pharmaceutical chemists. No. 25 of 1902, s. 19.

List to be published.

## SALE OF POISONS.

**20.** It shall be unlawful to keep open any shop for dispensing, retailing or compounding poisons other than those contained in schedule 3 hereto, or to assume the title

No person to sell poisons unless registered.

“chemist and druggist” or “pharmaceutical chemist” or “druggist” or “pharmacist” or “apothecary” or “dispensing chemist” or “dispensing druggist” in any part of the Yukon Territory unless such person is registered under the provisions of this Ordinance. No, 25 of 1902, s. 20.

Cannot  
recover price.

**21.** No person selling any article or articles in violation of the provisions of this Ordinance shall recover any charges in respect thereof in any court of law or equity nor shall any branch drug business be carried on by a pharmaceutical chemist unless he employs in it a duly registered pharmaceutical chemist. No. 25 of 1902, s. 21.

Penalty.

**22.** Any person transgressing any other of the provisions herein contained or selling any poison in violation thereof shall, except as otherwise provided, on the first offence incur a penalty of \$50 and costs of prosecution and for each offence subsequent to such conviction a penalty of \$100 and costs of prosecution, to be recovered in a summary manner before any justice of the peace. No 25 of 1902, s. 22.

#### PENALTIES—ONUS OF PROOF.

Penalty for.

**23.** Every person whose name is not registered under the provisions of this Ordinance who,—

Keeping shop.

1. Keeps open shop for the sale of any drugs or compounds any prescription for gain or hope of reward, or

Pretending to  
be a chemist.

2. Wilfully or falsely pretends to be a pharmaceutical chemist or to be registered under the provisions of this Ordinance; or,

Taking name.

3. Takes or uses any name, title, addition or description implying or calculated to lead people to infer that his name is registered under this Ordinance; or,

Advertising.

4. Professes by public advertisement, card, sign or otherwise to be entitled to carry on business as a pharmaceutical chemist or to lead people to infer that he is so qualified in the Yukon Territory,

shall be liable to a penalty of \$50 and every day on which such offence occurs shall be deemed a separate offence. No. 25 of 1902, s. 23.

What deemed  
poisons.

**24.** The several articles named and described in schedules 2 and 3 hereof shall be deemed poisons within the meaning of the provisions of this Ordinance, and the board of examiners may from time to time by resolution signed by at least two declare that any other articles in such resolution named ought to be deemed a poison with the meaning hereof, subject to the approval of the Commissioner and if such approval is given then the Territorial Secretary shall

give notice of such resolution and approval in the *Yukon Official Gazette*, and on the expiration of two months after publication the article or articles named in the resolution shall be deemed to be a "poison" within the meaning hereof and the same shall be subject to the provisions herein contained. No 25 of 1902, s. 24.

**25.** It shall be unlawful to sell any poison named in the first part of the said schedule 2 either by wholesale or retail, unless the bottle, vessel, wrapper or cover in which such poison is contained is distinctly labelled with the name of the article and the word "Poison;" and if sold by retail then also with the name and address of the establishment in which such poison is sold; and it shall be unlawful to sell any poison mentioned in the first part of schedule 2, to any person unknown to the seller, unless introduced by some person known to the seller; and on every sale of such article the person actually selling shall before delivery make an entry in a book for that purpose in form C in schedule 1 hereof, stating the date of such sale, the name and address of the purchaser, the name and quantity of the article sold, the purpose for which it is stated by the purchaser to be required, and the name of the person, if any, who introduced him, to which entry the name of the purchaser shall be affixed;

Unlawful to sell poisons unless marked

(2) Any person selling the drugs mentioned in schedule 3 hereof shall also comply with the provisions of this section. No. 25 of 1902, s. 25.

**26.** Every person who wilfully procures or attempts to procure his name to be registered under this Ordinance by making or producing or causing to be made or produced any false representation or declaration, either verbally or in writing and every person knowingly aiding or assisting him therein shall be liable to a penalty of \$200. No. 25 of 1902, s. 26.

Penalty for procuring name to be registered by false representation

**27.** Every penalty under this Ordinance shall be recoverable with costs and may be sued for and recovered in the Territorial Court in the same manner as a private debt by any person whose name is registered under this Ordinance, and any sum so recovered shall belong to the person instituting such action or the same may be recovered in a summary manner before any justice of the peace. No. 25 of 1902, s. 27.

Penalty may be sued for.

**28.** Upon the trial of any action or on any prosecution hereunder it shall be incumbent on the defendant or person charged to prove that he is entitled to sell or keep open shop for compounding medicines or retailing poisons and to assume the title of chemist and druggist or other title to the like effect; and the production of a certifi-

Defendant must produce right to sell.

cate purporting to be under the hand of the Territorial Secretary showing that he is so entitled shall be prima facie evidence that he is so entitled. No. 25 of 1902, s. 28.

Limitation of action.

**29.** No action or prosecution shall be commenced after one year from the date of the offence or commencement of the cause of action. No. 25 of 1902, s. 29.

EXCEPTIONS FROM OPERATION OF ORDINANCE.

Not to interfere with physicians.

**30.** Nothing herein contained shall extend to interfere with the privileges conferred upon physicians and surgeons by any Ordinance relating to the practice of medicine and surgery in the Yukon Territory, and they may be registered as pharmaceutical chemists without undergoing any examination; nor shall it prevent any person whatever from selling goods of any kind to any person legally authorized to carry on business as an apothecary or chemist or druggist, or the profession of a doctor of medicine, physician or surgeon, nor to any veterinary surgeons, nor to prevent the members of such professions supplying their patients such medicines as they may require; and upon the decease of any person legally authorized and actually carrying on the business of chemist and druggist at the time of his death it shall be lawful for the executors, administrators or trustees of the estate of such person to continue such business so long only as such business shall be bona fide conducted by a pharmaceutical chemist. No. 25 of 1902, s. 30.

SCHEDULE I, FORM A.

NOTICE OF SERVICE BY CLERK.

Take notice that I (A.B.) intend serving as a clerk in the drug store of....., a registered pharmaceutical chemist carrying on business at..... in the Yukon Territory, that I commenced service on the.....day of..... A.D.....and that previously I served as clerk with..... a duly registered chemist carrying on business at.....in the Yukon Territory from the.....day of.....A.D., 19 .  
Dated at.....in the Yukon Territory this.....day of .....A.D., 19 .

(Signed)

.....

Clerk.

To the Territorial Secretary,  
Yukon Territory.



FORM B.—Sec. 7,

CERTIFICATE OF REGISTRATION.

I hereby certify that C. D. being entitled to registration by having.....was on the.....day of ... A.D., 19 , duly registered as a pharmaceutical chemist and is authorized to carry on business as a chemist and druggist in the Yukon Territory of Canada from the.... day of.....A.D. 19 ....to the....day of.....A.D. 19 .

(Signed.) .....  
*Territorial Secretary.*

(Seal.)

SCHEDULE 1.—FORM C.—Sec. 25.

POISONS SALES REGISTER.

Date.	Name and Address of Purchaser.	Name and Quantity of Poison Sold.	Purposes for which Poison Sold.	Signature of Purchaser.	Signature of person Introducing Purchaser.	Signature of Seller.

SCHEDULE 2.—Sec 24 and 25.

LIST OF POISONS—PART 1.

- Aconite and its preparations.
- Arsenic and its preparations.
- Belladonna and its preparations.
- Cantharides.
- Corrosive sublimate.
- Cyanide of potassium and all metallic cyanides.
- Ergot of rye and its preparations.
- Essential oil of almonds unless deprived of prussic acid.
- Euphorbium.
- Opium and its preparations.
- Prussic acid.
- Savin and its oil.
- St. Ignatius bean.
- Strychnine and its preparations.
- Tartar emetic.
- Oxalic acid.
- Chloral hydrate.
- Chloroform and ether.
- Croton oil and seeds.

## PART 2.

Acetate of lead.  
Calabar beans.  
Carbolic acid.  
Elaterium.  
Goulard's extract.  
Hellebore.  
Henbane and its preparations.  
Iodine.  
Phosphorus.  
Red and white precipitate.  
Verdigris.  
Sulphate of zinc.

## SCHEDULE 3.—Secs. 20 and 21.

Cantharides blister.  
Paregoric in original packages.  
Acetate of lead.  
Carbolic acid.  
Hellebore.  
Paris green.  
Red precipitate.  
Sulphate of zinc.

## CHAPTER 51.

### An Ordinance respecting Hotel and Boarding House Keepers.

#### SHORT TITLE.

**1.** This Ordinance may be cited as "*The Hotelkeepers' Ordinance.*" N.W.T., c. 56, s. 1. Short title.

#### LIEN OF HOTEL OR BOARDING HOUSE KEEPER.

**2.** Any hotel, boarding or lodging house keeper may seize and detain in his hotel, house, or on his premises, and before the same shall have been removed therefrom, the trunks and personal property of any person who is indebted to him for board and lodging and shall be responsible for the safe keeping of the same; and in addition to all remedies provided by law he shall have the right in case the charges remain unpaid for three months after the seizure thereof to sell by public auction the baggage and property of such guest, boarder or lodger, so seized, on posting and keeping posted during the period of one week on the outside of the door of such hotel, boarding or lodging house a notice of such intended sale, stating the name of the guest, boarder or lodger, the amount of his indebtedness, a description of the baggage or other property to be sold, the time and place of sale, and the name of the auctioneer, and after such sale, such hotel, boarding or lodging house keeper may apply the proceeds of such sale in payment of the amount due to him as aforesaid and the costs of such advertising and sale; and he shall pay over the surplus if any to the person entitled thereto on application being made by him therefor; and in case application therefor is not forthwith made he shall immediately pay the same to the Territorial Treasurer, to be kept by him for such owner for one year; after which time if such owner has not previously claimed the amount so kept the same shall form part of the general revenue fund of the Territory. N.W.T., c. 56, s. 2.

Right of detention and sale of goods of lodger indebted for board, etc.

Disposition of surplus.

**3.** No hotel, boarding or lodging house keeper shall have a right to detain the trunks or personal property of any one, or to have a lien thereon, for wines or spirituous or fermented liquors supplied to him or to any one else by his order. N.W.T., c. 56, s. 3. No lien for liquors.

## LIABILITY OF HOTEL KEEPER.

Limitation of liability of hotelkeeper in certain cases.

**4.** No hotel keeper shall be liable to make good to any guest of such hotel keeper any loss of or injury to goods or property brought to his hotel (not being a horse or other live animal or any gear appertaining thereto or any carriage), to a greater amount than \$200, except in the following cases, that is to say :

1. When such goods or property shall have been stolen, lost or injured through the default or neglect of such hotel keeper or any servant in his employ ;

2. When such goods or property shall have been deposited expressly for safe custody with such hotel keeper :

Provided always that, in case of such deposit it shall be lawful for such hotel keeper if he thinks fit, to require as a condition to his liability that such goods or property shall be deposited in a box or other receptacle fastened and sealed by the person depositing the same. N.W.T., c. 56, s. 4.

Refusal of hotelkeeper to receive goods into safe custody.

**5.** If any hotel keeper shall refuse to receive for safe custody as before mentioned any goods or property of his guest, or if any such guest shall through any default of the hotel keeper be unable to deposit such goods or property as aforesaid, the hotel keeper shall not be entitled to the benefit of this Ordinance in respect of such goods or property. N.W.T., c. 56, s. 5.

## ORDINANCE TO BE POSTED.

This Ordinance to be posted in hotels.

**6.** Every hotel keeper shall cause to be kept conspicuously posted in the office and public rooms in his hotel a copy of this Ordinance printed or plainly written, and he shall be entitled to the benefits of this Ordinance in respect of such goods or property only as shall be brought to his hotel while such copy shall be so posted as aforesaid. N.W.T., c. 56, s. 6.

## CHAPTER 52.

### An Ordinance respecting Keepers of Livery, Boarding and Sale Stables.

#### SHORT TITLE.

**1.** This Ordinance may be cited as "*The Livery Stable Keepers' Ordinance.*" N.W.T., c. 57, s. 1.

#### INTERPRETATION.

**2.** In this Ordinance unless the context otherwise requires :

1. The expression "livery stable keeper" means and includes any person who for a money consideration or the equivalent thereof carries on the business of letting or hiring out carriages, sleighs or other vehicles, or horses or other animals, whether with or without a carriage, sleigh or other vehicle, and whether accompanied by an employee of the livery stable keeper or not ;

2. The expression "boarding stable keeper" means and includes any person who, for a money consideration or its equivalent, stables, boards or cares for any animal ;

3. The expression "sales stable keeper" means and includes any person who stables, boards or cares for any animal other than his own, with the intention of selling or disposing of the same, and who receives or is to receive payment for such services whether in the nature of a commission or otherwise. N.W.T., c. 57, s. 2.

#### LIEN OF STABLE KEEPER—ENFORCEMENT.

**3.** Every livery stable, boarding stable or sales stable keeper shall have a lien on the animals and effects herein-after mentioned for the value or price of any food, care, attendance or accommodation furnished for any such animal or effects and in addition to all other remedies provided by law may detain in his custody and possession any animal, vehicle, harness, furnishings or other gear appertaining thereto and the personal effects of any person who is indebted to him for stabling, boarding or caring for such animal. N.W.T., c. 57, s. 3.

**4.** Every livery stable, boarding stable or sales stable keeper, who has exercised the right of detention by this Ordinance provided shall be obliged to keep in his possession and be responsible for the proper care of any animal or effects detained by him for the full period of such detention unless they shall sooner be released ; and if the owner does not reclaim the animals and effects so detained by paying the indebtedness in respect of the same within one month from the commencement of such detention, the keeper detaining may sell or cause the same to be sold by public auction on giving two weeks' notice of sale by advertisement in the newspaper published nearest to such stable, or

if more than one newspaper is published in the same locality, then in either one and by posting up notices in the nearest post office and in the said livery or boarding stable of the intended sale, stating (if known):

- (a.) The names of the owner and the person or persons who brought such animals or effects to the stable;
- (b.) The amount of indebtedness and charges for detention;
- (c.) A description of the animals and effects; and
- (d.) The name of the seller. N.W.T., c. 57, s. 4.

Application of proceeds of sale.

- 5.** The proceeds derived from such sale shall be applied;
- (a.) In paying the expenses incurred by such detention, advertising and sale;
  - (b.) In paying the debt for which such detention was made and the surplus if any shall be paid to the person entitled thereto on application being made by him therefor. N.W.T., c. 57, s. 5.

Balance of proceeds if not claimed to be handed to Territorial treasurer.

- 6.** In case such owner does not apply for the same within one month from the day of such sale then such surplus shall be handed over to the Territorial Treasurer to be kept by him in a special trust account for one year, after which time if such owner does not appear or claim the amount so kept the same shall be paid over and belong to the general revenue fund of the Territory. N.W.T., c. 57, s. 6.

#### ORDINANCE TO BE POSTED.

Copy of Ordinance to be posted in stable.

- 7.** It shall be the duty of every livery stable, boarding stable and sales stable keeper to have a copy of this Ordinance hung or posted in a conspicuous place in every such stable and in default of compliance with this section he shall not be entitled to the benefit of this Ordinance. N.W.T., c. 57, s. 7.

#### PERIODICAL CLEANSING OF STABLE.

Stable to be thoroughly cleansed and disinfected twice every year.

- 8.** Every livery stable, boarding stable and sales stable keeper in the Territory shall in each and every year in the months of April and October thoroughly cleanse all the stalls, mangers and feed boxes in such stable by thoroughly washing the same with soap and hot water and immediately afterwards thoroughly applying to every part of the same a solution of bichloride of mercury in the following proportions, namely, one half drachm to one gallon of water; and the keeper of any such stable who shall fail during each of the months aforesaid in any year to cause such cleansing to be done shall for such default or omission on summary conviction before any justice of the peace be liable for the first offence to a fine of not more than \$10 and to a fine of not more than \$25 for every subsequent offence. N.W.T., c. 57, s. 8.

## CHAPTER 53.

An Ordinance respecting Liens in favour of Mechanics and others.

### SHORT TITLE.

1. This Ordinance may be cited as "*The Mechanics' Lien Ordinance.*" N.W.T., c. 59, s. 1. Short title.

### INTERPRETATION.

#### 2. In this Ordinance

1. The expression "contractor" means a person contracting with or employed directly by the owner for the doing of work or placing or furnishing of machinery or materials for any of the purposes mentioned in this Ordinance ; Interpretation  
"Contractor."

2. The expression "sub-contractor" means a person not contracting with or employed directly by the owner for the purposes aforesaid but contracting with or employed by the contractor or under him by another sub-contractor ; "Sub  
Contractor."

3. The expression "owner" shall extend to and include a person having any estate or interest in the lands upon or in respect of which the work is done or materials or machinery are placed or furnished at whose request and upon whose credit or on whose behalf or consent or for whose direct benefit any such work is done, or materials or machinery placed or furnished, and all persons claiming under him whose rights are acquired after the work in respect of which the lien is claimed is commenced or the materials or machinery furnished have been commenced to be furnished. "Owner."  
N.W.T., c. 59, s. 2.

### LIEN FOR WORK OR MATERIALS.

3. No agreement shall be held to deprive any one otherwise entitled to a lien under this Ordinance and not a party to the agreement of the benefit of the lien but the lien shall attach notwithstanding such agreement. N.W.T., c. 59, s. 3. Agreement as  
to liens.  
Third party's  
rights.

4. Unless he signs an express agreement to the contrary, every mechanic, machinist, builder, miner, labourer, contractor, or other person doing work upon or furnishing materials to be used in the construction, alteration or repair of any building or erection, or erecting, furnishing or placing machinery of any kind in, upon or in connection with Nature of lien.

any building, erection or mine, shall, by virtue of being so employed or furnishing, have a lien for the price of the work, machinery or materials, upon the building, erection or mine, and the lands occupied thereby or enjoyed therewith, limited in amount to the sum justly due to the person entitled to the lien. N.W.T. c. 59, s. 4.

Property upon which lien shall attach.

**5.** The lien shall attach upon the estate and interest of the owner, as defined by this Ordinance, in the building, erection or mine, in respect of which the work is done or the materials or machinery placed or furnished and the land occupied thereby or enjoyed therewith.

Where estate charged is leasehold.

(2) In cases where the estate or interest charged by the lien is leasehold, the land itself may also with the consent of the owner, thereof be subject to said lien provided such consent is testified by the signature of such owner upon the claim of lien at the time of the registering thereof and duly verified.

Prior mortgage.

(3) In case the land upon or in respect of which any work as aforesaid is executed or labour performed or upon which materials or machinery are placed is encumbered by a prior mortgage or other charge and the selling value of the land is increased by the construction, alteration or materials or machinery, the lien under this Ordinance shall be entitled to rank upon the increased value in priority to the mortgage or other charge. N.W.T. c. 59, s. 5.

Claim for wages.

**6.** Without prejudice to any lien which he may have under the preceding sections every mechanic, labourer or other person who performs labour for wages upon the construction, alteration or repairs of any building or erection or in erecting or placing machinery of any kind in, upon or in connection with any building, erection or mine shall to the extent of the interest of the owner have upon the building, erection or mine and the land occupied thereby or enjoyed therewith a lien for such wages, not exceeding the wages of thirty days or a balance equal to his wages for thirty days.

(2) The lien for wages given by this section shall attach when the labour is in respect of a building, erection or mine on property belonging to the wife of the person at whose instance the work is done, upon the estate or interest of the wife in such property as well as upon that of her husband. N.W.T. c. 59, s. 6.

Owner to retain 10% of contract price for 30 days.

**7.** In all cases the owner shall in the absence of a stipulation to the contrary be entitled to retain for a period of thirty days after the completion of the contract ten per centum of the price to be paid to the contractor. N.W.T. c. 59, s. 7.



**8.** In case the lien is claimed by a sub-contractor the amount which may be claimed in respect thereof shall be limited to the amount payable to the contractor or sub-contractor (as the case may be) for whom the work has been done or the materials or machinery have been furnished or placed. N.W.T. c. 59, s. 8.

Lien claimed  
by sub  
contractor.

DECE 24

**9.** All payments up to ninety per centum of the price to be paid for the work, machinery or materials as defined by section 4 of this Ordinance, made in good faith by the owner to the contractor, or by the contractor to the sub-contractor, or by one sub-contractor to another sub-contractor, before notice in writing by the person claiming the lien has been given to such owner, contractor or sub-contractor (as the case may be) of the claim of such person, shall operate as a discharge *pro tanto* of the lien created by this Ordinance, but this section shall not apply to any payment made for the purpose of defeating or impairing a claim to a lien existing or arising under this Ordinance.

Payments  
made in good  
faith without  
notice of lien.

(2) A lien shall in addition to all other rights or remedies given by this Ordinance, also operate as a charge to the extent of ten per centum of the price to be paid by the owner for the work, machinery or materials, as defined by section 4 of this Ordinance, up to ten days after the completion of the work or of the delivery of the materials in respect of which such lien exists and no longer, unless notice in writing be given as herein provided.

(3) A lien for wages for thirty days, or for a balance equal to the wages for thirty days, shall, to the extent of the said ten per cent of the price to be paid to the contractor, have priority over all other liens under this Ordinance and over any claim by the owner against the contractor for, or in consequence of the failure of the latter to complete his contract. N.W.T. c. 59, s. 9.

**10.** Save as herein provided, the lien shall not attach so as to make the owner liable to a greater sum than the sum payable by the owner to the contractor. N.W.T. c. 59, s. 10.

Lien not to  
increase  
liability of  
owner.

**11.** All persons furnishing material to or doing labour for the person having a lien under this Ordinance in respect of the subject of such lien, who notify the owner of the premises sought to be affected thereby, within thirty days after such material is furnished or labour performed, of an unpaid account or demand against such lien holder for such material or labour, shall be entitled, subject to the provisions of sections 6 and 9 of this Ordinance, to a charge therefor *pro rata* upon any amount payable by such owner under said lien; and if the owner thereupon pays the amount of such charge to the person furnishing material and doing labour as aforesaid, such payment shall be deemed a satisfaction *pro tanto* of such lien. N.W.T. c. 59, s. 11.

Persons  
having claims  
against the  
lien holders.

Disputes to be settled by action or arbitration.

**12.** In case of a dispute as to the validity or amount of an unpaid account or demand, of which notice is given to the owner under the next preceding section, the same shall be first determined by action in the Territorial Court in that behalf, or by arbitration in manner mentioned in section 14 of this Ordinance, at the option of the person having the unpaid account or demand against the lien holder; and pending the proceedings to determine the dispute, so much of the amount of the lien as is in question therein may be withheld from the person claiming the lien. N.W.T. c. 59, s. 12.

Failure to pay.

**13.** In case the person primarily liable to the person giving such notice as mentioned in section 11 of this Ordinance, fails to pay the amount awarded within ten days after the award is made or judgment given, the owner, contractor, or sub-contractor may pay the same out of any moneys due by him to the person primarily liable as aforesaid, on account of the work done or materials or machinery furnished or placed in respect of which the debt arose; and such payment, if made after an award or judgment, or if made without any arbitration or suit having been previously had or dispute existing, then, if the debt in fact existed, and to the extent thereof shall operate as a discharge *pro tanto* of the moneys so due as aforesaid to the person primarily liable. N.W.T., c. 59, s. 13.

Arbitration of sub-contractor's claim.

**14.** In case a claim is made by a sub-contractor in respect of a lien on which he is entitled, and a dispute arises as to the amount due or payable in respect thereof, the same shall be settled by arbitration.

(2) One arbitrator shall be appointed by the person making the claim, one by the person by whom he was employed, and the third arbitrator by the two so chosen.

(3) The decision of the arbitrators or a majority of them shall be final and conclusive.

(4) In case either of the parties interested in any such dispute refuses or neglects within three days after notice in writing requiring him to do so, to appoint an arbitrator, or if the arbitrators appointed fail to agree upon a third, the appointment may be made by a judge of the Territorial Court. N.W.T., c. 59, s. 14.

Material affected by lien not to be removed.

**15.** During the continuance of a lien no portion of the property or machinery affected thereby shall be removed to the prejudice of the lien; and any attempt at such removal may be restrained by application to the Territorial Court or a judge thereof. N.W.T., c. 59, s. 15.

## REGISTRATION OF LIEN.

**16.** A claim of lien applicable to the case may be deposited in the land titles office of the Yukon land registration district and shall state : Registration of lien.

- (a) The name and residence of the claimant, and of the owner of the property to be charged and of the person for whom and upon whose credit the work is done or materials or machinery furnished and the time or period within which the same was or was to be done or furnished ;
- (b) The work done or material or machinery furnished ;
- (c) The sum claimed as due or to become due ;
- (d) The description of the property to be charged ;
- (e) The date of expiring of the period of credit agreed to by the lien holder for payment for his work, materials or machinery where credit has been given.

(2) Such claim shall be verified by the affidavit of the claimant or his agent. N.W.T., c. 59, s. 16.

**17.** A claim for wages may include the claims of any number of mechanics, labourers or other persons aforesaid who may choose to unite them, in such case each claimant shall verify his claim by his affidavit but need not repeat the facts set out in the claim and an affidavit substantially in accordance with form D in the schedule to this Ordinance shall be sufficient. N.W.T., c. 59, s. 17. Claim for wages.  
Uniting several claims.

**18.** The registrar upon payment of the proper fee shall enter and register the claim as an encumbrance against the land or the estate or interest in land therein described as provided in *The Land Titles Act* 1894. The said claim of lien may be described as a mechanics' lien. N.W.T., c. 59, s. 18. Claims to be filed as an incumbrance.

**19.** Where a claim is so deposited the person entitled to the lien shall be deemed a purchaser *pro tanto*. N.W.T., c. 59, s. 19. Lien holder a purchaser *pro tanto*.

**20.** Where the lien is for wages under section 6 or 9 of this Ordinance the claims may be registered : Time for registration.

- (a) At any time within thirty days after the last day's labour for which the wages are payable ; or
- (b) At any time within thirty days after the completion of the construction, alteration or repair of the building or erection or after the erecting or placing of the machinery in or towards which, respectively, the labour was performed and the wages earned but so that the whole period shall not exceed sixty days from the last day's labour aforesaid.

(2) Such lien shall not be entitled to the benefit of the provisions of sections 6 and 9 of this Ordinance after the

said respective periods unless the same is duly registered before the expiration of the said periods so limited.

(3) Such lien shall have the same priority for all purposes after as before registration. N.W.T., c. 59, s. 20.

Time for registration.

**21.** In other cases the claim of lien may be deposited before or during the progress of the work or within thirty days from the completion thereof or from the supplying or placing the machinery. N.W.T., c. 59, s. 21.

#### PROCEEDINGS TO REALIZE LIEN.

Actions to enforce unregistered lien.  
Time for.

**22.** Every lien which has not been duly deposited under the provisions of this Ordinance shall absolutely cease to exist on the expiration of the time hereinbefore limited for the registration thereof unless in the meantime proceedings are instituted to realize the claim under the provisions of this Ordinance and a certificate thereof (which may be granted by the court in which or judge before whom the proceedings are instituted) is duly filed in the land titles office of the Yukon land registration district. N.W.T., c. 59, s. 22.

Action to enforce registered lien  
Time for.

**23.** Every lien which has been duly deposited under the provisions of this Ordinance shall absolutely cease to exist after the expiration of ninety days after the work has been completed or materials or machinery furnished or wages earned or the expiry of the period of credit where such period is mentioned in the claim of lien filed unless in the meantime proceedings are instituted to realize the claim under the provisions of this Ordinance and a certificate thereof (which may be granted by the court in which or judge before whom the proceedings are instituted) is duly registered in the land titles office of the Yukon land registration district. N.W.T., c. 59, s. 23.

Time for action if no period of credit or none stated.

**24.** If there is no period of credit or if the date of expiry of the period of credit is not stated in the claim so filed the lien shall cease to exist upon the expiration of ninety days after the work has been completed or materials or machinery furnished unless in the meantime proceedings shall have been instituted pursuant to section 23 of this Ordinance. N.W.T., c. 59, s. 24.

Lien realisable in Supreme Court.

**25.** In all cases the lien may be realized in the Territorial Court according to the ordinary procedure of that court. N.W.T., c. 59, s. 25.

Lienholders joining in action.

**26.** Any number of lien holders may join in one action and any action brought by a lienholder shall be taken to be brought on behalf of all the lienholders of the same class

who shall have registered their liens before or within thirty days after the commencement of the action or who shall within the said thirty days file in the proper office of the court from which the writ issued a statement of their respective claims intituled in or referring to the said action.

Action  
enuring  
to class.

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

Death of  
plaintiff or  
refusal  
to proceed.

(3) In case of a sale of the estate and interest charged with the lien the court or judge may direct the sale to take place at any time after one month from the recovery of judgment and it shall not be necessary to delay the sale for a longer period than is requisite to give reasonable notice thereof.

Sale of land.  
Time for.

(4) The said court or judge may also direct the sale of any machinery and authorize its removal.

Machinery.

(5) When judgment is given in favour of a lien the court or judge may add to the judgment the costs of and incidental to registering the lien as well as the costs of the action.

Costs.

(6) Where there are several liens under this Ordinance against the same property each class of the lien holders shall, subject to the provisions of sections 5, 9 and 11 of this Ordinance, rank *pari passu* for their several amounts against the said property and the proceeds of any sale shall, subject as aforesaid, be distributed amongst such lien holders *pro rata* according to their several classes and rights and they shall respectively be entitled to execution for any balance due to them respectively after said distribution.

Class to rank  
*pari passu*.

(7) Upon application the court or judge may receive security or payment into court in lieu of the amount of the claim and may thereupon vacate the registry of the lien.

Removing  
lien on terms.

(8) The court or judge may annul the said registry upon any other ground.

Annulling  
registration.

(9) In any of the cases mentioned in subsections (7) and (8) the court or judge may proceed to hear and determine the matter of the said lien and make such order as seems just, and in case the person claiming to be entitled to such lien has wrongfully refused to sign a discharge thereof or without just cause claims a larger sum than is found by such court or judge to be due the court or judge may order and adjudge him to pay the costs to the other party. N.W.T., c. 59, s. 26.

Summary  
hearing and  
determination

#### DEATH OF LIEN HOLDER.—ASSIGNMENT OF LIEN.

**27.** In the event of the death of a lienholder his right of lien shall pass to his personal representatives and the right of a lien holder may be assigned by any instrument in writing. N.W.T., c. 59, s. 27.

Death o  
holder.  
Assignment  
of lien.

## DISCHARGE OF LIEN.

Discharge  
of lien.

**28.** A lien may be discharged by a receipt signed by the claimant or his agent duly authorized in writing acknowledging payment and verified by affidavit and filed, such receipt shall be numbered and entered by the registrar like other instruments but need not be copied in any book; the fees shall be the same as for registering a claim of lien. N.W.T., c. 59, s. 28.

Discharge  
to be at  
contractor's  
cost.

**29.** When there is a contract for the prosecution of the work as hereinbefore mentioned the registration of all discharges of liens shall be at the cost of the contractor unless a court or judge otherwise orders. N.W.T., c. 59, s. 29.

## EXECUTION AGAINST PERSON SUPPLYING MATERIAL.

Materials  
exempt from  
execution.

**30.** Where any mechanic, artisan, machinist, builder, miner, contractor or any other person has furnished or procured materials for use in the construction, alteration or repair of any building, erection or mine at the request of and for some other person, such materials shall not be subject to execution or other process to enforce any debt (other than for the purchase thereof) due by the person furnishing or procuring such materials, and whether the same have or not been in whole or in part worked into or made part of such building or erection. N.W.T., c. 59, s. 30.

## LIENS ON CHATTELS.

Liens for  
improvement  
of chattels.  
Enforcing.

**31.** Every mechanic or other person who has bestowed money or skill and materials upon any chattel or thing in the alteration and improvement of its properties or for the purpose of imparting an additional value to it so as thereby to be entitled to a lien upon such chattel or thing for the amount or value of the money or skill and materials bestowed, shall, while such lien exists but not afterwards in case the amount to which he is entitled remains unpaid for three months after the same ought to have been paid, have the right in addition to all other remedies provided by law to sell the chattel or thing in respect of which the lien exists on giving one month's notice by advertisement in a newspaper published in the locality in which the work was done, or in case there is no newspaper published in such locality or within ten miles of the place where the work was done, then by posting up not less than five notices in the most public places within the locality for one month, stating the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the



## FORM B.—Sec. 16.

## CLAIM OF LIEN FOR WAGES.

*A B. (name of claimant) of (here state residence of claimant) (if so, as assignee of state name and residence of original lien holder) claims a lien under The Mechanics' Lien Ordinance, upon the estate of (here state the name and residence of the owner of the land upon which the lien is claimed) in the under-mentioned land in respect of \_\_\_\_\_ days' work performed thereon while in the employment of (here state the name and residence of the person upon whose credit the work was done) on or before the \_\_\_\_\_ day of*

The amount claimed as due is the sum of \$ \_\_\_\_\_

The following is the description of the land to be charged: *(here set out a concise description of the land to be charged sufficient for the purpose of registration.)*

Dated at \_\_\_\_\_ this \_\_\_\_\_ day  
of \_\_\_\_\_ A.D. 19 \_\_\_\_\_

*(Signature of Claimant.)*

## FORM C.—Sec. 17.

## CLAIM OF LIEN FOR WAGES WHEN SEVERAL CLAIMANTS.

The following persons claim a lien under *The Mechanics' Lien Ordinance* upon the land of *(here state the name and residence of the owner of the land)* in respect of wages for labour performed thereon while in employment of *(here state name and residence or names and residence of employers of the several persons claiming the lien)*.

<i>A B., of (residence)</i>	\$ _____	for _____	_____ days' wages.
<i>C.D., of</i>	\$ _____	for _____	_____ days' wages.
<i>EF., of</i>	\$ _____	for _____	_____ days' wages.*

The following is the description of the land to be charged: *(here set out a concise description of the land to be charged sufficient for the purpose of registration.)*

Dated at \_\_\_\_\_ the \_\_\_\_\_ day  
A.D. 19 \_\_\_\_\_

*(Signatures of the several claimants).*

\**[If any of the above named claimants are assignees of the original lien holder that fact must be stated and the name and residence of the original lien holder stated.]*



## FORM D.—Sec. 16.

## AFFIDAVIT VERIFYING CLAIM.

I, *A.B.*, named in the above (*or* annexed) claim do make oath that the said claim is true (*or* the said claim so far as it relates to me is true).

*Or,*

We *A.B.* and *C.D.* named in the above (*or* annexed) claim, do make oath and each for himself saith that the said claim, so far as it relates to him, is true.

(*Where affidavit is made by agent or assignee, a clause must be added to the following effect: I have full knowledge of the facts set forth in the above or annexed claim.*)

Sworn before me at  
 in the Yukon Territory,  
 this  
 of A.D. 19

*Or,*

The said *A.B.* and *C.D.* were  
 severally sworn before me at  
 in the Yukon Ter-  
 ritory, this day of A.D. 19

*Or,*

The said *E.F.* was sworn before  
 me at in the  
 Yukon Territory, this  
 day of A.D. 1

## CHAPTER 54.

An Ordinance respecting Liens in favour of Miners and others.

Short title.      **1.** This Ordinance may be cited as "*The Miners' Lien Ordinance.*" No. 31 of 1902, s. 1.

### INTERPRETATION.

Interpretation  
"Owner."      **2.** In this Ordinance,  
**1.** The expression "owner" extends to and includes a person having any estate or interest in the mine upon or in respect to which the work is done or materials are placed or furnished at whose request and upon whose credit or on whose behalf or consent or for whose direct benefit any such work is done, or materials placed and all persons claiming under him whose rights are acquired after the work in respect of which the lien is claimed is commenced or the materials furnished have been commenced to be furnished.

"Layman."      **2.** The expression "layman" means any person other than the owner who is working said mine or a part thereof for an interest or share of the minerals or ore produced therefrom.

"Registering"      **3.** The words "registering" or "registration" means the filing or depositing of an instrument with the registration clerk. No. 31 of 1902, s. 2.

### LIEN FOR WORK OR MATERIALS.

Nature of lien.      **3.** Unless he signs an express agreement to the contrary, any person who performed any work or service upon or in respect to, or places or furnishes any material to be used in the working of any placer or quartz mine for any owner or layman, shall by virtue thereof have a lien for the price of such work, services or materials upon the said mine, the minerals, or ore produced therefrom, or the materials supplied for the working thereof, and the lands occupied thereby or enjoyed therewith, or upon or in respect to which such work or service is performed, or upon which such materials are furnished or placed to be used, limited, however, in amount to the sum justly due to the person entitled to the lien ;

(2) Such lien upon registration as in this Ordinance provided shall attach and take effect upon the date of the registration as against subsequent purchasers, mortgagees or other encumbrances. No. 31 of 1902, s. 3.

To take effect from date of registration.

4. The lien shall attach upon the estate or interest of the owner and all persons having any interest in the mine and the minerals or ore produced therefrom, and upon the appurtenances thereto and the lands occupied thereby or enjoyed therewith. No. 31 of 1902, s. 4.

Property upon which lien shall attach.

5. Any lien created by this Ordinance shall have priority over all claims against said mine and the minerals or ore produced therefrom excepting conveyances and mortgages registered prior to the registration of said lien under the regulations governing quartz or placer mining passed by the Governor General in Council. No. 31 of 1902, s. 5.

Lien to have priority except as against certain registered instruments.

#### REGISTRATION OF LIEN.

6. A claim of lien may be deposited in the office of the Registration Clerk for the district in which the mine is situated and shall state:

Where lien to be registered.

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

What to contain.

(b) The work done or material furnished;

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

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

(e) The date of expiring of the period of credit agreed to by the lien holder for payment for his work, or materials where credit has been given;

(2.) Such claims shall be verified by the affidavit of the claimant or his agent, having a personal knowledge of the facts sworn to. No. 31 of 1902, s. 6.

7. A claim for wages may include the claims of any number of mechanics, labourers or other persons aforesaid who may choose to unite them, in such case each claimant shall verify his claim by his affidavit but need not repeat the facts set out in the claim. No. 31 of 1902, s. 7.

May include claims of other labourers.

8. Where the lien is for wages the claim may be registered at any time within thirty days after the last day's labour for which the wages are payable. No. 31 of 1902, s. 8.

9. In other cases the claim of lien may be deposited before or during the progress of the work or within thirty

days from the completion thereof or from the supplying or placing the materials.

Provided that a lien for materials supplied shall be only for such materials as were supplied within thirty days prior to the last day on which any materials were supplied. No. 31 of 1902, s. 9.

**10.** Every lien which has not been duly deposited under the provisions of this Ordinance shall absolutely cease to exist on the expiration of the time hereinbefore limited for the registration thereof. No. 31 of 1902, s. 10.

#### PROCEEDINGS TO REALIZE LIEN.

**11.** Every lien which has been duly deposited under the provisions of this Ordinance shall absolutely cease to exist after the expiration of sixty days after the work has been completed or materials furnished or wages earned, unless in the meantime proceedings are instituted to realize the claim under the provisions of this Ordinance and a certificate thereof (which may be granted by the court in which, or judge before whom, the proceedings are instituted) is duly filed in the office of the registration clerk wherein the property in respect of which the lien is claimed is situate. Such liens may be enforced by originating summons in which shall be set forth the grounds upon which he claims such lien. Such summons shall be granted upon affidavit of the facts set forth in said summons and the court or judge may, either *ex parte*, or after notice, appoint a receiver for such time and upon such terms as are just and proper, upon proof to his satisfaction that the lien holder is in danger of losing his claim unless such receiver is appointed. No. 31 of 1902, s. 11.

**12.** Upon such summons being granted the court or judge may after notice given to the various parties interested, including the workmen on said claim, summarily determine and fix the liability of such owner or layman for wages due to the claimant and other workmen who have filed claims and also his liability to any other person who has filed a lien for material supplied. No. 31 of 1902, s. 12.

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

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

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

(4.) The said court or judge may also direct the sale of any machinery or materials and authorize its removal.

(5.) When judgment is given in favour of a lien holder the court or judge may add to the judgment the costs of and incidental to registering the lien as well as the costs of the action.

(6.) Where there are several liens under this Ordinance against the same property each class of the lien holders shall rank *pari passu* for their several amounts against the said property; and the minerals received by the receiver together with the proceeds of any sale shall, subject as aforesaid, be distributed among such lien holders pro rata according to their several classes and rights and they shall respectively be entitled to execution for any balance due to them respectively after said distribution.

(7.) Upon application the court or judge may receive security or payment into court in lieu of the amount of the claim and may thereupon vacate the registry of the lien.

(8.) The court or judge may annul the said registry upon any other ground.

(9.) In any of the cases mentioned in sub-sections (7) and (8) the court or judge may proceed to hear and determine the matter of the said lien and make such order as seems just, and in case the person claiming to be entitled to such lien has wrongfully refused to sign a discharge thereof or without just cause has filed said lien or claims a larger sum than is found by such court or judge to be due, the court or judge may order and adjudge him to pay the costs of the other party. No. 31 of 1902, s. 13.

#### DEATH OF LIEN HOLDER.

14. In the event of the death of a lien holder his right of lien shall pass to his personal representatives and the right of a lien holder may be assigned by any instrument in writing. No. 31 of 1902, s. 14.

Right to pass to personal representatives on death of lienholder.

## DISCHARGE OF LIEN.

Lien, how  
discharged.

**15.** A lien may be discharged by a receipt signed by the claimant or his agent and verified by affidavit and filed, such receipt shall be numbered and entered by the registration clerk like other instruments but need not be copied in any book. N. 31 of 1902, s. 15.

## FEEES.

Fees.

**16.** The fee for registering any instrument under this Ordinance shall be \$2. No. 31 of 1902, s. 16.

## CHAPTER 55.

### An Ordinance respecting Slaughter Houses and the Killing and Dressing of Animals for Food.

#### SHORT TITLE.

**1.** This Ordinance may be cited as "*The Yukon Slaughter House Ordinance.*" No. 33 of 1899, s. 1. Short title.

#### INTERPRETATION.

**2.** Where the following words occur in this Ordinance, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:— Interpretation

1. "Animals" mean cattle, sheep, hogs and all other domestic animals generally killed for food. "Animals."

2. "Slaughter House" means any building or place used for the slaughtering, butchering and dressing of animals. "Slaughter House."

3. "Person" means any person, partnership, company or corporation. No. 33 of 1899, s. 2. "Person."

#### LICENSES.

**3.** No person shall carry on in the Yukon Territory any slaughter house, without first having obtained a license for that purpose, which license shall be issued by such person or persons as the Commissioner in Council may authorize, and in every case the license shall expire on the thirty-first day of December next following the date thereof, which said license may be assigned with the consent of the person issuing the same, and no such slaughter house shall be permitted to exist within a mile from the spot where the post office of Dawson now stands. No person to carry on slaughter house without license.

License to expire December 31.

(2) No such license shall be issued until after the Inspector of Slaughter Houses has inspected the premises and made a report in writing thereon to the Commissioner and said report shall contain.

1. A description of the premises.

2. A statement of the distance said premises are from any building occupied as a dwelling.

3. A statement that the premises are so constructed as to comply with the provisions of this Ordinance and so as not

to endanger the health of the inhabitants of the Territory; and

4. Such other remarks as may be required by the Commissioner. No. 33 of 1899, s. 3. No. 18 of 1902, s. 1.

License fee.

4. The license shall be for one year, and the sum of fifty dollars shall be paid therefor by the applicant. No. 33 of 1899, s. 4.

Animals to be killed at a licensed slaughter house.

5. All animals killed for food to be consumed by the public residing in Dawson and surrounding territory from Dawson to a distance of five miles in the Yukon Territory shall be killed at a licensed slaughter house. For other places the Commissioner in Council may fix by resolution how and where the same are to be killed. No. 33 of 1899, s. 5.

Slaughter houses to be under control of Commissioner in Council.

6. All slaughter houses in the Yukon Territory shall be under the control of the Commissioner in Council, and shall be subject to such regulations as may be from time to time passed by resolutions of the said Commissioner in Council. No. 33 of 1899, s. 6.

#### INSPECTORS.

Commissioner in Council may appoint inspector.

7. The Commissioner is hereby authorized to appoint a special inspector of slaughter houses, whose duties shall be as follows, to wit:—

Duties.

1. To inspect all slaughter houses as he may be directed from time to time by the resolutions of the Commissioner in Council.

2. To inspect all animals delivered at said slaughter houses for the purposes of being killed for food.

3. To inspect all animals brought into the Yukon Territory for the purpose of being killed for food and also all meat offered to the public for sale for food.

4. To condemn and destroy all diseased animals and tainted meat and food within the territory aforesaid. No. 33 of 1899, s. 7.

No person to sell meat unless killed in slaughter house.

8. It shall be unlawful for any person within the limits aforesaid to offer for sale, or to have in his possession any animal meat which has not been slaughtered at a licensed slaughter house. No. 33 of 1899, s. 8.

Offal to be burnt.

9. All debris and offal accumulated at any slaughter house shall be destroyed by fire, and in no other manner. No. 33 of 1899, s. 9.

Slaughter houses to be kept clean.

10. All slaughter houses must be kept at all times in a cleanly condition, and if they are not kept in said condition



the said Commissioner shall have the right at any time to terminate and cancel their license. No. 33 of 1899, s. 10.

**11.** No person shall be permitted to offer for sale any meat for public use until after the same shall have been killed for at least a period of ten hours. No. 33 of 1899, s. 11. Meat to be killed 10 hours before sale.

**12.** The Inspector aforesaid shall mark in a manner or way to be by him selected, all animals and meat inspected by him; and no person shall offer for sale, or have in his possession any meat not marked or inspected by said Inspector. No. 33 of 1899, s. 12. Inspector to mark meat.

#### FEES.

**13.** No slaughter house shall charge or receive a compensation greater than the amount following, to wit:— Fees.

1. For killing and dressing beef per head, eight dollars (\$8.00).

2. For killing sheep and calves per head, one dollar and a quarter (\$1.25).

3. For killing and dressing hogs per head, two dollars (\$2.00). No. 33 of 1899, s. 13.

**14.** The Commissioner may appoint one or more inspectors of slaughter houses and fix their salaries and prescribe such other duties as they are to perform in addition to the duties required of them by this Ordinance. No. 18 of 1902, s. 3. Commissioner to fix salaries and prescribe duties.

**15.** This Ordinance does not affect or apply to game killed by hunters or other persons in the Yukon Territory. No. 33 of 1899, s. 15. Not to apply to hunters.

#### PENALTIES.

**16.** Any person who violates any of the provisions of this Ordinance, or any of the regulations thereunder, shall be liable for every such offence to a penalty not exceeding one hundred dollars and costs. No. 33 of 1899, s. 16. Penalties.

**17.** Any person who obstructs the Inspector in the performance of his duties hereunder shall be subject to the same penalty as provided in the next preceding section. No. 33 of 1899, s. 17. Obstructing inspector.

**18.** The Inspector may, if obstructed in the performance of his duties, call to his assistance any constable or other person he thinks fit, and it shall be the duty of any such constable or other person to render assistance to said Ins Inspector may require assistance of constables, etc

pector in the carrying out of the provisions of this Ordinance. No. 33 of 1899, s. 18.

Liens.

**19.** The Inspector and slaughter houses shall have a right to hold all meat in their possession until the payment of their legal charges, as provided by this Ordinance. If said charges are not paid within ten hours after becoming due, then all meats in their possession may be sold by them at public auction, and out of the proceeds of the said sale shall be paid: first, the cost of sale; second, the fees and charges of said Inspector and slaughter houses, and the balance then remaining shall be paid to the person to whom said meat belongs. No. 33 of 1899, s. 19.

Medical Health Officer to inspect.

**20.** Until a special Inspector is appointed the Medical Health Officer shall inspect the meat offered for sale within the limits aforesaid. No. 33 of 1899, s. 20.

Number of slaughter houses may be limited.

**21.** If, in the opinion of the Commissioner in Council of the Yukon Territory, it is desirable for the sake of the public health or in the interests of the public, to limit the number of slaughter houses to be established within the Yukon Territory, he may limit the number of such slaughter houses to one in any one or more of the districts within the said Territory, which he may establish, and may designate such slaughter house. If in any district the Commissioner in Council limits the number of slaughter houses to one he may make such provision with the person to be entrusted with such slaughter house as in his opinion seems just and proper for the compensation of any person who has already established and has in operation a slaughter house complying with the provisions of this Ordinance. No. 18 of 1902, s. 4.

Tariff to be fixed.

**22.** If such slaughter house is established under the next preceding section in any district, the Commissioner in Council may fix a tariff of charges for slaughtering the different kinds of animals. No. 18 of 1902, s. 5.

Penalty for slaughtering at any other place.

**23.** If the Commissioner in Council under this Ordinance limits the number of slaughter houses in a district to one, as aforesaid, and designates such one, it shall be unlawful for any animal to be slaughtered at any other house than at the one so designated. Any person violating the provisions of this section shall be liable on summary conviction to a fine not exceeding one hundred dollars and costs, and in default of payment forthwith to imprisonment for a period not exceeding two months. No. 18 of 1902, s. 6.

## CHAPTER 56.

### An Ordinance respecting Newspapers.

**1.** In this Ordinance "newspaper" means: Any paper containing public news intelligence or occurrences, or any remarks or observation thereon, printed for sale and published periodically, or in parts or numbers, at intervals not exceeding twenty-six days between the publication of any two such papers, parts or numbers, and any paper printed in order to be distributed and made public weekly or oftener, or at intervals not exceeding twenty-six days and containing only, or principally advertisements. No. 19 of 1900, s. 1.

Interpretation  
"Newspaper."

#### PARTICULARS TO BE FILED—PENALTY.

**2.** It shall be the duty of the proprietor, or proprietors, of the editor or editors and of the business manager and of each of them, of every newspaper published in the Yukon Territory, to file with the clerk of the Territorial Court of the Yukon Territory within one month from the date of the passing of this Ordinance, a declaration under oath or affirmation (in case where by law affirmation is allowed) setting forth the name in full of the proprietor or proprietors, editor or editors, and business manager of such newspaper, his nationality, both by birth and allegiance, the place of publication of such newspaper, and the name or title under which such newspaper is published, and any proprietor editor or manager neglecting to comply with the provisions of this Ordinance shall, upon summary conviction, before a Justice of the Peace, be liable to a fine not exceeding five hundred dollars and not less than fifty dollars for each day during which such neglect continues. No. 19 of 1900, s. 2.

Information  
to be filed  
with Clerk  
of the Court.

Penalty for  
neglect.

**3.** In the next proceeding section of this Ordinance, the word "proprietor" includes any and all persons financially interested, directly or indirectly, in any such newspaper. No. 19 of 1900, s. 3.

"Proprietor."

**4.** In the case of newspapers to be hereafter established in the Yukon Territory, the declaration mentioned in the second section of this Ordinance shall be filed with the clerk of the Territorial Court before such newspaper is

Information  
to be filed  
before  
publication of  
newspaper.

published and each and every, the proprietor or proprietors, editor or editors, and business manager of such newspaper shall upon summary conviction before a Justice of the Peace, be liable to a fine not exceeding five hundred dollars and not less than fifty dollars and each issue of such newspaper shall be deemed to constitute a fresh offence against the provisions of this Ordinance. No. 19 of 1900, s. 4.

On every change of proprietorship etc., to be filed.

**5.** Upon every change in the proprietorship, editorship or management of any newspaper, the declaration mentioned in the second section of this Ordinance shall be filed under a like penalty in case of default, as in the said second section provided. No. 19 of 1900, s. 5.

#### FEEs.

Fee.

**6.** The clerk of the Territorial Court shall be entitled to receive from the person filing the declaration above-mentioned a fee of \$5, and it shall be the duty of the said clerk to send to the Commissioner of the Yukon Territory a copy of such declaration forthwith after the filing thereof. No. 19, of 1900, c. 6.



## TITLE VIII.

### COMPANIES AND KINDRED INSTITUTIONS.

#### CHAPTER 57.

An Ordinance respecting the Incorporation of  
Joint Stock Companies.

##### SHORT TITLE.

1. This Ordinance may be cited as "*The Companies Ordinance.*" N.W.T., c. 61, s. 1. Short title.

##### INTERPRETATION.

2. In this Ordinance and in all letters patent and supplementary letters patent issued under it unless the context otherwise declares : Interpretation

1. The expression "the Company" means the company incorporated by letters patent under this Ordinance ; "Company."

2. The expression "the undertaking" means the business of every kind which the company is authorized to carry on ; "Undertaking."

3. The expression "real estate" or "land" includes messuages, lands, tenements and hereditaments of any tenure and all immovable property of any kind ; "Real estate"  
"Land."

4. The expression "shareholder" means every subscriber to or holder of stock in the company and includes the personal representatives of the shareholder ; "Shareholder."

5. The word "president" whenever it occurs in this Ordinance includes "chairman ;" "President."

6. The expression "electricity" means electricity supplied for the purposes of creating light, heat or power or of operating a system of telephones. N.W.T., c. 61, s. 2. "Electricity."

## LETTERS PATENT.

Incorporation  
by letters  
patent.

**3.** The Commissioner may by letters patent under the seal of the Territory grant a charter to any number of persons not less than three who petition therefor constituting such persons and others who thereafter become shareholders in the company thereby created a body corporate and politic for any of the purposes or objects to which the legislative authority of the Council of the Territory extends. N.W.T., c. 61, s. 3.

Advertise-  
ment of  
application.

**4.** The applicants for such letters patent must advertise by notice published at least once in the *Yukon Official Gazette* and in three consecutive weekly issues of any newspaper published at or nearest the place which is to be the chief business place of the company, their intention to apply for the same stating in such notice:

1. The proposed corporate name of the company, which shall not be that of any other known company, incorporated or unincorporated, or any name liable to be unfairly confounded therewith or otherwise on public grounds objectionable;

2. The object for which the incorporation is sought;

3. The place within the Territory which is to be its chief place of business;

4. The proposed amount of its capital stock;

5. The number of shares and the amount of each share;

6. The names in full and the address and calling of each of the applicants, with special mention of the names of not less than three nor more than nine of their number who are to be the first or provisional directors of the company, the majority of whom shall be residents of Canada. N.W.T., c. 61, s. 4.

Time for  
petition.

**5.** At any time not more than two months after the last publication of such notice the applicants may petition the Commissioner through the Territorial Secretary for the issue of such letters patent. N.W.T., c. 61, s. 5.

Contents  
of petition.

**6.** Such petition shall set forth.

1. The facts contained in the notice;

2. The amount of stock taken by each applicant and the amount paid in upon the stock of each applicant as also the manner in which the same has been paid in and is held for the company. N.W.T., c. 61, s. 6.

Amount of  
stock to be  
taken.

**7.** The aggregate of the stock so taken shall be at least the one-half of the total amount of the proposed capital stock of the company. N.W.T., c. 61, s. 7.

- 8.** The aggregate paid in on the aggregate stock so taken shall be at least ten per cent thereof and shall be paid in to the credit of the company or trustees therefor and shall be standing at such credit in some chartered bank of Canada unless the object of the company is one requiring that it should own real estate, in which case such aggregate may be taken as paid in if it is *bona fide* invested in real estate suitable to such object which is duly held by trustees for the company, and is of the required value over and above all incumbrances thereon. N.W.T., c. 61, s. 8. Disposal of amount paid up.
- 9.** The petition may ask for the embodying in the letters patent of any provision which otherwise under the provisions hereof might be incorporated in any bylaw of the company when incorporated; and such provision so embodied shall not, unless provision to the contrary is made in the letters patent, be subject to repeal or alteration by bylaw. N.W.T., c. 61, s. 9. Additional provisions in letters patent.
- 10.** Before the letters patent are issued the applicants must establish to the satisfaction of the Territorial Secretary or such other officer as may be charged by the Commissioner to report thereon, the sufficiency of their notice and petition and the truth and sufficiency of the facts therein set forth and that the proposed name is not the name of any other known incorporated or unincorporated company, and to that end the Territorial Secretary or such other officer may take and keep of record any requisite evidence in writing under oath, affirmation or solemn declaration. N.W.T., c. 61, s. 10. Preliminary matters to be proved.
- 11.** The letters patent shall recite all the material averments of the notice and petition as so established. N.W.T., c. 61, s. 11. Letters patent Recitals.
- 12.** The Commissioner may give to the company a corporate name different from that proposed by the applicants in their published notice if the proposed name is objectionable. N.W.T., c. 61, s. 12. Corporate name.
- 13.** The Commissioner may restrict such letters patent after incorporation in any manner which seems desirable. N.W.T., c. 61, s. 15. Restriction of letters patent after incorporation.
- 14.** The provisions of this Ordinance relating to matters preliminary to the issue of letters patent shall be deemed directory only; and no letters patent issued or which have heretofore been issued under this Ordinance shall be held void or voidable on account of any irregularity in any prescribed notice or on account of the insufficiency of any such notice or on account of any irregularity in Preliminary requirements directory. Irregularities not to avoid.

respect of any other matter preliminary to the issue of such letters patent. N.W.T., c. 61, s. 14.

Notice of  
grant of  
letters patent.

**15.** Notice of the granting of every original letters patent under the provisions of this Ordinance shall be forthwith given in the *Yukon Official Gazette* in form A in the schedule to this Ordinance and there upon from the date of the letters patent the persons therein named and their successors shall be a body politic and corporate by the name mentioned therein. N.W.T., c. 61, s. 15.

#### SUPPLEMENTARY LETTERS GRANTING FURTHER POWERS.

Application  
for  
supplemen-  
tary letters.

**16.** The company may from time to time by a resolution passed by the votes of shareholders representing at least two-thirds in value of the subscribed stock of the company at a special general meeting called for the purpose authorize the directors to apply for supplementary letters patent extending the powers of the company to such other purposes or objects within the province of this Ordinance as may be defined in the resolution. N.W.T., c. 61, s. 16.

Time for  
petition.

**17.** The directors may at any time within six months after the passing of any such resolution petition the Commissioner through the Territorial Secretary for the issue of such supplementary letters patent. N.W.T., c. 61, s. 17.

Notice of  
application.

**18.** The applicants for such supplementary letters patent shall give in at least one issue of the *Yukon Official Gazette* and one issue of a local newspaper published at or nearest the chief place of business of the company notice of their intention to apply for the same stating therein the purposes or objects to which it is desired to extend the powers of the company. N.W.T., c. 61, s. 18.

Preliminary  
proofs.

**19.** Before such supplementary letters patent are issued the applicants shall establish to the satisfaction of the Territorial Secretary or other officer charged to report thereon the due passing of the resolution authorizing the application and the sufficiency of their notice and petition; and for that purpose the Territorial Secretary or such other officer may cause to be taken and kept of record any requisite evidence in writing by oath or affirmation or by solemn declaration. N.W.T., c. 61, s. 19.

Grant of  
supplemen-  
tary letters.

Notice thereof

**20.** Upon due proof so made the Commissioner may grant supplementary letters patent under the seal of the Territory extending the powers of the company to all or any of the objects defined in the resolution; and notice thereof shall be forthwith given by the Territorial Secretary in the *Yukon official Gazette* in form B in the sche-



dule to this Ordinance and thereupon from the date of the supplementary letters patent the undertaking of the company shall extend to and include the other purposes or objects set out in the supplementary letters patent as fully as if such other purposes or objects were mentioned in the original letters patent; and a copy of every such notice shall forthwith be by the company to which the notice relates inserted in at least four separate issues of the newspaper published nearest to where the head office or chief agency is established. N.W.T., c. 61, s. 20.

#### INCREASE OR REDUCTION OF CAPITAL, ETC.

**21.** The directors of the company may at any time make a by-law subdividing the existing shares into shares of a smaller amount. N.W.T., c. 61, s. 21. Subdivision of shares.

**22.** The directors of the company may at any time after the whole capital stock of the company has been taken up and fifty per cent thereof paid in make a by-law for increasing the capital stock of the company to any amount which they consider requisite for the due carrying out of the objects of the company. N.W.T., c. 61, s. 22. Increase of capital stock.

**23.** Such by-law shall declare the number of the shares of the new stock and may prescribe the manner in which the same shall be allotted; and in default of its so doing the control of such allotment shall vest absolutely in the directors. N.W.T., c. 61, s. 23. By-law therefor.

**24.** The directors of the company may at any time make a by-law for reducing the capital stock of the company to any amount which they consider advisable and sufficient for the due carrying out of the undertaking of the company; but the capital stock of a loan company shall never be reduced to less than \$25,000. Reduction of capital stock. Loan company.

(2) Such by-law shall declare the number and value of the shares of the stock so reduced and the allotment thereof or the manner in which the same shall be made. By-law.

(3) The liability of shareholders to persons who were at the time of the reduction of the capital creditors of the company shall remain the same as if the capital had not been reduced. N.W.T., c. 61, s. 24. Shareholders' liability.

**25.** No by-law for increasing or reducing the capital stock of the company or for subdividing the shares shall have any force or effect whatsoever until it is approved by the votes of shareholders representing at least two-thirds in value of all the subscribed stock of the company at a special general meeting of the company duly called for considering the same and afterwards confirmed by supplementary letters patent. N.W.T., c. 61, s. 25. Ratification of by-law.

Petition for supplementary letters.

**26.** At any time not more than six months after such sanction of such bylaw the directors may petition the Commission through the Territorial Secretary for the issue of supplementary letters patent to confirm the same.

Preliminary requirements.

(2) The directors shall with such petition produce a copy of such by-law under the seal of the company and signed by the president, vice-president or secretary and establish to the satisfaction of the Territorial Secretary or of such other officer as may be charged by the Commissioner to report thereon the due passage and approval of such by-law and the expediency and *bona fide* character of the increase or reduction of capital or subdivision of shares, as the case may be, thereby provided for.

Evidence.

(3) The Territorial Secretary or such other officer may for that purpose cause to be taken and kept of record any requisite evidence in writing by oath or affirmation or by solemn declaration as above mentioned. N.W.T., c. 61, s. 26.

Grant of supplementary letters. Notice thereof.

**27.** Upon due proof so made the Commissioner may grant such supplementary letters patent under the seal of the Territory; and notice thereof shall be forthwith given by the Territorial Secretary in the *Yukon Official Gazette* in form C in the schedule in this Ordinance; and thereupon from the date of the supplementary letters patent the capital stock of the company shall be and remain increased or reduced, or the shares shall be subdivided as the case may be to the amount, in the manner and subject to the conditions set forth by such by-law and the whole of the stock as so increased or reduced shall become subject to the provisions of this Ordinance in like manner as far as possible as if every part thereof had been or formed part of the stock of the company originally subscribed. N.W.T., c. 61, s. 27.

Effect.

#### POWERS OF THE COMPANY.

Exercise of powers.

**28.** All powers given to the company by the letters patent or supplementary letters patent shall be exercised subject to the provisions and restrictions contained in this Ordinance. N.W.T., c. 61, s. 28.

Acquiring and disposing of property.

**29.** Every company incorporated under this Ordinance may acquire, hold, sell and convey any real estate requisite for the carrying on of the undertaking of such company and shall forthwith become and be invested with all property and rights real and personal theretofore held by or for it under any trust created with a view to its incorporation and with all the powers, privileges and immunities requisite or incidental to the carrying on of its undertaking as if it was incorporated by a special Ordinance embodying the provisions hereof and of the letters patent. N.W.T., c. 61, s. 29.

## CAPITAL STOCK.

**30.** The stock of the company shall be personal estate and shall be transferable in such manner and subject to all such conditions and restrictions as are prescribed by this Ordinance, or by the letters patent or by by-laws of the company. N.W.T., c. 61, s. 30.

Stock  
personalty.  
Transfer.

**31.** If the letters patent or the supplementary letters patent make no other definite provision the stock of the company or any increased amount thereof so far as it is not allotted thereby shall be allotted at such times and in such manner as the directors prescribe by by-law. N.W.T., c. 61, s. 31.

Allotment.

**32.** Every share in the company shall subject to the provision of section 8 of this Ordinance be deemed to have been issued and to be held subject to the payment of the whole amount thereof in cash unless the same has been otherwise agreed upon or determined by a contract duly made in writing and filed with the Territorial Secretary at or before the issued of such share. N.W.T., c. 61, s. 32.

Shares subject  
to payment  
in cash.

Exception.

## DIRECTORS.

**33.** The affairs of the company shall be managed by a board of not more than nine and not less than three directors. N.W.T., c. 61, s. 33.

Number of  
directors.

**34.** The persons named as such in the letters patent shall be the directors of the company until replaced by others duly appointed in their stead. N.W.T., c. 61, s. 34.

Provisional  
directors  
continued.

**35.** No person shall be elected or appointed as a director thereafter unless he is a shareholder owning stock absolutely in his own right and to the amount required by the by-laws of the company and not in arrear in respect of any call thereon; and at all times the majority of the directors of the company shall be persons resident in Canada. N.W.T., c. 61, s. 35.

Qualification  
of directors.

**36.** The company may by by-law increase to not more than fifteen or decrease to not less than three the number of its directors or may change the company's chief place of business in the Territory; but no by-law for either of the said purposes shall be valid or acted upon unless it is approved by a vote of at least two-thirds in value of the stock represented by the shareholders present at a special general meeting duly called for considering the by-law nor until a copy of such by-law certified under the seal of the company has been deposited with the Territorial Secretary and has

Increase or  
decrease of  
directors.

Change of  
chief place  
of business.

also been published in the *Yukon Official Gazette*. N.W.T., c. 61, s. 36.

Election of directors.

**37.** Directors of the company shall be elected by the shareholders in general meeting of the company assembled in some place within the Territory at such time, in such manner, and for such term, not exceeding two years, as the letters patent, or in default thereof, as the by-laws of the company prescribe. N.W.T., c. 61, s. 37.

Term of office.

**38.** In the absence of other provisions in that behalf in the letters patent or by-laws of the company—

Election of directors.

(a) The election of directors shall take place yearly and all the directors then in office shall retire but if otherwise qualified they shall be eligible for re-election ;

Notice of meetings.

(b) Notice of the time and place for holding general meetings of the company shall be given at least twenty-one days previously thereto in some newspaper published in the place where the head office or chief place of business of the company is situate or if there is no such newspaper then in the place nearest thereto in which a newspaper is published ;

Voting at general meetings.

(c) At all general meetings of the company every shareholder shall be entitled to give one vote for each share then held by him ; such votes may be given in person or by proxy—the holder of any such proxy being himself a shareholder ; but no shareholder shall be entitled either in person or by proxy to vote at any meeting unless he has paid all the calls then payable upon all the shares held by him. All questions proposed for the consideration of the shareholders shall be determined by the majority of votes the chairman presiding at such meeting having the casting vote in case of an equality of votes ;

Ballot election

(d) Every election of directors shall be by ballot ;

Vacancies in directorate.

(e) Vacancies occurring in the board of directors may be filled for the remainder of the term by the directors from among the qualified shareholders of the company ;

President and officers.

(f) The directors shall from time to time elect from among themselves a president, and if they see fit, a vice-president of the company and may also appoint all other officers thereof. N.W.T., c. 61, s. 38.

Elections not held at proper time.

**39.** If at any time an election of directors is not made or does not take effect at the proper time, the company shall not be held to be thereby dissolved ; but such election may take place at any subsequent general meeting of the company duly called for that purpose ; and the retiring directors shall continue in office until their successors are elected. N.W.T., c. 61, s. 39.

#### POWERS OF DIRECTORS.

Administration of affairs

**40.** The directors of the company may administer the affairs of the company in all thing and make or cause to be

made for the company any description of contract which the company may by law enter into; and may from time to time make by-laws not contrary to law or to the letters patent of the company or to this Ordinance for the following purposes:

- (a) The regulation of the allotment of stock, the making of calls thereon, the payment thereof, the issue and registration of certificates of stock, the forfeiture of stock for non-payment, the disposal of forfeited stock and of the proceeds thereof, and the transfer of stock;
- (b) The declaration and payment of dividends;
- (c) The number of the directors, their term of service, the amount of their stock qualification, and their remuneration in any;
- (d) The appointment, functions, duties and removal of all agents officers and servants of the company, the security to be given by them to the company and their remuneration;
- (e) The time and place for the holding of the annual meetings of the company, the calling of meetings, regular and special, of the board of directors and of the company, the quorum, the requirements as to proxies, and the procedure in all things at such meetings;
- (f) The imposition and recovery of all penalties and forfeitures which admit of regulation by by-law;
- (g) The conduct in all other particulars of the affairs of the company;

and the directors may from time to time repeal, amend or re-enact the same; but every such by-law and every repeal, amendment or re-enactment thereof unless in the meantime confirmed at a general meeting of the company duly called for that purpose shall only have force until the next annual meeting of the company and in default of confirmation thereat shall at and from that time only cease to have force. N.W.T, c. 61, s. 40.

**41.** No by-laws for the issue, allotment or sale of any portion of the unissued stock at any greater discount or at any less premium than that which has been previously authorized at a general meeting and no by-law for the remuneration of the president or any director shall be valid or acted upon until the same has been confirmed at a general meeting. N.W.T., c. 61, s. 41.

**42.** The directors may deduct from the dividends payable to any shareholder all such sums of money as are due from him to the company on account of calls or otherwise. N.W.T., c. 61, s. 42.

By-laws to  
borrow money  
or hypothecate  
property.

**43.** The directors may when authorized by a by-law for that purpose passed and approved of by the votes of shareholders representing at least two-thirds in value of the subscribed stock of the company represented at a special general meeting duly called for considering the by-law :

- (a) Borrow money upon the credit of the company and issue bonds, debentures or other securities for any sums borrowed at such prices as are deemed necessary or expedient ; but no debentures shall be for a less sum than \$100 ;
- (b) Hypothecate or pledge the real or personal property of the company to secure any sums borrowed by the company but the amount borrowed shall not at any time be greater than seventy-five per cent of the actual paid up stock of the company ; but the limitation made by this section shall not apply to commercial paper discounted by the company. N.W.T., c. 61, s. 43.

#### CALLS.

Calls on  
unpaid shares.

**44.** The directors may from time to time make such calls upon the shareholders in respect of all moneys unpaid upon their respective shares as they think fit at such times and places and in such payments or instalments as the letters patent or this Ordinance or the by-laws of the company require or allow. N.W.T., c. 61, s. 44.

Calls when  
due.

**45.** A call shall be deemed to have been made at the time when the resolution of the directors authorizing such call was passed ; and if a shareholder fails to pay any call due by him on or before the day appointed for payment thereof he shall be liable to pay interest for the same at the rate of six per cent per annum from the day appointed for payment to the time of actual payment thereof. N.W.T., c. 61, s. 45.

Interest.

**46.** The directors may if they think fit receive from any shareholder willing to advance the same all or any part of the amounts due on the shares held by such shareholder beyond the sums then actually called for ; and upon the moneys so paid in advance or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance is made the company may pay interest at such rate not exceeding eight per cent per annum as the shareholder who pays such sum in advance and the directors agree upon. N. W. T., c. 61, s. 46.

Payment on  
shares before  
call.

Interest.

Forfeiture of  
shares for

**47.** If after such demand or notice as is prescribed by the letters patent or by the by-laws of the company any

call made upon any share is not paid within such time as by such letters patent or by the by-laws is limited in that behalf the directors in their discretion by vote to that effect duly recorded in their minutes may summarily declare forfeited any shares whereupon such payment is not made; and the same shall thereupon become the property of the company and may be disposed of as by the by-laws of the company or otherwise is prescribed but notwithstanding such forfeiture the holder of such shares at the time of forfeiture shall continue liable to the then creditors of the company for the full amount unpaid on such shares at the time of forfeiture less any sums which are subsequently received by the company in respect thereof. N.W.T., c. 61, s. 47.

nonpayment  
of calls.

**48.** The directors may if they see fit instead of declaring forfeited any share or shares enforce payment of all calls and interest thereon by action in any court of competent jurisdiction; and in such action it shall not be necessary to set forth the special matter but it will be sufficient to declare that the defendant is a holder of one share or more stating the number of shares and is indebted in the sum of money to which the calls in arrear amount is respect of one call or more upon one share or more stating the number of calls and the amount of each call whereby an action has accrued to the company under this Ordinance; and a certificate under the seal of the company and purporting to be signed by any officer of the company to the effect that the defendant is a shareholder, that such call or calls has or have been made and that so much is due by him and unpaid thereon shall be received in all courts as *prima facie* evidence thereof. N.W.T., c. 61, s. 48.

Action for  
calls.

Evidence.

**49.** The company shall cause a book or books to be kept by the secretary or by some other officer specially charged with that duty wherein shall be kept recorded—

Books to  
be kept.

(a.) A copy of the letters patent incorporating the company and of any supplementary letters patent and of all by-laws of the company;

(b.) The names alphabetically arranged of all persons who are or have been shareholders;

(c.) The address and calling of every such person while such shareholder;

(d.) The number of shares of stock held by each shareholder;

(e.) The amount paid in and remaining unpaid respectively on the stock of each shareholder;

(f.) The names, addresses and calling of all persons who are or have been directors of the company with the several dates at which each became or ceased to be a director;

(g.) A book called the register of transfers shall be provided and in such book shall be entered the particulars of every transfer of shares in the capital of the company. N. W.T., c. 61, s. 49.

Inspection of books by creditors, etc.

**50.** Such books shall during reasonable business hours of every day except Sundays and holidays be kept open for the inspection of shareholders and creditors of the company and their personal representatives at the head office or chief place of business of the company and every such shareholder, creditor or personal representative may make extracts therefrom. N.W.T., c. 61, s. 50.

Penalty on officers falsifying books, refusing inspection, etc

**51.** Every director, officer or servant of the company who knowingly makes or assists in making any untrue entry in any such book or who refuses or wilfully neglects to make any proper entry therein or to exhibit the same or to allow the same to be inspected and extracts to be taken therefrom shall be liable on summary conviction thereof before a judge of the Territorial Court to a penalty not exceeding \$500. N.W.T., c. 61, s. 51.

Omission to keep books.

**52.** Every company which neglects to keep such book or books as aforesaid shall forfeit its corporate rights. N. W.T. c. 61, s. 52.

Books *prima facie* evidence.

**53.** Such books shall be *prima facie* evidence of all facts purporting to be therein stated, in any action suit or proceeding against the company or against any shareholder. N.W.T., c. 61, s. 53.

#### TRANSFER OF SHARES.

Registration of transfers.

**54.** No transfer of shares unless made by sale under execution or under the decree, order or judgment of a court of competent jurisdiction shall be valid for any purpose whatever until entry thereof is duly made in the register of transfers except for the purpose of exhibiting the rights of the parties thereto towards each other and of rendering the transferee liable in the meantime jointly and severally with the transferor to the company and its creditors. N.W.T., c. 61, s. 54.

Consent of directors to registration of transfers.

**55.** No transfer of shares whereof the whole amount has not been paid in shall be made without the consent of the directors; and whenever any transfer of shares not fully paid in has been made with such consent to a person who is not apparently of sufficient means to fully pay up such shares the directors shall be jointly and severally liable to the creditors of the company in the same manner and to the same extent as the transferring shareholder but for such



transfer would have been ; but if any director present when any such transfer is allowed does forthwith or if any director then absent does within twenty-four hours after he becomes aware thereof and is able so to do enter on the minute book of the board of directors his protest against the same and within eight days thereafter publishes such protest in at least one newspaper published at the place in which the head office or chief place of business of the company is situated or if there is no newspaper there published, then in the newspaper published nearest thereto, such director may thereby and not otherwise exonerate himself from such liability. N.W.T., c. 61, s. 55.

**56.** Whenever the interest in any shares of the capital stock of the company is transmitted by the death of any shareholder or otherwise or whenever the ownership of or legal right of possession in any share changes by any lawful means other than by transfer according to the provisions of this Ordinance and the directors of the company entertain reasonable doubts as to the legality of any claim, to such shares the company may make and file in the Territorial Court a declaration and petition in writing, addressed to a judge of the court, setting forth the facts and the number of shares previously belonging to the person in whose name such shares stand in the books of the company and praying for an order or judgment adjudicating and awarding the said shares to the person or persons legally entitled to the same by which order or judgment the company shall be guided and held fully harmless and indemnified and released from every other claim to the said shares or arising in respect thereof. N.W.T., c. 61, s. 56.

Change of interest in shares.

Doubt as to person entitled.

Company's petition for adjudication.

**57.** Notice of the intention to present such petition shall be given to the person claiming such shares or to the solicitor of such person duly authorized for the purpose who shall upon the filing of such petition establish his right to the shares referred to in such petition ; and all the proceedings in such cases shall be the same as those observed in analogous cases before the said Territorial Court ;

Notice of petition.

Procedure.

Provided always that the costs and expenses of procuring such order or judgment shall be paid by the person or persons to whom such shares are declared lawfully to belong ; and that such shares shall not be transferred in the books of the company until such costs and expenses are paid, saving the recourse of such person for such costs and expenses against any person contesting his right to such shares. N.W.T., c. 61, s. 57.

Costs.

**58.** No share shall be transferable until all previous calls thereon are fully paid in. N.W.T., c. 61, s. 58.

Transfer, calls unpaid.

Shareholder indebted to company.

**59.** The directors may decline to register any transfer of shares belonging to any shareholder who is indebted to the company. N.W.T., c. 61, s. 59.

Transfer by personal representative

**60.** Any transfer of the shares or other interest of a deceased shareholder made by his personal representative shall notwithstanding such personal representative is not himself a shareholder, be of the same validity as if he had been a shareholder at the time of his execution of the instrument of transfer. N.W.T., c. 61, s. 60.

#### LIABILITY OF SHAREHOLDERS.

Limited liability of shareholders.

**61.** The shareholders of the company shall not as such be responsible for any act, default or liability of the company or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the company beyond the amount unpaid on their respective shares in the capital stock thereof. N.W.T., c. 61, s. 61.

Liability of shareholders to creditors.

**62.** Every shareholder until the whole amount of his shares has been paid up shall be individually liable to the creditors of the company to an amount equal to that not paid thereon ; but he shall not be liable to an action therefor by any creditor until an execution in the suit of such creditor against the company has been returned unsatisfied in whole or in part ; and the amount due on such execution not exceeding the amount unpaid on his shares as aforesaid shall be the amount recoverable with costs from such shareholder ; and any amount so recoverable if paid by the shareholders shall be considered as paid on his shares. N.W.T., c. 61, s. 62.

Persons holding shares as representatives.

**63.** No person holding stock in the company as an executor, administrator, tutor, curator, guardian or trustee, shall be personally subject to liability as a shareholder ; but the estate and funds in the hands of such person shall be liable in like manner and to the same extent as the testator or intestate or the minor, ward or interdicted person or the person interested in such trust fund would be if living and competent to act and holding such stock in his own name ; and no person holding such stock as collateral security shall be personally subject to such liability ; but the person pledging such stock shall be considered as holding the same, and shall be liable as a shareholder accordingly. N.W.T., c. 61, s. 63.

Liability of pledgors of shares.

Representatives and pledgors may vote.

**64.** Every such executor, administrator, tutor, curator, guardian or trustee shall represent the stock held by him at all meetings of the company and may vote as a shareholder ; and every person who pledges his stock may represent the

same at all such meetings, and notwithstanding such pledge vote as a shareholder. N.W.T., c. 61, s. 64.

#### LIABILITY OF DIRECTORS AND OFFICERS.

**65.** If the directors of the company declare to pay any dividend when the company is insolvent, or any dividend the payment of which renders the company insolvent or impairs the capital stock thereof, they shall be jointly and severally liable as well to the company as to the individual shareholders and creditors thereof for all the debts of the company then existing, and for all thereafter contracted during their continuance in office respectively; but if any director present when such dividend is declared does forthwith or if any director then absent does within twenty-four hours after he becomes aware thereof and able to do so enter on the minutes of the board of directors his protest against the same, and within eight days thereafter publishes such protest in at least one newspaper published at the place in which the head office or chief place of business of the company is situated or if there is no newspaper there published, then in the newspaper published nearest thereto, such director may thereby and not otherwise exonerate himself from such liability. N.W.T., c. 61, s. 65.

Dividends impairing capital, etc. Liability of directors.

**66.** No loan shall be made by the company to any shareholder; if such loan is made all directors and other officers of the company making the same or in anywise assenting thereto, shall be jointly and severally liable for the amount of such loan, with interest, to the company and also to the creditors of the company for all debts of the company then existing or contracted between the time of the making of such loan and that of the repayment thereof. N.W.T., c. 61, s. 66.

Loans to shareholders. Liability of directors

**67.** The directors of the company shall be jointly and severally liable to the clerks, labourers, servants and apprentices thereof for all debts not exceeding six months' wages due for services performed for the company whilst they are such directors respectively; but no director shall be liable to an action therefor unless the company is sued therefor within one year after the debt becomes due nor unless such director is sued therefor within one year from the time when he ceased to be such director nor unless an execution against the company in respect of such debt is returned unsatisfied in whole or in part; and the amount unsatisfied on such execution shall be the amount recoverable with costs from the directors. N.W.T., c. 61, s. 67.

Liability of directors for wages.

## DOMICILE—SERVICE OF PROCESS, ETC.

Legal domicile.

Notice of change.

Offices and agencies.

Authentication of proceedings.

Service on shareholders.

Proof of service.

Evidence of by-laws.

Actions between shareholders and company.

Allegations in legal proceedings.

**68.** The company shall at all times have an office in the place where its chief place of business is situate which shall be the legal domicile of the company in the Territory and notice of the situation of such office and of any change thereof shall be published in the *Yukon Official Gazette*; and the company may establish such other offices and agencies elsewhere in the said Territory as it deems expedient. N.W.T., c. 61, s. 68.

**69.** Any summons, notice, order or proceeding requiring authentication by the company may be signed by any director, manager or authorized officer of the company and need not be under the seal of the company. N.W.T., c. 61, s. 69.

**70.** Notices to be served by the company upon the shareholders may be served either personally or by sending them through the post in registered letters addressed to the shareholders at their places of abode as they appear in the books of the company. N.W.T., c. 61, s. 70.

**71.** A notice or other document served by post by the company on a shareholder shall be held to be served at the time when the registered letter containing it would be delivered in the ordinary course of post; and to prove the fact and time of service it shall be sufficient to prove that such letter was properly addressed and registered and was put into the post office and the time when it was put in and the time requisite for its delivery in the ordinary course of post. N.W.T., c. 61, s. 71.

**72.** A copy of any by-law of the company under its seal and purporting to be signed by any officer of the company, shall be received as against any shareholder of the company as *prima facie* evidence of such by-law in all courts in the Territory. N.W.T., c. 61, s. 72.

**73.** Any description of action may be prosecuted and maintained between the company and any shareholder thereof; and no shareholder shall by reason of being a shareholder be incompetent as a witness therein. N.W.T., c. 61, s. 73.

**74.** In any action or other legal proceeding it shall not be requisite to set forth the mode of incorporation of the company otherwise than by mention of it under its corporate name as incorporated by virtue of letters patent or by letters patent and supplementary letters patent as the case may be under this Ordinance; and the notice in the *Yukon Official Gazette* of the issue of such letters patent or supplementary

letters patent shall be *prima facie* proof of all things therein contained; and on production of the letters patent or supplementary letters patent or of any exemplification or copy thereof under the seal of the Territory the fact of such notice shall be presumed; and except in any proceeding for the purpose of rescinding or annulling the same the letters patent or supplementary letters patent or any exemplification or copy thereof under the seal of the Territory shall be conclusive proof of every matter and thing therein set forth. N.W.T., c. 61, s. 74.

Evidence of incorporation, etc.

#### GENERAL PROVISIONS.

**75.** The company may have an agency or agencies in any city or town outside the Territory. N.W.T., c. 61, s. 75.

Agencies outside Territories.

**76.** No dividend shall be declared which will impair the capital of the company. N.W.T., c. 61, s. 76.

Dividends.

**77.** Shareholders who hold one-fourth part in value of the subscribed stock of the company may at any time call a special meeting thereof for the transaction of any business specified in such written requisition and notice as they make and issue to that effect. N.W.T., c. 61, s. 77.

Special meeting at call of shareholders.

**78.** Every deed which any person lawfully empowered in that behalf by the company as its attorney signs on behalf of the company and seals with his seal shall be binding on the company and shall have the same effect as if it was under the seal of the company. N.W.T., c. 61, s. 78.

Deeds by attorney of company.

**79.** Every contract, agreement, engagement or bargain made and every bill of exchange drawn, accepted or indorsed and every promissory note and cheque made, drawn or indorsed on behalf of the company by any agent, officer or servant of the company in general accordance with his powers as such under the bylaws of the company shall be binding upon the company; and in no case shall it be necessary to have the seal of the company affixed to any such contract, agreement, engagement, bargain, bill of exchange, promissory note or cheque or to prove that the same was made, drawn, accepted or indorsed as the case may be in pursuance of any by-law or special vote or order; and the person so acting as agent, officer or servant of the company shall not be thereby subjected individually to any liability whatsoever to any third person therefor:

Contracts, bills of exchange, etc. for company by its officers.

Provided always that nothing in this Ordinance shall be construed to authorize the company to issue any note payable to the bearer thereof or any promissory note intended to be circulated as money or as the note of a bank or to engage in the business of banking or insurance. N.W.T., c. 61, s. 79.

Proviso.

Proof by affidavit, etc.

**80.** Proof of any matter which is necessary to be made under this Ordinance may be made by oath or affirmation or by solemn declaration before any justice of the peace or any commissioner for taking affidavits to be used in any of the courts within the Territory or in any of the Territories or Provinces of Canada or any officer authorized to administer oaths or affidavits to be used in the Territorial Court of the Territory. N.W.T., c. 61, s. 80.

Use of corporate name of company "limited" to be appended.

**81.** The company shall keep painted or affixed its name, with the word "limited" after the name, on the outside of every office or place in which the business of the company is carried on in a conspicuous position in letters easily legible and shall have its name with the said word after it engraved on its seal and shall have its name with the said word after it mentioned in legible characters in all notices, advertisements and other official publications of the company and in all bills of exchange, promissory notes, indorsements, cheques and orders for money or goods purporting to be signed by or on behalf of such company and in all bills of parcels, invoices and receipts of the company.

Penalties.

(2.) Every company which does not keep painted or affixed its name with the word "limited" after it in manner directed by this Ordinance shall incur a penalty of \$20 for every day during which the same is not so kept painted or affixed.

(3.) Every director and manager of the company who knowingly and wilfully authorises or permits such default shall be liable to the like penalty.

(4.) Every director, manager or officer of the company and every person on its behalf who uses or authorises the use of any seal purporting to be a seal of the company whereon its name with the word "limited" after it is not so engraven as aforesaid or who issues or authorises the issue of any notice, advertisement or other official publication of such company or who signs or authorises to be signed on behalf of such company any bill of exchange, promissory note, indorsement, cheque, order for money or goods or who issues or authorizes to be issued any bill of parcels, invoice or receipt of the company wherein its name with the said word after it is not mentioned in manner aforesaid shall incur a penalty of \$200 and shall also be personally liable to the holder of any such bill of exchange, promissory note, cheque or order for money or goods for the amount thereof, unless the same is duly paid by the company. N.W.T., c. 61, s. 81.

Prospectuses and notices. Contents.

**82.** Every prospectus of the company and every notice inviting persons to subscribe for shares in the company shall specify the dates and the names of the persons to any contract entered into by the company or the promoters, directors or trustees thereof before the issue of such pros-

pectus or notice whether subject to adoption by the directors of the company or otherwise and every prospectus or notice which does not specify the same shall with respect to any person who takes shares in the company on the faith of such prospectus or notice and who has not had notice of such contract, be deemed fraudulent on the part of the promoters, directors and officers of the company who knowingly issue such prospectus or notice. N.W.T., c. 61, s. 82.

Fraudulent prospectuses.

**83.** The company shall not be bound to see to the execution of any trust whether express, implied or constructive in respect to any share; and the receipt of the shareholder in whose name the same stands in the books of the company shall be a valid and binding discharge to the company for any dividend or money payable in respect of such share and whether or not notice of such trust has been given to the company; and the company shall not be bound to see to the application of the money paid upon such receipt. N.W.T., c. 61, s. 83.

Company not bound by trusts affecting shares.

**84.** Every director of the company and his heirs, executors and administrators, and estate and effects, respectively, may with the consent of the company given at any general meeting thereof from time to time and at all times be indemnified and saved harmless out of the funds of the company from and against all costs, charges and expenses whatsoever which he or they sustain or incur in or about any action, suit or proceeding which is brought, commenced or prosecuted against him or them for or in respect of any act, deed, matter or thing whatsoever made done or permitted by him or them in or about the execution of the duties of his office; and also from and against all other costs, charges and expenses which he or they sustain or incur in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his or their own wilful neglect or default. N.W.T., c. 61, s. 84.

Indemnity to directors.

**85.** The charter of the company shall be forfeited by non-user during three consecutive years or if the company does not go into actual operation within three years after it is granted. N.W.T., c. 61, s. 85.

Forfeiture of charter by non-user.

**86.** The directors of every company shall lay before its shareholders a full printed statement of the affairs and financial position of the company at or before each general meeting of the company for the election of directors. N.W.T., c. 61, s. 86.

Directors' statements to shareholders.

**87.** No steps shall be taken by the Commissioner towards the issue of any letters patent or supplementary letters patent under this Ordinance until after all fees therefor are duly paid. N.W.T., c. 61, s. 87.

Fees to be paid before patent issued.

SPECIAL CLAUSES FOR WATER, GAS, ELECTRIC AND TELEPHONE COMPANIES.

Provisions regarding gas, water, etc., companies.

**88.** In addition to the general provisions of this Ordinance the provisions contained in the nineteen sections next following shall apply to gas and water companies and companies for supplying electricity for purposes of light, heat or power or of operating a system of telephones and to them only and such companies are hereinafter referred to respectively as gas, water, electric and telephone companies. N.W.T., c. 61, s. 88.

Erection of works.

**89.** Gas, water, electric, or telephone companies incorporated under this Ordinance shall respectively have full power to construct, maintain, complete and operate works and apparatus for the production, sale and distribution of gas, water, or electricity for the purpose of light, heat or power or of operating a system of telephones as the case may be and may construct and operate the same by any means through, under, along or over streets, highways, and public places; but subject always to such agreement in respect thereof as shall be made between the company and the municipal corporation within whose jurisdiction the same are situate and be ratified by a by-law of the council of such municipality; and such municipality may by agreement ratified as aforesaid contract with any such company for the purchase of water, gas or electricity and for the purchase or renting of any apparatus connected with the production, sale or distribution thereof for any number of years not in the first instance exceeding ten years and renew any such contract from time to time for such period not exceeding ten years as such council desires; and any such municipality may by by-law if it shall see fit so to do grant to any such company but only within the limits of time above mentioned exemption from taxation and the exclusive privilege of supplying water, gas or electricity for any of the purposes aforesaid within the limits of the municipal corporation. In the case of streets highways and public places not within the limits of any municipality, the right of any such gas, water, electric or telephone company to make use of such streets, highways or public places to the extent indicated in this Ordinance shall be subject to such terms as may be imposed by the Commissioner upon application first made by such company. N.W.T., c. 61, s. 89. No. 10, of 1900, s. 2.

Municipal contract.

Exemption from taxation,

Exclusive privileges.

Powers of companies.

**90.** Every company may sell and dispose of gas meters and gas, water and electric fittings of every description for the use of private and public houses or for any establishment, company or corporation whatsoever as well as coke, coal, tar, and all and every the products of their works, refuse or residuum arising or to be obtained from the mate-



rials used or necessary for the manufacture of gas or electricity; and every company may let out to hire gas meters and gas, water and electric fittings of every kind and description at such rate and rents as may be agreed upon between the consumers and tenants and such company. N.W.T., c. 61, s. 90.

**91.** Any such company may break up, dig and trench and use so much and so many of the streets, squares, highways, lanes and public places of the locality for supplying which with gas, water or electricity or either of them the company has been incorporated as are necessary for laying the mains and pipes to conduct the gas or water or for placing the wires and connections to conduct the electricity from the works of the company to the consumers or users thereof doing no unnecessary damage in the premises and taking care as far as may be to preserve a free and uninterrupted passage through the said streets, squares, highways, lanes and public places while the works are in progress. N.W.T., c. 61, s. 91.

Laying mains and wires on streets.

**92.** When any such company has laid down mains, pipes, wires or conductors for the supply of gas, water or electricity through any of the streets, squares or public places of any locality no other person or persons, bodies politic or corporate shall without the consent of such company first had and obtained nor otherwise than on payment to such company of such compensation as may be agreed upon lay down any pipe, wire or conductor for the supply of gas, water or electricity within six feet of such company's main pipes, wires or conductors or if it be impracticable to cut drains for such other main pipes, wires or conductors at a greater distance then as nearly six feet as the circumstances of the case will admit. N.W.T., c. 61, s. 92.

Company's rights regarding mains and pipes.

**93.** When there are buildings within the locality the different parts whereof belong to different proprietors or are in possession of different tenants or lessees the company may carry pipes, wires or conductors to any part of any building so situate passing over the property of one or more proprietors or in the possession of one or more tenants to convey the gas, water or electricity to the property of another or in the possession of another and such pipes, wires or conductors shall be carried up and attached to the outside of the building. N.W.T., c. 61, s. 93.

Supplying parts of buildings having different owners or tenants.

**94.** The company may also break up and uplift all passages common to neighbouring proprietors or tenants and dig or cut trenches therein for the purpose of laying down pipes, wires or conductors or taking up or repairing the same doing as little damage as may be in the execution of the powers granted by this Ordinance. N.W.T., c. 61, s. 94.

Breaking up passages, etc.

- Compensation **95.** Every company shall make satisfaction to the owners or proprietors of buildings or other property or to the public for all damages by them sustained in or by the execution of all or any of the said powers subject to which provisions this Ordinance shall be sufficient to indemnify every such company and their servants, and those by them employed for what they or any of them do in pursuance of the powers hereby granted.
- Procedure. **(2.)** Every person claiming compensation from the company under this section shall proceed by originating summons. N.W.T., c. 61. s. 95.
- Location of works. **96.** Every such company shall construct, locate and operate their gas works, water works or electric or telephone system and all apparatus and appurtenances thereto belonging or appertaining or therewith connected and wheresoever situated so as not to endanger the public health or safety. N.W.T., c. 61, s. 96.
- Limitation of powers of company. **97.** Nothing contained in this Ordinance shall authorize any such company or any person acting under the authority of the same to take, use or injure for the purposes of the company any house or other building or any land used or set apart as a garden, orchard, yard, park, paddock, plantation, planted walk or avenue to a house, or nursery ground for trees, or to convey from the premises of any person any water already appropriated and necessary for his domestic uses without the consent in writing of the owner or owners thereof first had and obtained. N.W.T., c. 61, s. 97.
- Privileges of other companies. **98.** Nothing in this Ordinance shall authorize any company established under it to interfere with or infringe upon any exclusive privilege granted to any other company. N. W.T., c. 61, s. 98.
- Individual rights. **99.** Nothing in this Ordinance contained shall prevent any person from constructing any works for the supply of gas or water to his own premises. N.W.T., c. 61, s. 99.
- Exemption from distress and seizure. **100.** Neither the service nor the connecting pipes, wires or conductors of the company, nor any metres, lustras, lamps, pipes, gas fittings, electric fittings, or any other property of any kind whatsoever of the company shall be subject to or liable for rent nor liable to be seized or attached in any way by the possessor or owner of the premises wherein the same may be nor be in any way whatsoever liable to any person for the debt of any person to and for whose use or the use of whose house or building the same may be supplied by the company notwithstanding the actual or apparent possession thereof by such person. N.W.T., c. 61, s. 100.

## PROHIBITIONS AND PENALTIES.

**101.** If any person supplied by the company with gas, water or electricity neglects to pay the rent, rate or charge due to the company at any of the times fixed for the payment thereof the company or anyone acting under its authority on giving forty-eight hours' previous notice to the person supplied may stop the supply of gas, water or electricity from entering or being supplied to the premises of the person in arrear as aforesaid by cutting off the service pipe or pipes, wires or conductors or by such other means as the company or its officers see fit and may recover the rent or charge due up to such time together with the expense of cutting off the gas, water or electricity as the case may be, in any competent court notwithstanding any contract to furnish for a longer time. N.W.T., c. 61, s. 101.

Nonpayment  
of rates, etc.

**102.** In all cases where the company may lawfully cut off and take away the supply of gas, water or electricity from any house, building or premises the company, their agents or their workmen upon giving forty-eight hours' previous notice to the person in charge or the occupier may enter into the house, building or premises between the hours of nine o'clock in the forenoon and five o'clock in the afternoon making as little disturbance and inconvenience as possible and may remove and take away any pipe, meter, cock, branch, lamp fitting or apparatus the property of and belonging to the company and any servant duly authorized by the company may between the hours aforesaid enter any house into which gas, water or electricity have been taken or supplied for the purpose of repairing and making good any such house, building or premises or for the purpose of examining any meter, pipe, apparatus or fitting belonging to the company or used for their gas, water or electricity and if any person refuses to permit or does not permit the servants and officers of the company to enter and perform the acts aforesaid the person so refusing or obstructing shall incur a penalty to the company, for every such offence, of \$20 and a further penalty of \$4 for every day during which such refusal or obstruction continues, to be recovered with costs as hereinafter provided. N.W.T., c. 61, s. 102.

Entry of  
premises by  
employees  
of company.

**103.** Where any customer discontinues the use of the gas, or other means of lighting, or heating or water or electricity furnished or supplied by a company incorporated under this Ordinance or the company lawfully refuses to continue any longer to supply the same, the officers and servants of the company may at all reasonable times enter the premises in or upon which such customer was supplied with gas, or other means of lighting or heating, or water or electricity for the purpose of removing therefrom any fittings, machines, apparatus, meters, pipes, wires, conduc-

Removal of  
fittings, etc.,  
where service  
discontinued.

tors or other things, being the property of the company, in or upon such premises and may remove the same therefrom doing no unnecessary damage. N.W.T., c. 61, s. 103.

#### ARBITRATIONS.

**Expropriation** **104.** If it is found necessary or deemed proper to conduct any of the pipes, wires or conductors or to carry any of the works of the company through the lands of any person lying within or within ten miles of the locality for supplying which the company is incorporated and the consent of such person cannot be obtained for that purpose the company may take or use the land required and nominate and appoint a disinterested person and the owner or owners of the land taken or damaged may nominate and appoint another, which two persons so appointed shall nominate and appoint a third person and the said three persons shall act as abitrators in the matter between the company and the owner or owners of the property.

**Appointment of arbitrators.**

(2) Nothing in this section shall authorize the company to take or use any house, land or property in contravention of section 97 of this Ordinance. N.W.T., c. 61, s. 104.

**Powers and duties of arbitrators.**

**105.** The said arbitrators shall examine all witnesses and administer all necessary oaths or declarations to them and the said arbitrators or a majority of them shall award, determine and adjudge what sum or sums of money respectively shall be paid to the owner or owners of the property so taken or damaged by the company. N.W.T., c. 61, s. 105.

**Payment of award.**

**106.** The sum or sums of money so awarded shall be paid within three months after the date of the award and in default of such payment the owner or owners may resume the possession of his property with all the rights appertaining thereto but the company shall be held liable to such owner for any damage it may have done to the property. N.W.T., c. 61, s. 106.

**Failure to appoint arbitrator.**

**107.** In the event of the company or the owner of such property failing to appoint an arbitrator after eight days' notice from one of the said parties to the other or of the said two arbitrators failing to appoint a third, a judge of the Territorial Court, may appoint a third arbitrator and the decision of the said three arbitrators or a majority of them shall be binding on all parties concerned. N.W.T., c. 61, s. 107.

#### ENFORCEMENT OF PENALTIES.

**Proceedings for penalties**

**108.** Unless otherwise herein provided proceedings for fines, penalties and forfeitures imposed by this Ordinance may be taken by the company or by any person whose pro-

perty is injured, to and for the use of the company or such person, either in the manner hereinbefore directed or before a justice of the peace in a summary way. N.W.T., c. 61, s. 108.

#### FEEES FOR LETTERS PATENT.

**109.** In addition to the cost of all necessary advertising in the *Yukon Official Gazette* the following fees shall be paid on application for letters patent of incorporation and supplementary letters patent under this Ordinance :

Fees on issue  
of letters  
patent.

1. When the capital stock of the company is \$400,000 and upwards the fee to be \$500 ;
2. When the capital stock of the company is \$200,000 and upwards and under \$400,000 the fee to be \$400 ;
3. When the capital stock of the company is \$100,000 and upwards and under \$200,000 the fee to be \$300 ;
4. When the capital stock of the company is \$40,000 and upwards and under \$100,000 the fee to be \$200 ;
5. When the capital stock of the company is over \$10,000 and under \$40,000 the fee to be \$150 ;
6. And when the capital stock of the company is \$10,000 or under the fee to be \$100 ;
7. On application for supplementary letters patent the fees to be one half of that charged on the original letters patent. N.W.T., c. 61, s. 109. No. 10 of 1900, s. 5.

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#### SCHEDULE.

##### FORM A.

(Section 15.)

Public notice is hereby given that under *The Companies' Ordinance* letters patent have been issued under the seal of the Yukon Territory bearing date the \_\_\_\_\_ day of \_\_\_\_\_ incorporating (*here state name, address and calling of each corporator named in the letters patent*), for the purpose of (*here state the undertaking of the company as set forth in the letters patent*) by the name of (*here state the name of the company as in the letters patent*) with a capital stock of \_\_\_\_\_ dollars divided into \_\_\_\_\_ shares of \_\_\_\_\_ dollars.

Dated at Dawson this \_\_\_\_\_ day of \_\_\_\_\_ 19

A. B.,  
Territorial Secretary.

## FORM B.

(Section 20.)

Public notice is hereby given that under *The Companies' Ordinance* supplementary letters patent have been issued under the seal of the Yukon Territory bearing date the day of \_\_\_\_\_, whereby the undertaking of the (*here insert name of the company*) has been extended to include (*here set out the other purpose or objects mentioned in the supplementary letters patent.*)

Dated at Dawson this \_\_\_\_\_ day of \_\_\_\_\_ 19

A. B.,  
Territorial Secretary.

## FORM C.

(Section 27.)

Public notice is hereby given that under *The Companies' Ordinance* supplementary letters patent have been issued under the seal of the Yukon Territory bearing date the day of \_\_\_\_\_, whereby the total capital stock of (*here state the name of the company*) is increased (*or reduced as the case may be*) from \_\_\_\_\_ dollars to \_\_\_\_\_ dollars.

Dated at Dawson this \_\_\_\_\_ day of \_\_\_\_\_ 19

A. B.,  
Territorial Secretary.

## CHAPTER 58.

### An Ordinance to Authorize the Changing of the Names of Incorporated Companies.

**1.** When any incorporated company within the legislative authority of the Council of the Territory whether incorporated under a special or a general Ordinance is desirous of changing its name the Commissioner upon being satisfied that the company is in a solvent condition, that the change desired is not for any improper purpose and is not otherwise objectionable and that the notice hereafter provided for has been duly given may by Order change the name of the company to some other name set forth in the said Order. N.W.T., c. 62, s. 1.

Commissioner may change name of company.

**2.** The company shall give by notice published in two consecutive issues of the *Yukon Official Gazette* and in two insertions of some other newspaper published in or near the locality in which the operations of the company are carried on during the time within which such notice is appearing in the said gazette, notice of the intention to apply for the change of name and shall state the name proposed to be adopted. N.W.T., c. 62, s. 2.

Publication of notice of application to change name.

**3.** In case the proposed new name is considered objectionable the Commissioner may if he thinks fit change the name of the company to some other unobjectionable name without requiring any further notice to be given. N.W.T., c. 62, s. 3.

Commissioner may change proposed name.

**4.** Such change shall be conclusively established by the insertion in the *Yukon Official Gazette* of a notice thereof by the Territorial Secretary for which a fee of \$5 shall be payable. N.W.T., c. 62, s. 4.

Notice in gazette proof of change of name.

**5.** No contract or engagement entered into by or with the company and no liability incurred by it shall be affected by the change of name ; and all suits commenced by or against the company prior to the change of name may be proceeded with against or by the company under its former name. N.W.T., c. 62, s. 5.

No contract, etc., affected by change.

## CHAPTER 59.

### An Ordinance respecting Foreign Corporations.

#### SHORT TITLE.

Short title.

1. This Ordinance may be cited as "*The Foreign Companies Ordinance.*" N.W.T., c. 63, s. 1.

#### FOREIGN COMPANIES, LICENSES, STATEMENTS, ETC.

Corporations to obtain license before doing business

2. Any company, institution or corporation incorporated otherwise than by or under the authority of an Ordinance of the Territory or an Act of the Parliament of Canada desiring to carry on any of its business within the Territory may (through the Territorial Secretary) petition the Commissioner for a license so to do and the Commissioner may thereupon authorise such company, institution or corporation to use, exercise or enjoy any powers, privileges and rights set forth in the said license.

Certain documents to be filed with Territorial secretary.

(2) No such license shall be issued until such company, institution or corporation has deposited in the office of the Territorial Secretary a true copy of the Act, charter or other instrument incorporating the company, institution or corporation verified in the manner which may be satisfactory to the Commissioner together with a duly executed power of attorney empowering some person therein named and residing in the Territory to act as its attorney and to sue and be sued, plead or be impleaded in any court and generally on behalf of such company, institution or corporation and within the said Territory to accept service of process and to receive all notices and for the purposes aforesaid to do all acts and to execute all deeds and other instruments relating to the matters within the scope of the power of attorney; and such company, institution or corporation may from time to time by a new or other power of attorney executed and deposited as aforesaid appoint another attorney within the Territory for the purposes aforesaid to replace the attorney formerly appointed; and notice of the granting of such license shall be given forthwith by the Territorial Secretary in the official gazette.

Power of attorney.

Evidence of license.

(3) The license or any exemplification thereof under the seal of the Territory shall be sufficient evidence in any proceeding in any court of the Territory of the due licensing of the company, institution or corporation as aforesaid.



(4) A company, institution or corporation licensed under this section shall on or before the thirty-first day of January in every year during the continuance of such license make a statement to the Territorial Secretary verified by affidavit containing, as of the thirty-first day of December preceding, a summary of the following particulars:

Annual statement to be furnished.

- (a) The corporate name of the company, institution or corporation ;
- (b) The manner in which the company, institution or corporation is incorporated ;
- (c) The place where the head office of the company, institution or corporation is situated ;
- (d) The place or places where or from which the undertaking of the company, institution or corporation is carried on ;
- (e) The name, residence and post office address of the president, the secretary and the treasurer of the company, institution or corporation ;
- (f) The name, residence and post office address of each of the directors of the company, institution or corporation ;
- (g) The date upon which the last annual meeting of the company, institution or corporation was held ;
- (h) The amount of the capital of the company, institution or corporation and the number of shares into which it is divided ;
- (i) The number of shares subscribed for and allotted ;
- (j) The amount of stock (if any) issued free from call ; if none is so issued, the fact to be stated ;
- (k) The amount issued subject to call ;
- (l) The number of calls made on each share ;
- (m) The total amount of calls received ;
- (n) The total amount of calls unpaid ;
- (o) The total amount of shares forfeited ;
- (p) The total amount of shares which have never been allotted or subscribed for ;
- (q) The total amount for which shareholders of the company, institution or corporation are liable in respect of the unpaid stock held by them ;
- (r) In a concise form any further information respecting the affairs of the company, institution or corporation as the directors consider expedient ;

(5) The summary in the next preceding subsection mentioned shall be verified by the affidavit of the president and secretary and if there is no president or he is unable to make the same by the affidavit of the secretary and one of the directors, and if there is no secretary or he is unable to make such affidavit by the affidavit of the president and one of the directors and if there is neither a president or secretary or they are both unable to make such affidavit, by the affidavit of two of the directors and if the president or

Summary to be verified.

secretary does not make or join in the affidavit the reason therefor shall be stated in the substituted affidavit.

Penalty for default.

(6) Any company, institution or corporation making default in complying with the provisions of this section shall be liable to a penalty of \$50 for each and every day during which default continues; and every director, manager, secretary, agent, traveller or salesman of such company, institution or corporation who transacts within the Territory any business whatever for such company, institution or corporation shall, for each day upon which he so transacts such business, on summary conviction thereof before a justice of the peace incur a penalty of \$50, such penalties to belong to the general revenue fund of the Territory.

Commissioner may suspend or revoke license.

(7) The Commissioner may by Order (a notice of which shall be published by the Territorial Secretary in the *Yukon Official Gazette* or otherwise as may be prescribed in the said Order) suspend or revoke and make null and void any license granted under this section to any company, institution or corporation which refuses or fails to comply with any of the provisions of this section and (notwithstanding such suspension or revocation) the rights of creditors of the company, institution or corporation shall remain as at the time of such suspension or revocation. N.W.T., c. 62, s. 2.

Amount of paid up capital to appear on all documents.

**3.** Every company, institution or corporation licensed under this Ordinance shall have written or printed on its prospectuses, notices, advertisements and other official publications and in all bills of parcels, invoices and receipts of the company, institution or corporation immediately after or under the name of such company, institution or corporation the amount of its paid up capital and every such company, institution or corporation which refuses or neglects to comply with this section shall be liable to a penalty not exceeding \$20 for each such offence; and every director, manager or agent of any company, institution or corporation who knowingly authorizes or permits such default shall on summary conviction thereof be liable to the like penalty, such penalties to belong to the general revenue fund of the Territory. N.W.T., c. 62, s. 3; No. 4 of 1901, s. 2 and 3.

**4.** The Commissioner may from time to time appoint a person with salary to prosecute any company, institution or corporation making default in complying with the provisions of this Ordinance. No. 4 of 1901, s. 4.

**5.** No license shall be issued to any company unless such company has paid to the Territorial Treasurer the proper fee according to the tariff of fees in the schedule to this Ordinance provided. No. 6 of 1902, s. 4.

**6.** No company requiring a license under this Ordinance shall carry on any part of its business in the Yukon Territory until it has been duly licensed under this Ordinance. No. 6 of 1902, s. 5.

**7.** Any such company carrying on business without being duly licensed, and any company, firm, broker or other persons carrying on business as a representative or on behalf of such company shall be liable on summary conviction to a penalty of \$50 for every day on which such business is carried on in contravention of this section, and proof of compliance with the provisions of this section shall at all times be upon the accused.

(2) The taking orders for or the buying or selling goods, wares and merchandise by travellers or by correspondence if the company has no resident agent or representative, and no office or place of business in the Yukon Territory, the onus of proving which shall in any prosecution under this section rest on the accused, shall not be deemed to be carrying on business within the meaning of this Ordinance. No. 6 of 1892, s. 6.

**8.** No such company shall while unlicensed, be capable of maintaining any action or other proceeding in any court in respect of any contract made in whole or in part in the Territory, in the course of or in connection with business carried on without a license contrary to the provisions of section 6 hereof.

(2) In any action or proceeding the burden of showing that it is licensed shall be upon the company. No. 6 of 1902, s. 7.

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SCHEDULE.—SEC. 5.

TARIFF OF FEES.

If the capital stock is \$400,000 or more.....	\$500.00
If the capital stock is \$200,000 or more, and less than \$400,000.....	400.00
If the capital stock is \$100,000 or more, and less than \$200,000.....	300.00
If the capital stock is \$40,000 or more, and less than \$100,000.....	200 00
If the capital stock is \$10,000 or more, and less than \$40,000.....	150.00
If the capital stock is less than \$10,000.....	100.00

## CHAPTER 60.

### An Ordinance respecting Mining Companies.

Disposition  
of stock.

**1.** Any company incorporated by letters patent under *The Companies' Ordinance* for mining purposes may from time to time dispose of shares and stock at such times to such persons and on such terms and conditions and at such premium or discount or in such manner as the directors think advantageous to the company; provided however that no by-law for the reduction or sale of stock at any greater discount or at any less premium than what has been previously authorised at the general meeting of the shareholders shall be valid or acted upon until the same has been confirmed at a general meeting. N.W.T., c. 64, s. 1.

Limitation of  
shareholders'  
liability.

**2.** Where application is hereafter made to the Commissioner for the incorporation by letters patent under said Ordinance of any company for mining purposes, such letters patent may if the petition of the applicants so requires contain a provision that no liability beyond the amount actually paid upon stock in such company by the subscribers thereto or the holders thereof shall attach to such subscriber or holder. N.W.T., c. 64, s. 2.

Certificates  
of stock, what  
to contain.

**3.** Where letters patent incorporating any such company have been issued containing the provision mentioned in section 2 of this Ordinance every certificate of stock issued by the company shall bear upon the face thereof distinctly written or printed in red ink after the name of the company the words "Issued under section 2 of *An Ordinance respecting Mining Companies* and non-assessable." Where such stock is issued subject to further assessments the word "assessable" or if not subject to further assessments the word "non-assessable" shall be used on such certificate as the case may be. N.W.T., c. 64, s. 3.

"Nonpersonal  
liability" to  
appear on  
documents  
issued by  
company.

**4.** Every mining company the charter of which contains the said provision shall have written or printed on its charter, prospectuses, stock certificates, bonds, contracts, agreements, notices, advertisements and other official publications and in all bills of exchange, promissory notes, indorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the company and in all bills of parcels, invoices and receipts of the company immediately after or under the name of such company and shall have engraved upon its seal the words "non personal liability," and every such company which refuses or neglects to com-

ply with this section shall on summary conviction thereof incur a penalty of \$20 for each day during which such words are not so kept written or printed; and every director and manager of the company who knowingly and wilfully authorizes or permits such default shall on summary conviction thereof be liable to the like penalty. N.W.T., c. 64, s. 4.

5. In the event of any call or calls on stock in a company so incorporated remaining unpaid by the subscriber thereto or holder thereof for a period of sixty days after notice and demand of payment such stock may be declared to be in default and the secretary of the company may advertise such stock for sale at public auction to the highest bidder for cash by giving notice of such sale in some newspaper published at the place where the principal office of the company is situated or in case no newspaper is published thereat then in a newspaper published in the nearest place to said office for a period of one month; and said notice shall contain the number of the certificate or certificates of such stock and the number of shares, the amount of the assessment due and unpaid and the time and place of sale; and in addition to the publication of the notice aforesaid notice shall be personally served upon such stockholder by registered letter mailed to his last known address; and if the subscriber or holder of such stock shall fail to pay the amount due on such stock with interest upon the same and cost of advertising before the time fixed for such sale the secretary shall proceed to sell the same or such portion thereof as shall suffice to pay such assessment together with interest and cost of advertising:

Sale of stock on nonpayment of calls.

Provided that if the price of the stock so sold exceed the amount due with interest and costs thereon, the excess thereof shall be paid to the defaulting stockholder. N.W.T., c. 64, s. 5.

6. No shareholder or subscriber for stock in any company so incorporated shall be personally liable for non-payment of any calls made upon his stock beyond the forfeiture and sale, in the event of non-payment of such calls of the amount if any already paid on the stock held or subscribed for nor shall such shareholder or subscriber be personally liable for any debt contracted by the company or for any sum payable by the company beyond the amount if any paid by him upon such stock. N.W.T., c. 64, s. 6.

Extent of liability of other shareholders.

7. Section 8 of *The Companies Ordinance* as well as all other parts of such Ordinance and of other Ordinances as are not inconsistent with this Ordinance shall apply to mining companies. N.W.T., c. 64, s. 7.

Application of other Ordinances.

## CHAPTER 61.

### An Ordinance respecting Benevolent and other Societies.

Power to form societies for certain purposes.

**1.** Any five or more persons of full age may become incorporated under this Ordinance for any benevolent or provident purpose or for any other purpose not illegal save and except for the purpose of trade or business or any purpose provided for by any of the Ordinances mentioned in the schedule hereto. N.W.T., c. 66, s. 1.

Mode of incorporation.

**2.** The proceedings to obtain incorporation shall be as follows :

**1.** Such persons shall make and sign a declaration in writing setting forth the intended corporate name of the society the purpose of the society, the names of those who are to be the first trustees or managing officers, the mode in which their successors are to be appointed and such other particulars and provisions as the society thinks fit provided that the said particulars and provisions are not contrary to law ;

**2.** The declaration may be made and signed in duplicate or in as many parts as are required ;

**3.** The said declaration may be produced to any judge of the Territorial Court of the Yukon Territory and if the same appears to him to be in conformity with this Ordinance he shall indorse thereon a certificate to that effect ;

**4.** One of the original parts of the said declaration shall be filed in the office of the clerk of the court and the fee of fifty cents shall accompany such filing ;

**5.** When these directions shall have been complied with the persons who signed the declaration shall thereby become and they, their associates and successors, shall thenceforth be a body corporate and politic and shall have the powers rights and immunities vested by law in such bodies. N.W.T., c. 66, s. 2.

Societies may establish branches.

**3.** The society so incorporated may from time to time have or establish and maintain any number of branches thereof to promote the objects of the society. N.W.T., c. 66, s. 3.

Officers.

**4.** The society may from time to time appoint trustees, a treasurer, a secretary and other officers for conducting its affairs and for the discipline and management of the society ;

and may from time to time make by-laws, rules and regulations for the government and for conducting the affairs of the society or of any branches thereof; and may from time to time alter or rescind such by-laws, rules or regulations. N.W.T., c. 66, s. 4.

By-laws and rules.

5. Any two or more societies or branches of a society may unite and form one society or branch for the purpose of erecting buildings for the use of the societies or branches and, if they so desire, for other purposes, on such terms as are agreed upon by authority of a resolution assented to by a majority of the members of each of the said societies or branches proposed to be united:

Different societies or branches may unite.

Provided that every such resolution is passed at a general meeting of each of the societies or branches concerned in such union, to be specially called for that purpose. N.W.T., c. 66, s. 5.

6. A person under the age of twenty-one years, elected or admitted as a member of a society, or appointed to any office therein shall be liable to the payment of fees and otherwise under the rules of the society as if he were of full age. N.W.T., c. 66, s. 6.

Liability of persons under age.

7. When under the rules of the society money of the member thereof such money shall be free from all claims by the creditors of such member; and when on the death of a member of a society any sum of money becomes payable under the rules of the society, the same shall be paid by the treasurer or other officer of the society to the person or persons entitled under the rules thereof or shall be applied by the society as is provided by such rules; and such money shall be, to the extent of \$2,000, free from all claims by the personal representative or creditors of the deceased; and in case any sum is paid in good faith to the person who appears to the treasurer or other officer to be entitled to receive the same, or is applied in good faith for the purposes by the rules provided, no action shall be brought against the society or such treasurer or officer in respect thereof; but nevertheless if it subsequently appears that such money has been paid to the wrong person the person entitled thereto may recover the amount with interest from the person who has wrongfully received it. N.W.T., c. 66, s. 7.

Benefits to members.

Exemption from claims of creditors.

Payment in good faith to wrong person.

8. No society or branch incorporated under this Ordinance shall be entitled to acquire or hold as purchasers or otherwise any lands or tenements or any interests therein exceeding in the whole at any one time the annual value of \$5,000 nor shall the society or branch be entitled to purchase land except for the actual use and occupation of

Powers of societies as to holding lands.

the society for the purposes of the society. N.W.T., c. 66, s. 8.

Powers as to taking and retaining lands by gift, devise or bequest.

**9.** Any such society or branch may from time to time take by gift, devise or bequest, any lands or tenements or any interests therein, provided such gift, devise or bequest is made at least six months before the death of the person making the same; but the society or branch shall at no time take by gift, devise or bequest, lands or tenements, or any interests therein, the annual value of which, together with that of all other lands and tenements theretofore acquired by like means and then held by the society or branch, exceeds in the whole \$1,000; nor shall the society or branch at any time take by gift, devise or bequest, lands, tenements or hereditaments the annual value of which, together with all the other real estate of the society or branch, exceeds \$5,000; and no lands or tenements acquired by gifts, devise or bequest within the limits aforesaid, but not required for the actual use or occupation of the society or branch, shall be held by the society or branch for a longer period than seven years after the acquisition thereof, and within such period the same shall be absolutely disposed of by the society or branch; and the society or branch shall have power within such period, in the name of the society or branch, to grant and convey the said lands and tenements to any purchaser so that the society or branch no longer retains any interest therein; and the proceeds on such disposition shall be invested in public securities, municipal debentures or other approved securities, not including mortgages on land, for the use of the society or branch; and lands, tenements or interests therein required by this Ordinance to be sold or disposed of by the society or branch which have not, within the said period, been so disposed of, shall revert to the person from whom the same were acquired, his heirs, executors, administrators or assigns. N.W.T., c. 66, s. 9,

Powers to sell mortgage, etc. lands.

**10.** Any society may in pursuance of a resolution assented to by a majority of the members present at a general meeting specially called for that purpose, of which public notice shall be given in the manner provided by the by-laws, mortgage, sell, exchange or lease any lands of the society. N.W.T., c. 66, s. 10.

Copy of declaration of incorporation to be evidence.

**11.** A copy of the declaration under the second section of this Ordinance certified by the clerk of the said Territorial Court or his deputy to be a true copy shall be *prima facie* evidence of the facts alleged in the declaration and of the due making, signing and filing of the declaration as mentioned in the certificate; and a copy of the declaration with a certificate of the said clerk or his deputy showing the particulars necessary for creating a corporation



under this Ordinance, shall be *prima facie* evidence that the society or branch is an incorporated society or branch under this Ordinance. N.W.T., c. 66, s. 11.

**12.** No defect of form in the certificate of the judge or in the proceedings to which the certificate of the judge relates shall affect the validity of the incorporation. N.W.T., c. 66, s. 12. Defects in form.

**13.** To facilitate the proof of a society or branch being an incorporated society or branch under this Ordinance and to prevent any future question as to the same, the society or branch after the same has become incorporated as aforesaid, shall be entitled (if the society or branch thinks fit) to receive a certificate of such incorporation in manner hereinafter mentioned; and a certificate so obtained shall be final and conclusive evidence of the society or branch being an incorporation under this Ordinance unless the certificate on the order or decision of the court granting or authorising the same is reversed or set aside by some direct proceeding taken for the purpose; and the proceedings for the purpose of obtaining the certificate may be as follows:

1. The application for the certificate may be made by the society or branch to a judge of the Territorial Court. Application for certificate.

2. The application shall be supported by satisfactory evidence that the society or branch is a society or branch within the true intent and meaning of this Ordinance; that the proceedings necessary for incorporation have been duly taken; that four weeks notice of the intention to apply for a certificate has been given to the Commissioner; and that a like notice has been published for four weeks in the *Yukon Official Gazette*; and if the judge is not satisfied with the evidence offered of these particulars in the first instance he may instead of dismissing the application give an opportunity or opportunities for producing further evidence; and if there is any defect in the proceedings taken to obtain incorporation the judge may permit the same to be supplied and he may in all cases require from time to time any further publication to take place, and any other notice to be mailed, served or given which he deems necessary. Evidence thereon.

3. When the judge is satisfied that the society or branch is entitled to the certificate, the certificate may be issued by the clerk of the court in duplicate (under his hand and the seal of the court) or in as many parts as are required and the same shall name the day from and at which the incorporation was complete and effectual, and any person shall thereafter be entitled to receive a certificate to the same effect sealed and signed as aforesaid; which certificate or counterpart thereof shall be final and conclusive as hereinbefore mentioned. Issue of certificate.

4. The judges of the Territorial Court shall have power to regulate the practice and costs in such cases. N.W.T., c. 66, s. 13. Costs and practice.

Society to furnish statement of real property.

**14.** It shall be the duty of the corporation when thereunto required by the Commissioner or by the Council to furnish a statement of the real property and of the estates therein held by the society and to give such details thereof as the Commissioner or the Council may from time to time require. N.W.T., c. 66, s. 14.

Change of name, etc., of society.

**15.** When a society incorporated under the provisions of this Ordinance is desirous of changing its name or of changing any of the purposes contained in the original certificate or declaration of incorporation, a judge of the Territorial Court upon being satisfied that the change desired is not for an improper purpose and is not otherwise objectionable, may make an order reciting the certificate and declaration of incorporation and making the change desired.

Order to be filed.

(2.) Such order shall be filed in the office in which the certificate and declaration were filed and a copy of the order certified by the clerk of the Court or his deputy to be a true copy of the order filed in the said office shall be *prima facie* evidence of the change having been made as therein set forth.

Rights and obligations of society not affected.

(3.) No change under the two next preceding subsections shall affect the rights or obligations of the society and all actions or proceedings commenced by or against the society prior to the change of name may be proceeded with by or against the society under its former name. N.W.T., c. 66, s. 15.

Forms.

**16.** In case the Commissioner adopts or approves of any forms for any of the proceedings under this Ordinance and the Order adopting or approving of the same is, with the forms, printed in the *Yukon Official Gazette* such forms shall be as effectual for the purposes mentioned in this Ordinance or in the Order as if the said forms had been inserted in this Ordinance. N.W.T., c. 66, s. 16.

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## SCHEDULE.

Ordinances for purposes not intended by this Ordinance:

1. The Ordinance respecting Partnerships.
2. The Ordinance respecting Companies.
3. The Ordinance respecting Cemeteries.

## CHAPTER 62.

### An Ordinance respecting Mechanics' and Literary Institutes.

#### SHORT TITLE.

**1.** This Ordinance may be cited as "*The Mechanics' and Literary Institutes Ordinance.*" N.W.T. c. 67, s. 1. Short title.

#### ORGANIZATION AND OBJECTS OF INSTITUTES.

**2.** A mechanics' and literary institute shall be held to have been organized under the provisions of this Ordinance whenever thirty persons resident in any city or town incorporated or otherwise have signed a declaration setting out the amounts subscribed by each and naming the place where the institute purposes to carry on its objects and forwarded the same to the Territorial Secretary with an accompanying certificate signed by one of the subscribers and verified before any person authorized to administer oaths or affidavits to be used in the Territorial Court such declaration and certificate to be in form A in the schedule hereto. N.W.T. c. 67, s. 2. Mode of organisation.

**3.** Upon the Commissioner approving the organization of the proposed institute, the party making the certificate accompanying the same or in his absence any one appointed by the Territorial Secretary shall call a meeting for the election of the various officers by public notice specifying the time and place of meeting published for two weeks in the nearest newspaper or posted in five conspicuous public places in the city or town, or as the case may be at least fifteen days before the time fixed for holding such meeting. Such meeting shall be held in the city or town, where the institute intends prosecuting the objects for which the same has been organized. Election of officers.

(2) The officers to be elected at such meeting shall be a president, vice-president, secretary-treasury, auditor and not less than five directors and the persons entitled to vote at such meeting shall be members. N.W.T., c. 67, s. 3.

**4.** Any person may become a member of a mechanics' and literary institute organized under this Ordinance by paying to the treasurer thereof yearly the sum of \$1 which Annual subscription.

shall be held to be due on the first day of each calendar year N.W.T., c. 67, s. 4.

Purpose.

**5.** The objects of institutes organized under this Ordinance shall be to encourage mechanics, manufactures and arts generally :

- (a) By having evening classes organized for the imparting of practical instruction to its pupils ;
- (b) By establishing a library of books on one or more of the following subjects, viz : mechanics, manufactures, agriculture, horticulture, philosophy, science, the fine and decorative arts, history, travels, poetry, biography and fiction ;
- (c) Establishing a reading room. N.W.T., c. 67, s. 5.

Annual meeting.

**6.** The annual meeting of every institute shall be held in the month of October in each year on the call of the president who shall give eight days notice thereof by circular addressed and posted prepaid to each member of the institute or by public notice published in the nearest newspaper or by posting it in five conspicuous places as provided in section 3 hereof when there shall be elected a president, vice-president, a secretary-treasurer and not less than five directors and an auditor.

(2.) If the president refuses or omits to call such meeting as herein provided the same may be called by the vice-president or any three members for any time during the month of November. N.W.T., c. 67, s. 6.

Voting, etc.

**7.** No person shall vote or take part in any annual or other meeting of any institute who has not at the time of such meeting paid up all subscriptions due by him to the said institute. N.W.T., c. 67, s. 7.

Meeting of officers.  
How called.

**8.** A meeting of the officers shall be called by written notice delivered or mailed to each officer given by authority of the president or in his absence the vice-president, or at the request of any three officers at least five days before the day appointed and at any such meeting four shall be a quorum. N.W.T., c. 67, s. 8.

Annual report.

**9.** The officers of an institute shall present at the annual meeting a report of their proceedings during the year in which shall be stated :

- (a) The names of the members of the institute ;
- (b) The amount paid by each set opposite his name ;
- (c) The classes organized ;
- (d) A list of books purchased ;
- (e) A list of newspapers and periodicals on file ; together with,
- (f) Such remarks on the progress of the organization and use to which it has been put as the directors are enabled to offer. N.W.T., c. 67, s. 9.

**10.** There shall also be presented at the annual meeting a detailed statement of the receipts and disbursements of the institute during the year which said statement shall be audited by the auditor in that behalf before being submitted to the said meeting. N.W.T., c. 67, s. 10.

Financial statement to be audited.

**11.** The said report and statement if approved by the meeting shall be entered in the journals of the institute kept for such purpose and signed by the president or vice-president as being a correct entry and a true copy thereof certified by the president and secretary for the time being shall be forwarded to the Territorial Secretary within one month from the date of such meeting. N.W.T., c. 67, s. 11.

Certified copy of annual report to be sent to Territorial secretary.

**12.** The officers shall give such information as in their power lies that the Territorial Secretary may from time to time require touching the interest and condition of the objects of the organization in their locality. N.W.T., c. 67, s. 12.

Officers to give information.

**13.** The funds of the institute however derived may be expended for any object not inconsistent with those authorized by this Ordinance; provided that not more than one quarter of the amount received shall be expended for the purpose of a reading room. N.W.T., c. 67, s. 13.

Application of funds.

**14.** Each institute formed under this Ordinance shall be a corporation with a corporate seal under the name of "The Mechanics' and Literary Institute of " (inserting the distinguishing name of the institute) and shall have power to acquire, hold, sell, mortgage, lease or otherwise dispose of or encumber real estate and other properties real and personal. N.W.T., c. 67, s. 14.

Institute to be a corporation.

Powers.

SCHEDULE.

FORM A.—SEC. 2.

We, the undersigned, respectively residing in the (city or town,) of \_\_\_\_\_ in the Yukon Territory agree to form ourselves into an institute under the provisions of *The Mechanics' and Literary Institutes Ordinance*, under the name of "The Mechanics' and Literary Institute of \_\_\_\_\_" and we respectively promise to pay to the treasurer of the said institute annually as long as we continue members thereof, the sums set opposite our respective names and to conform ourselves to the by-laws and regulations of the said institute and we hereby state that

Powers.

we purpose carrying on the objects of our organization at the city (or town) of

	Name.	Subscription.
1	A. B.	\$
2	C. D.	
3	E. F.	

I \_\_\_\_\_ of \_\_\_\_\_ one of the subscribers to the above declaration hereby certify that the sum of at least one dollar has been paid by each of the above subscribers as his first annual subscription to the proposed mechanics' and literary institute of \_\_\_\_\_; and that I hold on behalf of the said proposed insstitute the several amounts so paid.

*(Subscriber's signature.)*

I, the above named \_\_\_\_\_ do solemnly declare that the facts set forth by me in the foregoing certificate signed by me are true; and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of *The Canada Evidence Act 1893.*

Declared before me at  
this \_\_\_\_\_ of  
19 \_\_\_\_\_

} *(Subscriber's signature.)*

*(Signature of officer receiving declaration.)*

## CHAPTER 63.

### An Ordinance respecting Cemeteries.

#### SHORT TITLE.

**1.** This Ordinance may be cited as "*The Cemetery Ordinance*." N.W.T., c. 68, s. 1. Short title.

#### INCORPORATION OF COMPANIES.

**2.** Any number of persons not less than ten may form themselves into a company for the purpose of establishing one or more public cemeteries outside the limits of any city or town or within such limits if permission be given by by-law of such city or town for such establishment within its limits, who have— Conditions of incorporation.

- (a) Subscribed stock to an amount adequate to the purchase of the ground required for such cemetery; and
- (b) Executed an instrument according to the form in the fifth section of this Ordinance contained; and
- (c) Paid to the treasurer of the proposed company twenty-five per cent of the capital stock intended to be raised; and
- (d) Deposited such instrument, or a duplicate thereof, together with a receipt from the treasurer for the first instalment of twenty-five per cent, in the office of the Territorial Secretary. N.W.T., c. 68, s. 3.

**3.** Notice of the formation of the proposed company shall be forthwith given by the Territorial Secretary in the *Yukon Official Gazette* setting forth the name of the said company and the persons constituting the same and from and after the date of the publication of such notice the persons therein named and their successors shall be a body corporate and politic under the name mentioned therein and as such body corporate and politic shall have all rights and be subject to all the liabilities of a corporation and shall have full power to acquire, hold and alienate both real and personal estate for all the purposes of the company. N.W.T., c. 68, s. 4. Territorial secretary to receive notice of proposed formation of company.  
Powers.

Form of instrument.

4. The instrument referred to in section 2 of this Ordinance may be in the form following :

“ Be it remembered that on this \_\_\_\_\_ day of \_\_\_\_\_ in the year of Our Lord one thousand nine hundred and \_\_\_\_\_ we the undersigned shareholders met at \_\_\_\_\_ in \_\_\_\_\_ the Yukon Territory and resolved to form ourselves into a cemetery company to be called The \_\_\_\_\_ Cemetery Company under the provisions of *The Cemetery Ordinance* ; and we do hereby agree that the capital stock of the said company shall be \_\_\_\_\_ dollars to be divided into shares of \_\_\_\_\_ dollars each entitling the holder to one hundred superficial feet ; and we the undersigned shareholders do hereby agree to accept and take the number of shares set by us opposite our respective signatures ; and we do hereby agree to pay the calls thereon according to the provisions of the said Ordinance and the rules and regulations and by-laws of the company to be made in that behalf.

NAME.	NO. OF SHARES.	AMOUNT.

N. W. T., c. 68, s. 4.

TRUSTEES OF RELIGIOUS BODIES.

Organisation of board of trustees.

5. When any one or more religious societies or congregations in the Territory desire to take a conveyance or transfer of land for the purpose of establishing a cemetery for the use of such society or congregation or for the use in common of such societies or congregations such society or congregations or societies or congregations, as the case may be, may appoint trustees to whom and their successors to be appointed in such manner and subject to such regulations as may be specified in the deed of conveyance or transfer, the land requisite for the purpose aforesaid may be conveyed and such trustees and their successors in perpetual succession by the name expressed in the deed may take, hold and possess the land and maintain and defend all actions or suits for the protection thereof or of their property therein :

Land to be outside town.

Provided that such land shall not be within the limits of a town unless permission be given by by-laws of the said



town for such establishment within the limits. N.W.T. c. 68, s. 7.

**6.** If the deed of conveyance or transfer of such land does not specify the manner in which the successors to the trustees therein named are to be appointed the society or congregation or societies or congregations for whose use such land is held may enter into an agreement with each other in writing in such manner as seems to them best and such agreement shall specify the manner in which the successors of the trustees for the term then being are to be appointed and such agreement indorsed on or annexed to a certified copy of the transfer or deed of conveyance under which the land is held for the use of the said society or congregation or societies or congregations and signed by the accredited agents of such society or congregations or societies or congregations shall govern and regulate the manner in which the successors of the trustees named in the original grant, conveyance or transfer shall be appointed and the regulations to which they shall be subject. N.W.T., c. 68, s. 8.

Appointment of successors to trustees.

**7.** Such trustees shall within twelve months after the execution of the deed of conveyance or transfer cause the deed or transfer to be registered in the land titles office of the Yukon land registration district, otherwise the said deed shall be void. N.W.T. c. 68, s. 9.

Transfer of land to be registered.

**8.** The trustees and their successors shall thenceforth hold and convey the land for the purpose exclusively of a cemetery or place for the burial of the dead. N.W.T. c. 68, s. 10.

Purposes of land.

#### PROVISIONS AFFECTING COMPANIES.

**9.** From and out of the proceeds of the sales of burial sites made by the company the company may pay to its shareholders who may not desire to take land in the cemetery to the full extent of the stock subscribed and paid for by them interest on their paid up stock not represented by land in the cemetery at such rate as may be agreed on not exceeding eight per centum per annum and may also repay to such shareholders the amount of paid up stock held by them not represented by land in the cemetery.

Interest on paid up stock.

(2) Every such shareholder of the said company shall be taken to be a shareholder and shall be entitled to all the rights of shareholders in respect of the shares of the capital stock of the company held by him and fully paid up and which are not represented by land in the cemetery until such shares are repaid to him by the company; and upon the repayment to him of any share he shall cease to be a shareholder in respect of such share.

Rights of shareholders.

When no dividend payable.

(3) Except as aforesaid no dividend or profit of any kind shall be paid by the company to any member thereof. N. W.T. c. 68, s 11.

Application of proceeds of sale.

**10.** Subject to the provisions in the next preceding section contained one half of the proceeds of all sales of burial sites made by the company shall be first applied to the payment of the purchase money of the land acquired by the company and the residue to preserving, improving and embellishing the land as a cemetery and to the incidental expenses of the company ; and after payment of the purchase money the proceeds of all future sales shall be applied to the preservation, improvement and embellishment of the cemetery and to the incidental expenses thereof, and to no other purpose whatever. N.W.T., c. 68, s. 12.

Owner of lot a shareholder.

**11.** Every proprietor of a lot in the cemetery containing not less than one hundred superficial feet and who has paid twenty-five per cent or more of the price of the lot shall be deemed a shareholder in the company and every such lot shall be deemed a share in the company. N.W.T., c. 68, s. 13.

Qualification of directors.

**12.** Every shareholder who has paid to the company not less than \$5 in all on his share or shares shall be eligible as a director. N.W.T., c. 68, s. 14.

Size of lots. Rights of owners.

**13.** The company may sell a lot of any size, but no proprietor of a lot containing less than one hundred superficial feet shall thereby become a member of the company or have any vote in the management of the affairs thereof. N.W.T., c. 68, s. 15.

Board of directors.

**14.** The affairs and property of the company shall be managed by three directors, a majority of whom shall form a quorum. N.W.T., c. 68, s. 16.

Choice of directors.

**15.** The first directors, shall be chosen by ballot from among the subscribers to the instrument creating the company ; and thereafter the directors shall be annually elected by the shareholders on the first Monday in June in every year. N.W.T., c. 68, s. 17.

Qualification of shareholders to vote.

**16.** Upon every election of directors, including the first, every shareholder shall be entitled to one vote for every share he holds or is possessed of up to ten and one vote for every five shares above ten ; but no shareholder shall vote unless he has paid at least \$2 upon each share upon which he votes. N.W.T., c. 68, s. 18.

President.

**17.** The directors or a majority of them shall at their first meeting elect one of their number to be president of the

company and the president if present or, if he is not present, then some director chosen for the occasion shall preside at every meeting of the directors and shall not vote except in case of an equality of votes when he shall have a casting vote. N.W.T., c. 68, s. 19.

**18.** The directors may also call for instalments on the sums subscribed for and may appoint a time for the payment thereof, and if the same are not then paid the right of the subscriber and every instalment formerly paid shall be forfeited and he shall be held not to have subscribed unless the directors think it expedient to remit the forfeiture which they may do if the instalments are paid with interest within one year after the day when they ought to have been paid. N.W.T., c. 68, s. 20.

Calls on stock.  
Forfeiture for nonpayment.

**19.** The directors shall record in a book kept for the purpose, all their by-laws and proceedings, and every shareholder shall have access to such book for the purpose of searching and making extracts therefrom, without payment of any fee. N.W.T., c. 68, s. 21.

Records.

**20.** The directors may reserve for the exclusive use of any religious society or congregation such part of the cemetery upon such terms and conditions as are agreed upon. N.W.T., c. 68, s. 22.

Exclusive reservation.

**21.** The company shall furnish graves for strangers and for the poor of all denominations free of charge on the certificate, in the latter case of a minister or clergyman of the denomination to which the deceased belonged, that the relatives of the deceased are poor and cannot afford to purchase a lot in the cemetery. N.W.T., c. 68, s. 23.

Graves for strangers and poor.

#### GENERAL PROVISIONS.

**22.** The company shall within two years from its incorporation and the trustees shall within two years from their appointment by walls or other fences inclose every part of the cemetery held by them. N.W.T., c. 68, s. 24.

Walls and fences.

**23.** The company or trustees as the case may be shall keep the cemetery and the buildings and fences thereof in complete repair and in good order and condition. N.W.T., c. 68, s. 25.

Repair of property.

**24.** The company or trustees as the case may be shall make all proper and necessary sewers and drains in and about the cemetery for draining it and keeping it dry; and they may, from time to time as occasion requires cause any such sewer or drain to open into an existing sewer with

Drains and sewers.

the consent in writing of the person having the management of the street or road, and with the like consent of the owner or occupier of the land through which or part of which the opening is intended to be made doing as little damage as possible to the street, road or land within the same is made and restoring it to the same or as good condition as it was in before being disturbed N.W.T., c. 68, s. 26.

Penalty for fouling water.

**25.** If the company or trustees as the case may be at any time cause or suffer to be brought to or to flow in any river, spring, well, stream, canal, reservoir, aqueduct, pond or watering place any offensive matter from the cemetery whereby the water is fouled the company or trustees as the case may be shall forfeit for every such offence \$500. N.W.T., c. 68, s. 27.

Suit for penalty.

**26.** The said penalty with full costs of suit may by a civil action in any court of competent jurisdiction, be recovered by any person having a right to use the water; but the penalty and costs shall not be recoverable unless sued for during the continuance of the offence or within six months after it has ceased. N.W.T., c. 68, s. 28.

Limitation of action.

Further penalty.

**27.** In addition to the penalty of \$500 (and whether the same has been recovered or not) any person having a right to use the water may sue the company or trustees as the case may be in a civil action for any damages specially sustained by him by reason of the water being fouled, or if no special damage is alleged then for the sum of \$10 for every day during which the offensive matter has continued to be brought or to flow after the expiration of twenty-four hours from the time when the notice of the offence was by such person served upon the company or trustees as the case may be. N.W.T., c. 68, s. 29.

No grave near buildings.

**28.** No body shall be buried in a vault or other space under any chapel or other building in the cemetery nor within fifteen feet of the outer wall of any such chapel or building. N.W.T., c. 68, s. 30.

Proper conduct of funerals.

**29.** The company or trustees as the case may be shall make regulations to ensure all burials within the cemetery being conducted in a decent and solemn manner. N.W.T., c. 68, s. 31.

Exemption from taxes.

**30.** The real estate of the company or trustees and the lots or plots when conveyed by the company or trustees to individual proprietors for burial sites shall be exempt from taxation of any kind and shall not be liable to be seized or sold under execution. N.W.T., c. 68, s. 32.

**31.** The directors of the company may pass by-laws and the trustees may frame regulations for the laying out, selling and management of the cemetery and for regulating the erection of tombs, monuments and gravestones therein ; and the directors of the company may pass by-laws empowering the president to execute conveyances of plots to shareholders. N.W.T., c. 68, s. 33.

By-laws.

**32.** The directors shall keep a record of the by-laws and the trustees shall keep a record of the regulations referred to in the the next preceding section and the directors and trustees respectively shall also keep a separate record of all burials showing name, age, occupation and date of burial of all persons buried within the cemetery, and in case they cannot get all the particulars a note of such must be made in the margin and every person shall have access to such last mentioned record for the purpose of searching and making extracts therefrom without payment of any fee. N.W.T., c. 68, s. 34.

Record of regulations and burials.

**33.** Any person who in a cemetery established under this Ordinance:

Penalties.

(a.) Plays any game or sport ; or

(b.) Discharges fire-arms (save at a military funeral) or who

(c.) Commits a nuisance therein ;

shall on summary conviction thereof be liable to a fine not exceeding \$100 and costs of prosecution. N.W.T., c. 68, s. 35.

**34.** The trustees shall be personally liable for any judgment recovered against them as trustees. N.W.T., c. 68, s. 36.

Liability of trustees.



## TITLE IX.

### RELATING TO TOWNS ASSESSMENTS SCHOOLS, ETC.

#### CHAPTER 64.

##### An Ordinance respecting Assessment.

###### SHORT TITLE.

Short title. **1.** This Ordinance may be cited as "*The Assessment Ordinance.*" No. 29 of 1901, s. 1."

###### INTERPRETATION.

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

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

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

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

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

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

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

7. "Town" includes the city of Dawson, any incorporated town, and any town organized under the provisions of the Ordinance respecting towns. No. 29 of 1901, s. 2. "Town."

#### PROPERTY LIABLE TO TAXATION.

3. All real and personal property in any town and the income of every person carrying on any profession, trade, calling, employment, labour or occupation or filling any place or filling or exercising any office and of every person residing in any town shall be liable to taxation for all purposes for which taxes and rates are levied by authority of law. No. 29 of 1901, s. 3. Property liable to assessment.

#### PROPERTY EXEMPT FROM TAXATION.

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

- (a.) All property vested in His Majesty the King or vested in any person for Imperial, Dominion or Territorial purposes, and either unoccupied or occupied by some person in an official capacity. If any such property is occupied by any person otherwise than in an official capacity the occupant shall be assessed and rated in respect thereto, but the property itself shall not be liable; Exemptions.
- (b.) Every church and place of worship and the land, to the extent of not more than one half acre in connection therewith and every churchyard and burial ground;
- (c.) The real property of every public institution of learning, every public schoolhouse, townhall, courthouse, jail and lockup house.
- (d.) All school lands;
- (e.) All public landings, public breakwaters and public wharves;
- (f.) The property of every town, if occupied for the purposes of such town;
- (g.) Household furniture in actual use;
- (h.) Tools to the value of two hundred dollars belonging to a miner or mechanic and necessary for carrying on his business;
- (i.) Property specially exempted from taxation by any Ordinance of the Yukon Council;
- (j.) Income to the extent of two thousand dollars;
- (k.) The Good Samaritan hospital and St. Mary's hospital and the real and personal property occupied and used for the purposes of such hospitals as such. N. 29 of 1901, s. 4.

## DUTIES OF ASSESSORS.

When  
assessment  
to be made.

**5.** Every assessor shall, before the 20th day of September, in every year, ascertain by diligent inquiry and examination the names of all persons liable to be rated within the town for which he acts as assessor, their ratable property and income and the extent, amount and nature of the same. No. 29 of 1901, s. 5.

## ASSESSMENT ROLL.

Assessor to  
set down  
particulars  
in assessment  
roll.

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

2. The assessment roll shall be as nearly as possible in the said Form "A," except that the columns under the heading "amount of taxes due on real and personal property" form part of the rate book and not of the assessment roll. No. 29 of 1901, s. 6.

Rules  
governing the  
assessment  
roll.

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

Property to  
be assessed at  
cash value.

Rule 1. All property liable to taxation shall be assessed at its actual cash value, such value being the amount which in the opinion of the assessor it would realize in cash if offered at auction after reasonable notice.

Income to be  
assessed at  
actual  
amount.

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

Personal  
property to  
be assessed  
to owner.

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



Rule 4. Persons owning real property situated in any town shall be assessed for such property in the town in which the property lies. Real estate to be assessed where situated.

Rule 5. Where the person liable to be assessed in respect to any real property which is unoccupied is not resident within the town in which the property lies or is unknown such real property shall be assessed as property of a non-resident and shall be so designated in the assessment roll. Nonresident property.

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

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

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

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

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

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

Rule 11. Notice that the assessment roll certified as required by the next preceding rule is completed shall as soon as practicable and not later than one week after the day fixed for the completion of the roll in each year be forwarded by the assessor to the Territorial Secretary. Such notice shall state the number of persons assessed, the total value of real property, of personal property and of income assessed in such roll and the total of all such assessments. Notice of completion of assessment to be given to Territorial Secretary.

No. 29 of 1901, s. 7.

8. The assessor shall forthwith on the completion of the assessment roll give notice of the assessment by delivering to Notice of assessment to

be given to each person on roll.

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

(2.) Such notice may be in the Form "C," in the second schedule to this Ordinance, or to the like effect. No. 29 of 1901, s. 8.

Person commencing business after assessment to give notice.

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

To be assessed at same rate.

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

Penalty for not giving notice.

(3.) Any person so commencing business who does not give such notice shall be liable to a penalty of one hundred dollars and in default of payment to imprisonment for a period not less than thirty days and not more than ninety days. No. 29 of 1901, s. 9.

May add property missed after assessment.

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

May appeal.

(2.) The person assessed shall have the right to appeal from such assessment and the assessment appeal court shall have power to reverse, vary or modify the assessment so made and amend the assessment roll accordingly. No. 29 of 1901, s. 10.

**11.** If any person who is assessed in the assessment roll dies after the making of the assessment by the assessor the notices required by this Ordinance to be given to the person assessed may be given to his executors or administrators, if any, and to the public administrator, if there are no executors or administrators, and they or he shall have the right of appeal in the same manner, as if they or he were assessed as such executors or administrators in respect to the property assessed against the deceased. No. 29 of 1901, s. 11.

If person assessed dies notice to be given to administrator.

#### ASSESSMENT APPEAL COURT.

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

Court of assessment.

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

Members of court.

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

Quorum.

(4.) The assessor shall be the clerk of the court and shall make and keep on file a record of its proceedings. No. 29 of 1901, s. 12.

Assessor to be clerk.

#### INSPECTION OF ROLL.

**13.** On and after the assessment roll is completed by the assessor and until ten days after such roll is revised and corrected by the assessment appeal court the same shall be open for inspection during office hours when the said court is not sitting. Such inspection may be had either at the office of the assessor or at some public place named by him for the purpose. No. 29 of 1901, s. 13.

Roll to be open for inspection.

#### APPEALS FROM ASSESSMENT.

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

Persons wrongfully assessed may appeal.

(2.) If any ratepayer complains that the property or income of any person within his town has been undervalued or overvalued or that any person has been wrongfully inserted in or omitted from the roll he may give notice in writing to such person and to the assessor that

May appeal against another person.

he appeals from such assessment or in respect to such insertion or omission and the matter shall be decided in the same manner and by the same court as an appeal by a person assessed. No. 29 of 1901, s. 14.

Form of  
notice of  
appeal.

**15.** The notice of appeal may be in the form given in Form "C" in the schedule of this Ordinance. Such notice shall state particularly the grounds of objection to the assessment or to such insertion or omission and shall be served on the assessor not later than fifteen days after the notice of assessment has been given by delivering or mailing the same. No. 29 of 1901, s. 15.

Time of  
meeting  
of court.

**16.** The court shall meet for the hearing of appeals on or before the fourth Tuesday in October in each year at the court-house, if there is any, in such town, and if not, in such place as the chairman of the court appoints. The court may adjourn from time to time and from place to place. No. 29 of 1901, s. 16.

Court may  
adjourn.

**17.** If at the time appointed for the meeting of the court a quorum is not present the chairman or, in his absence or if there is no chairman, any member of the court present may adjourn the court until another time; and if no member of the court is present it shall stand adjourned until the following day at the same time and hour. No. 29 of 1901, s. 17.

Witnesses  
may be  
examined  
on oath.

**18.** The court shall have the power to examine witnesses upon oath or affirmation to be administered by the chairman and the person appealing or any person interested in such appeal may call and examine witnesses on oath or affirmation before the court. No. 29 of 1901, s. 18.

Court  
may issue  
subpœnas.

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

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

(2.) Any person served with any such subpœna who, having been paid or tendered such fees as witness as he would be entitled to in a civil case in the Territorial court, disobeys the subpœna shall be liable to a penalty of not less than twenty-five dollars or more than one hundred dollars and in default of payment to imprisonment for a period not exceeding ninety days. No. 29 of 1901, s. 19.

Assessor to  
prepare list  
of appeals.

**20.** The assessor shall immediately after the expiration of the time for giving notice of appeal prepare a list of appeals to be heard entering them thereon in the order in

which the notices were received by him and giving in each case the names of the complainant and the person complained against, or to whom the assessment is sought to be transferred, with a concise description of the subject-matter of the complaint and a notice of the time and place at which the court will meet to hear such appeal. Such list may be in the Form "E" in the second schedule to this Ordinance or to the like effect. No. 29 of 1901, s. 20.

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

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

(b.) By publication in a newspaper published in such town by at least one insertion in such newspaper at least five days before the first day of meeting of such court. No other notice of the time and place of meeting of such court shall be necessary. No. 29 of 1901, s. 21.

**22.** The court shall proceed with the appeals in the order as nearly as may be in which they are entered, but the court may, if it sees fit, grant an adjournment of the hearing of any appeal to any time and may change the order of proceeding with the appeals. In case of an adjournment it shall not be necessary to serve notice of such adjournment on any of the parties to such appeal but the chairman of the court shall publicly announce the day the court will hear such appeal. No. 29 of 1901, s. 22.

**23.** The court after hearing the complainant and any witnesses he produces and the party complained against and such witnesses as he produces and the assessor, if necessary, shall determine the matter.

(2) If the object of the appeal is to reduce the assessment the assessor shall appear and represent the interests of the town. No. 29 of 1901, s. 23.

**24.** On any appeal the court may :

(a.) Confirm, reduce or increase the value of any property or income on the assessment roll.

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

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

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

(e.) When any property has been assessed more than once to strike out such assessment as is improper or illegal and

Assessor to give notice of sitting of court of Revision.

Court to hear appeals in order of entry.

Court to decide after hearing complaint and witnesses.

Court may confirm, amend, add or strike off roll or transfer assessment.

generally to correct any clerical errors made by the assessor in the assessment roll. No. 29 of 1901, s. 24.

Court may add name of any person improperly left off.

**25.** The court shall also have power of its own motion and after notice to add to the roll the name of any person improperly left off with the value of property and income for which in the judgment of the court such person should be assessed and to the amount of the assessment of any person. No. 29 of 1901, s. 25.

Amendments to be made by assessor in red ink.

**26.** All reductions and increases of assessments rendered necessary by the decisions of the court as well as all transfers of assessment from one person to another and all other necessary changes, corrections, alterations or additions made by the said court shall be minuted upon the assessment roll by the assessor in red ink. No. 29 of 1901, s. 26.

Court may proceed *ex parte*.

**27.** If either party fails to appear the court may proceed *ex parte* and if neither party appears the court may confirm the assessment. No. 29, of 1901, s. 27.

Court need not call complainant or assessor unless it deems necessary.

**28.** It shall not be necessary to hear the complainant or assessor or person complained against except where the court deems it necessary or proper or where evidence is tendered by or on behalf of either party. No. 29, of 1901, s. 28.

Chairman to have same power to preserve order as Territorial court.

**29.** The chairman of the court shall have such and the like power and authority to preserve order in such court during the sitting thereof and by the like ways and means as are exercised and used in like cases by the Territorial court. No. 29 of 1901, s, 29.

Decision to be final.

**30.** The decision of the court shall in all cases be final. No. 29 of 1901, s. 30.

#### MISCELLANEOUS PROVISIONS RESPECTING APPEAL.

Sum rated may be recovered notwithstanding appeal.

**31.** Any sum rated upon any person may be collected or recovered notwithstanding any appeal, but if any money has been paid by the appellant and the court adjudges that the same or any part thereof be returned the same shall by order of the court be repaid out of any moneys received from the general rates of the town. No. 29 of 1901, s. 31.

Certiorari not to be granted.

**32.** No certiorari to remove any assessment, rate or order or any proceeding of the assessment appeal court touching any assessment, rate or order shall be granted unless it is made to appear by affidavit that the merits of the assessment, rate, order or proceeding will by such removal come properly in judgment; nor shall any assessment, rate, order, or proceeding be quashed for matter of form only nor any

general assessment or rate for any illegality in the assessment or rate of any individual except as to such individual. No. 29 of 1901, s. 32.

**33.** No action shall be brought against an assessor, collector or other person who has received money on a rate subsequently quashed, reversed or varied; any person who has paid such money shall be entitled to receive the amount out of the general rates of the town on the order of the assessor or of the assessment appeal court. No. 29 of 1901, s. 33.

No action to be brought against assessor or collector.

**34.** The assessment roll as finally passed by such court shall be certified by the assessor as so passed, and shall bind all persons assessed in such roll notwithstanding any defect or error therein or any irregularity on the part of the assessor or in respect to the making up of the roll or in the proceedings of the court or any error or irregularity in the notices required to be given or any neglect or omission to deliver mail or transmit such notices. No. 29 of 1901, s. 34.

Assessment roll to be certified by assessor and bind all parties assessed.

**35.** A copy of any assessment roll or portion of any assessment roll written or printed without any erasure or interlineation and certified to be a true copy by the assessor shall be received as prima facie evidence in any court of justice without proof of the signature of the assessor or the production of the original assessment roll or of part of which such certified copy purports to be a copy. No. 29 of 1901, s. 35.

Copy certified by assessor prima facie evidence.

#### RATE BOOK.

**36.** Upon an estimate being made by the proper authority of all sums which are required for the lawful purposes of the town for the then current year after crediting the probable receipts from all sources of revenue other than the rates for such year, and after making due allowance in such estimate for the abatement, losses and expenses which may occur in the collection of the rates and taxes and for the rates and taxes which may not be collected or collectable the assessor shall levy and collect a rate of so much on the dollar of the assessed value of the property and income assessed in such roll as he deems sufficient to produce the amount necessary to defray the expenses of the town for the then current year as stated in such estimate, including any deficiency from any preceding year. No. 29 of 1901, s. 36.

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

**37.** The assessor shall make the rate-book by carrying out in the assessment roll in form "A" under the several headings under the heading "amount of taxes due on real,

Form of rate book.

personal and income" opposite the name of each person, firm, company and corporation the rate of mills on the dollar, the arrears of taxes, the taxes for the year 19—, and the total amount of taxes due.

Rate book to be revised by person appointed by commissioner.

(2.) Such rate book shall be revised ;

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

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

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

(4.) The Commissioner of the Yukon Territory may refer such rate book back for further revision and report. No. 29 of 1901, s. 37.

#### COLLECTOR OF RATES.

Assessor or overseer to be collector.

**38.** In the City of Dawson the assessor shall be the collector of rates, in other towns the overseer shall be such collector. No. 29 of 1901, s. 38.

#### COLLECTION OF RATES.

Assessor to send notice in Form F.

**39.** As soon as the rate-book has been revised and not later than the 10th day of November the person or persons whose duty it is to revise the same shall deliver the same as revised to the assessor, who shall forthwith cause every person, firm, company, association and corporation rated in the rate-book or his or its agent, manager, cashier or secretary to be served with a notice in the Form " F " in the second schedule to this Ordinance.

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

(3.) All amounts rated against any person, firm, company, association or corporation shall become due and payable within five days after service, mailing or posting of such notice, at such place as is named in such notice. No. 29 of 1901, s. 39.

If taxes not paid forthwith

**40.** If any person, firm, company, association or corporation fails to pay to the assessor the rates due and payable by him, the assessor may by himself or his agent levy the



same with costs by distress of the goods of such person, firm, company, association or corporation, or of any goods in the possession of such person, firm, company, association or corporation wherever the same may be found. assessor may levy by distress.

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

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

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

(5.) Goods distrained may be impounded on the premises or any part thereof on which they are found or may be removed for safe keeping. In either case the assessor may leave any person or persons in charge of the same if he deems it necessary for their safe keeping. No. 29 of 1901, s. 40.

**41.** The assessor after giving five days' notice of sale by handbill posted in at least five conspicuous places in the locality in which the sale is to take place shall sell such Assessor may sell after five days notice.

goods on the premises or at any other place for the best price to be gotten therefor and shall apply the proceeds of such sale towards satisfaction of the rates due and expenses incurred and shall pay the surplus if any to the owner of such goods if known to the assessor or to the person in whose possession they were when the distress was levied. No. 29 of 1901, s. 41.

Assessor may sue for taxes.

**42.** The assessor may at his option sue for any unpaid rate and recover the same in the name of the town together with costs as for a debt due to the town. If a distress and sale of goods is made by the assessor he may sue for any balance unpaid after such sale. No. 29 of 1901, s. 42.

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

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

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

(3.) Such order directing the assessor to levy distress shall authorize and justify the assessor in making any distress which he could have made if such rates were due and payable. Such order that any person be arrested and held to bail shall be subject to all the provisions of rules 396 to 405 both inclusive of the Judicature Ordinance so far as the same relates to the execution of a special order and the imprisonment of any person thereunder. No. 29 of 1901, s. 43.

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

**44.** In any action brought against any person for the recovery of rates due to a town where there is a defence pleaded a certificate in writing purporting to be signed by the assessor that the defendant's name appears on the rate book of the town for the sum claimed from him for rates and that the said sum has not been paid shall without proof of handwriting be *prima facie* evidence in any court of such rates being due and unpaid. No. 29 of 1901, s. 44.

**45.** All persons paying taxes on or before the thirtieth day of November of the year in which such taxes were levied shall be entitled to a reduction of five per cent on the same. No. 42 of 1901, s. 1.

Taxes paid before 30th November entitled to rebate.

**46.** Upon all taxes remaining due and unpaid on the 31st day of December of the year in which such taxes were levied there shall be added at the beginning of each month thereafter, as a penalty, an additional sum amounting to four per cent of such taxes. No. 42 of 1901, s. 1

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

#### GENERAL PROVISIONS.

**47.** Any person absent or absconding from the town who is indebted for rates may be proceeded against for such rates under the provisions of Order 35, of the Judicature Ordinance notwithstanding that the amount of such rates is less than one hundred dollars. No. 29 of 1901, s. 45.

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

**48.** The rates of any person who becomes insolvent or assigns his property shall constitute a lien upon his estate and shall be paid by the trustee or assignee of such property and in default of payment such rates may be collected from such trustee or assignee in the same manner and by same proceeding as if such rates had been rated on such trustee or assignee personally unless he satisfies the assessor that sufficient money or property of such person to satisfy such rates has not come into his possession or under his control. No. 29 of 1901, s. 46.

Taxes to be lien against insolvent estate.

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

No transfer of property to be good until taxes paid.

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

(3.) The assignee, grantee, mortgagee or person holding any lien upon such property or the sheriff, constable or other officer who takes possession thereof shall be personally liable to the town for the amount of the rates rated against the owner or person in possession thereof and may be sued therefor by the assessor representing the town as for any ordinary debt. No. 29 of 1901, s. 47.

SALE OF REAL PROPERTY FOR RATES.

Proceedings for sale of real property by taxes.

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

50. When any real property becomes liable to be sold for rates in respect thereto unpaid the assessor may proceed in the following manner:—

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

Sale of lands in the \_\_\_\_\_ for arrears of taxes. Notice is hereby given that certain lands in the \_\_\_\_\_ will be offered for sale for arrears of taxes on the \_\_\_\_\_ day of \_\_\_\_\_ 190 , at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, and that a list of said lands has been posted up in the following places:—

.....

Tax Collector.

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

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

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

5. Upon the sale of such property to such bidder the assessor shall execute and deliver to the purchaser a transfer of such property in form G in the second schedule to this Ordinance which shall be as effectual to convey all the estate of the owner thereof in such property as if the same had been executed and delivered by such owner to such purchaser and as if such property was free of all liens and encumbrances of every kind and description. No. 29 of 1901, s. 48.

Out of price realized to pay costs, expenses and rates, and

51. Out of the price realized at such sale the assessor shall first pay the costs and expenses of and incidental to such sale and the said rates and shall pay the balance to the owner of such property if known to the assessor unless

the said property is subject to a lien or encumbrance. If the owner of such property is unknown or cannot be found by the assessor or if the same appears to be subject to any lien or encumbrance the assessor shall pay the balance of such price after paying such costs, expenses and rates into the Territorial Court to abide the order of any judge thereof. No. 29 of 1901, s. 49.

balance to owner.

**52.** If the purchaser of any property at such sale fails immediately upon the same being knocked down to him to pay the assessor or his agent the amount of the purchase price thereof or to deposit with the assessor of his agent such smaller amount as is equal to the amount of the rates and expenses of sale the assessor shall again forthwith put up the property for sale. No. 29 of 1901, s. 50.

If purchaser fails to pay property may be resold.

**53.** Any mortgagee, judgment creditor or other person holding any encumbrance upon or against any real property advertised for sale under the provisions of this Ordinance may pay the rates, costs and expenses incidental to the proposed sale and obtain from the assessor a certificate to that effect and shall thereupon be entitled to add the amount so paid to the amount due on such mortgage, judgment, charge or encumbrance. No. 29 of 1901, s. 51.

Mortgagee may pay amount due and add same to mortgage.

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

Error not to affect liability of assessment.

(2.) The invalidity, irregularity or illegality of any individual assessment or rate shall not extend to or affect the validity of any general assessment or of any other assessment or rate. No. 29 of 1901, s. 52.

**55.** No application for an order for confirmation of a sale of land for taxes made under the provisions of this Ordinance shall be heard by a judge until three months after the said sale and until all persons appearing by the records of the proper Land Titles Office to have any interest in the said land have received notice of such application unless such notice is dispensed with by the judge.

Application to confirm sale of land for taxes not to be made until three months after sale.

(2.) Such notice shall be given by summons of the judge obtained *ex parte* to be served in such manner as the judge directs and returnable in one month or such longer time as the judge directs after service thereof. No. 42 of 1901, s. 4.

Notice to be given.

**56.** Any person interested in such land may at any time before the time for hearing such application redeem the said land by paying to the purchaser or his assignee the

Person interested may pay taxes and costs.

amount of the purchase money paid, and any further sums charged against the said land and lawfully paid, together with 20 per cent thereon, and such costs as the judge allows. No. 42 of 1901, s. 5.

After payment of taxes and costs purchasers interest to cease.

**57.** From the time of payment to the purchaser or his assignee of the amounts mentioned in the next preceding section all right and interest of the purchaser in said land shall cease and determine. No. 42 of 1901, s. 6.

Transfer to be *prima facie* evidence of Ordinance being complied with

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

Transfer to be conclusive evidence if application to confirm not made for six months.

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

1. Fraud or collusion.
2. That all taxes have been paid previous to the sale.
3. That the land was not liable to assessment. No. 42 of 1901, s. 7.

Action for anything done must be brought within six months.

**59.** No action shall be commenced for anything done in pursuance of any provision of this Ordinance after six months from the date of the act complained of and the place of trial of every such action shall be the place where a court is held nearest to the place where the cause of action arose. No. 29 of 1901, s. 53.

## FIRST SCHEDULE.

Personal property to be assessed at cash value.

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

Average stock to be assessed.

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



## FORM B.

*Section 7.*

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

Dated at the town of..... this.....day of.....  
.....A.D., 190..



**FORM C.**  
**SECTION 8.**  
**NOTICE OF ASSESSMENT.**

For the Year 190 .

Town of.....

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

Take notice that you, whose name is mentioned above, are assessed as above specified for the year 190 . If you deem yourself aggrieved by such assessment or any part thereof you may appeal therefrom by giving me as Clerk of the Assessment Appeal Court notice of appeal not later than fifteen days after this notice of assessment has been given by delivering or mailing the same to you; and your appeal will be heard at the meeting of the Assessment Appeal Court at.....next.....of.....next at the hour of.....o'clock in the afternoon, or at such time and place as such Court from time to time appoints.

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

## FORM D.

## SECTION 19.

## SUBPŒNA AD TESTIFICANUM.

Town of \_\_\_\_\_ To A.B, CD and EF (according to the number).

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

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 19 \_\_\_\_\_

Member of the assessment appeal court.

## FORM D.

## SECTION 19.

## SUBPŒNA DUCES TECUM.

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

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

## FORM E.

## SECTION 20.

Appeals to be heard at a court to be held at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

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

FORM F.

SECTION 39.

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

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 19\_\_\_\_

Collector of Taxes.  
No. 29 of 1901.

FORM G.

SECTION 50.

TRANSFER OF LAND ON SALE FOR TAXES.

I, \_\_\_\_\_ of the \_\_\_\_\_, in the Yukon Territory, Assessor, of \_\_\_\_\_ by virtue of the authority vested in me by the Assessment Ordinance, to sell lands for arrears of taxes, do hereby in consideration of the sum of \_\_\_\_\_ dollars, paid to me by \_\_\_\_\_ of \_\_\_\_\_, being the price for which the said land was sold at a sale by me on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, for arrears of taxes due on said land to the said town transfer to the said \_\_\_\_\_ ALL THAT piece of land being \_\_\_\_\_

In Witness Whereof I have hereunto set my hand and the seal of said town this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

Signed by the above named in the presence of:  
(Affidavit of witness to be endorsed on transfer.)

Canada, Yukon Territory, to-wit :

1, \_\_\_\_\_ of \_\_\_\_\_ (residence), in the Yukon Territory, \_\_\_\_\_ (occupation), make oath and say :

1. I was personally present and did see \_\_\_\_\_ named in the within instrument, who is personally known to me to be the person named therein, he being the assessor of \_\_\_\_\_, duly sign and execute the within instrument for the purposes named therein.

2. That the said instrument was executed at \_\_\_\_\_, in the said Territory, and that I am the subscribing witness thereto.

3. That I personally know the said \_\_\_\_\_ and he is, in my belief, of the full age of twenty-one years.

Sworn before me at \_\_\_\_\_ in the Yukon Territory, this \_\_\_\_\_ day of \_\_\_\_\_, A. D, 19\_\_\_\_ No. 42 of 1901.

## CHAPTER 65.

### An Ordinance respecting towns.

#### SHORT TITLE.

Short title.      **1.** This Ordinance may be cited as "*The Towns Ordinance.*" No. 31 of 1901, s. 1.

#### INTERPRETATION.

Interpretation  
"Voter."      **2.** In this Ordinance—  
1. The expression "voter" means any man, unmarried woman or widow, being a British subject of the full age of twenty-one years, who resides within any town created or existing hereunder and who possesses, holds or occupies any land therein under any title.

"Town."      2. The expression "town" means any town organized under the provisions of the Ordinance. No. 31 of 1901, s. 2.

#### ESTABLISHMENT OF TOWNS.

Commissioner may establish unincorporated town.      **3.** Whenever the Commissioner of the Yukon Territory is satisfied by such proof as he requires that any portion of the Yukon Territory (no part of which is within the limits of any incorporated city or town) contains not less than ten dwelling houses he may cause notices to be posted in three conspicuous places within such area (one of which shall be the post office therein) that it is proposed to establish the same as a town after the expiration of thirty days from such posting. No. 31 of 1901, s. 3.

Town to be established unless petitioned against in 30 days.      **4.** After the expiration of the said thirty days the Commissioner, unless a majority of the voters within such area by petition addressed to him object may, by order, establish the said area as a town under the name of the post office therein, and shall define its boundaries, fix a day for the election of an overseer and appoint one of the voters of the said town to act as returning officer at the election of such overseer. No. 31 of 1901, s. 4.

## OVERSEER.

**5.** The first election of overseer and all later elections shall be conducted as follows: Election of overseer.

1. The returning officer shall by public notice posted in the post office and two other conspicuous places in the town at least one week before the election call a meeting of the voters for the election of an overseer to be held on the day fixed therefor ;

2. Election meetings shall be called to commence at the hour of seven of the clock in the evening of the day appointed, or if such day be a Sunday or a holiday, on the next following day which is not a Sunday or a holiday ;

3. Nominations may be made during the first half hour of the meeting ;

4. Male voters and no other persons shall be eligible for election as overseer ;

5. When the time for nomination has closed—

(a.) If only one person has been nominated the returning officer shall declare such person to be elected overseer ;

(b.) If more than one person has been nominated the returning officer shall at once proceed to take the vote of the meeting which shall be by open voting ;

6. Every person tendering his vote shall before his vote is received make and sign before the returning officer a declaration in form A in the schedule hereto ; Person tendering vote must sign declaration.

7. If at any time after nine o'clock of the evening of such meeting the returning officer announces that if no vote is tendered during the five minutes next ensuing after such announcement he will close the voting and no vote is tendered during such time, the returning officer shall declare the voting closed. The voting shall in no case continue later than eleven o'clock of such evening. Poll to be closed if no vote tendered within five minutes after 9 P.M.

8. The returning officer shall declare elected the nominee having the largest number of votes ; Nominee having largest number of votes to be declared elected.

9. If there is an equality of votes the returning officer shall give the deciding vote but otherwise shall not vote. If equality of votes returning officer to give casting vote. No. 31 of 1901, s. 5.

**6.** Any person wilfully making a false declaration as a voter shall be liable on summary conviction to a penalty not exceeding \$50, and in default of payment to imprisonment for a period not exceeding ninety days. No. 31 of 1901, s. 6. Voter making false declaration liable to penalty.

**7.** The returning officer shall make a return to the Territorial Secretary showing the result of the election and shall send therewith the declarations signed by the voters and his own declaration in form B in the schedule hereto. Returning officer to send result to Territorial secretary. No. 31 of 1901, s. 7.

Overseer elected to give bond within five days.

**8.** The person elected as overseer shall within five days after the declaration of his election deliver to the returning officer a bond executed by himself with two sufficient sureties in form C in the schedule hereto with an affidavit of justification endorsed thereon. No. 31 of 1901, s. 8.

**9.** Until such bond is furnished the person elected shall not act as overseer. No. 31 of 1901, s. 9.

If bond not delivered to returning officer within time to hold another election.

**10.** If such bond is not delivered to the returning officer within such time he shall proceed to hold another election as soon as it is possible consistently with the giving of notice as herein provided.

(2.) At the election so to be held the person making default in delivering such bond shall not be eligible for such election.

(3.) The previous election shall become void on the election of another person under this section.

(4.) Immediately on receipt of the bond the returning officer shall transmit it to the Territorial Secretary.

(5.) If a person is elected overseer in the place of one who has failed to furnish a bond the provisions of this and the two next preceding sections shall be observed and followed as in the first instance. No. 31 of 1901, s. 10.

Overseer to enter on duties immediately after giving bond.

**11.** The first overseer elected in any town shall enter on his duties at once after furnishing such bond and shall hold office for the remainder of the calendar year in which he was elected and until his successor has furnished a bond.

(2.) The overseer elected at elections subsequent to the first election shall hold office for the calendar year next ensuing after the day on which the election is required to be held hereunder and until his successor has furnished his bond.

(3.) If a vacancy occurs in the office of overseer the Commissioner may order another election or appoint an overseer for the unexpired term, and if the Commissioner appoints an overseer the Commissioner may dispense with the necessity of such overseer furnishing a bond under the provisions of this Ordinance. Notice of such order or appointment may be sent by telegram signed by the Commissioner. No. 31, of 1901, s. 11.

Commissioner may remove overseer and appoint another.

**12.** The Commissioner may, if he sees fit, remove any overseer from his office and appoint another in his stead, and any overseer so appointed shall have all the powers of an elected overseer and such other powers in regard to the conduct of the town affairs as the Commissioner deems proper and necessary. No. 31 of 1901, s. 12.

Election to be held first

**13.** The election for overseer shall be held in each town on the first Wednesday in September in each year and

for the purpose of such election the overseer shall appoint in writing before the first day of August in each year a returning officer; and should the person so appointed decline or be or become unable to act the overseer shall forthwith appoint another in his stead. Wednesday  
in September.

(2.) The returning officer shall receive a fee of \$10. No. 31 of 1901, s. 13.

**14.** Whenever the due election of a person to be overseer or the sufficiency of the bond furnished by him is disputed, any voter may on depositing, within one month after declaration of the election, with the Clerk of the Territorial Court the sum of \$200 as security for such costs as a judge orders him to pay and on alleging reasonable grounds therefor obtain a rule *nisi* calling on the person elected to show cause why he should not be removed from the said office. Any voter  
may protest  
election on  
depositing  
\$200.

(2.) The judge may on the return of such rule dispose of the same summarily or direct that it be set down for trial of the questions raised thereby as an action in court.

(3.) Upon such summary disposal or trial the judge may order that the overseer be removed from the office and that another person be admitted thereto or another election held as justice requires, and the judge may make such orders as are necessary for the carrying out of the judgment or order. Costs of the proceedings shall be in the discretion of the judge. No. 31 of 1901, s. 14.

#### MEETINGS OF VOIERS.

**15.** An annual business meeting of the voters shall be held in the town before the fifteenth day of July in each year, which meeting shall be called by the overseer by public notice thereof posted in the post office and two other conspicuous places in the town for at least two weeks before such meeting. No. 31 of 1901, s. 15. Annual  
business  
meeting to  
be held  
15th July.

**16.** The overseer shall at the annual business meeting submit to the voters a statement of the estimated total expenditure of the town for the current year which shall include: Overseer  
to furnish  
meeting with  
statement.

(a.) The amount payable in such year on any debt contracted hereunder;

(b.) Draining and street improvements;

(c.) Construction of sidewalks;

(d.) Fire protection and water supply;

(e.) Purchase of property for town purposes;

(f.) Scavenging.

(g.) Contingencies;

(h.) Remuneration of overseer. No. 31 of 1901, s. 16.

Order of  
business.

**17.** At the annual business meeting the order of business shall, as nearly as possible, be as follows:

1. The election of a chairman and secretary.
2. The reading and dealing with:
  - (a.) The minutes of the last annual meeting;
  - (b.) The overseer's annual return provided for in this Ordinance and the auditor's report;
3. The consideration of the overseer's statement of estimated expenditure and deciding thereon;
4. The election of an auditor and fixing his remuneration.
5. Such other general business as may concern the town, but not exceeding the powers given herein.
6. The imposing of a business tax upon all persons doing business within the town and the fixing of the amount thereof. No. 31 of 1901, s. 17. No. 46 of 1901, s. 1.

Voters at  
annual  
meeting may  
make  
regulations.

**18.** The voters may at the annual meeting, or at a special meeting duly called for the purpose, in addition to their other powers, make regulations further than those herein contained for the general cleanliness of and prevention of disease in the town, including the employment and remuneration of a scavenger, and also for the protection of property from fire. No. 31 of 1901, s. 18.

Overseer to  
call meeting  
at request  
of five  
ratepayers.

**19.** The overseer may, whenever he deems fit and shall, upon being requested so to do by any five voters in writing giving the object of the meeting, call a special meeting of voters; notice shall be given of all special meetings, as in the case of the annual business meeting, but the notice shall also state the purpose of the meeting. No. 31 of 1901, s. 19.

#### ASSESSMENT AND TAXATION.

Revenue to be  
raised by rate  
not to exceed  
20 mills.

**20.** The necessary revenue of the town shall be raised by the levying of a yearly rate upon the property and income therein not exceeding twenty mills on the dollar of the assessed value, and by a business tax if the same is provided for at the annual business meeting. The assessment of the property and income shall be made, the rate ascertained and the amount collected together with the business tax if any, under the provisions of the Assessment Ordinance excepting that the assessment roll shall be made up and completed between the first day of January and the first day of July, and the Court of Revision be held on the tenth day after the completion of said roll. No. 46 of 1901, s. 2.

#### DOG TAX.

Dogs to be  
taxed.

**21.** Every person who keeps or harbours a dog or bitch shall pay a yearly tax of five dollars for each dog and five



dollars for each bitch so kept and harboured ; such tax shall be payable on demand of the overseer and may be recovered in such mode as is provided in said Assessment Ordinance for the collection of taxes as may be applicable, if the tax is not paid after demand of the overseer he may cause the dog or bitch to be destroyed. Any person refusing or neglecting to pay such tax shall be liable to a penalty of ten dollars, and in default of payment to imprisonment for a period not exceeding twenty days. No. 31 of 1901, s. 21.

#### HAWKERS AND PEDLARS.

**22.** No person shall follow the calling of a hawker or pedlar in any town without first having obtained the written permission of the overseer and having paid to such overseer the sum of one hundred dollars to form part of the town fund. Hawkers and pedlars licence.

(2.) Such sum shall be in addition to any Territorial license fee and shall entitle the person paying the fee to follow the business of a hawker or pedler in such town for the twelve months next ensuing the date of such written permission. No. 31 of 1901, s. 22.

#### TOWN EXPENDITURE.

**23.** The funds of the town may from time to time be expended by the overseer for the purpose and in accordance with the estimates as passed at the annual business meeting and subject to such further directions as is made at any special meeting regarding the same. No. 31 of 1901, s. 23. Overseer to expend funds according to estimates.

**24.** The overseer may incur any debt not exceeding five hundred dollars for town purposes pending the collection of taxes. All debts shall subject to the provisions herein contained be paid before the thirty-first day of December in each year. No. 31 of 1901, s. 24. Overseer may incur debt up to \$500.

#### SUITS BY OR AGAINST TOWN.

**25.** Suits by or against the town may be brought by or against the overseer as representing the town. No. 31 of 1901, s. 25. Overseer to represent town in suit.

**26.** In the event of judgment being obtained against the overseer for any liability of the town it may be enforced by execution rate levied by the sheriff in the manner provided in the next following section. No. 31 of 1901, s. 26. In event of judgment against town execution rate to be levied.

**27.** Any writ of execution against the town may be indorsed with the direction to the sheriff to levy the amount Proceedings to realize rate.

thereof by rate and the proceedings thereon shall be as follows:

1. The sheriff shall deliver a copy of the writ and indorsement to the overseer with a statement in writing of the amount required to satisfy such execution including the amount of interest thereon and sheriff's fees and demand the payment of the same.

2. If the amount demanded is not paid to the sheriff within thirty days after such delivery the sheriff shall examine the assessment roll of the town and shall in like manner as rates are struck for general town purposes strike a rate sufficient in the dollar to cover the amount claimed as aforesaid with such addition to the same as the sheriff deems sufficient to cover interest, his own fees, the overseer's percentage and any other expenses up to the time when such rate will probably be available.

3. The Sheriff shall thereupon issue a precept under his hand and seal of office directed to the overseer and shall annex thereto the roll of such rate and shall by such precept after reciting the writ and that the town has neglected to satisfy the same and referring to the roll annexed to the precept command the overseer to levy such rate at the time and in the manner by law required in respect to the general annual rate.

4. At the time for levying the annual rate next after the receipt of such precept the overseer shall add a column to the rate book headed: "Execution rate in—vs. the town of ——" as the case may be, adding a similar column for each execution if there are more executions than one, and shall insert therein the amount by each such precept to be levied on each person respectively and shall levy the amount of such execution rate aforesaid and shall within the time that he is required to make the returns of the general annual rate return to the sheriff every such precept with the amount levied thereon deducting any percentage and expenses which he is entitled to be paid.

5. The sheriff shall after satisfying the execution and all fees thereon return any surplus within ten days after receiving the same to the overseer for the general purposes of the town.

6. If the overseer is not paid by percentage fixed at the annual meeting of the town he shall be paid for such collection a sum not exceeding two and one-half per centum. No. 31 of 1901, s. 27.

Overseer to be officer of court for purpose of execution.

**28.** The overseer for the purpose of carrying into effect or permitting or assisting the sheriff to carry into effect the provisions of this Ordinance with respect to such execution shall be deemed to be an officer of the court from which such writ issued and as such may be proceeded against by attachment mandamus or otherwise, to compel him to per-

form the duties hereby imposed upon him. No. 31 of 1901, s. 28.

#### OVERSEER'S DUTIES AND POWERS.

**29.** The overseer shall have the following duties and powers : Overseers  
duties and  
powers.

1. He shall carry out the orders of the voters as expressed at the annual or special meeting of the voters in respect of public works and expenditure of town funds and such general orders as may be given upon matters concerning the town.

2. He shall enforce the provisions of this Ordinance and all regulations thereunder :

3. He shall make such regular inspection of premises in the town as is necessary to carry out the provisions herein respecting nuisances and the prevention of disease and of fire :

4. He shall have charge of all town property.

5. He shall keep a record of all taxes levied and collected and of all moneys received and expenditures made by him and give and take receipts for all moneys received or paid out by him as the case may be ;

6. He shall keep or cause to be kept full and accurate minutes of each town meeting other than election meetings which minutes shall record by whom all motions were moved and seconded and the result of them ;

7. He shall have the public improvements estimated in each year completed before the first day in November of each year ;

8. He shall on application in reasonable hours produce to the auditor for inspection all books, accounts, minutes, lists and records of the town ;

9. He shall impound or cause to be impounded animals unlawfully running at large. No. 31, of 1901, s. 29.

#### ANNUAL RETURN OF OVERSEER.

**30.** The overseer shall on or before the first day of November in each year render to the Territorial Secretary a return in writing showing : Overseer to  
make annual  
return to  
Territorial  
secretary.

(a.) Amount of money collected ;

(b.) The amount of money expended and for what purpose and the balance on hand ;

(c.) The outstanding liabilities if any of the town ;

(d.) The names of all those who have been convicted of a breach of this Ordinance or any regulation made hereunder in the town stating the penalty imposed and the name of the convicting justice ;

(e.) A list of the taxes unpaid giving the names of the persons in default ;

(2.) The overseer shall submit a copy of such return to the voters at the annual business meeting. No. 31 of 1901, s. 30.

#### ANIMALS RUNNING AT LARGE.

Regulations  
to prevent  
animals  
running  
at large.

**31.** The voters may at any meeting resolve that animals may not be permitted to run at large in the town or any part thereof in or during any period of the year;

(2.) When the voters so resolve no horse, mule, jack, cattle, sheep, swine, goat, goose, or other poultry shall be permitted in or during such period to run at large in the town or such part thereof and the overseer shall appoint a pound-keeper whose duty it shall be to keep and maintain a pound in the town for the impounding of estray animals of the description aforesaid.

(3.) In so far as they are not inconsistent herewith the provision of the Ordinance respecting trespassing and straying animals shall apply and be followed and observed in all respects as if such town were a pound district under said Ordinance.

(4.) When any such resolution is passed the overseer shall forthwith notify the Territorial Secretary. No. 31 of 1901, s. 31.

#### PREVENTION OF DISEASE.

Regulations  
for the  
prevention  
of disease.

**32.** For the prevention of disease the following regulations shall be observed in every town.

1. Privy pits shall be emptied and properly disinfected at least once each week between the 1st day of May and the 1st day of November in each year.

2. No privy pit shall be allowed to become offensive at any time.

3. No privy pit shall be within fifty feet of any well.

4. Where dry earth closets are ordered by resolution of a town meeting no privy pits shall be used.

5. No person shall deposit or cause to be deposited in any place where the same may become offensive, any manure, filth, rubbish or decaying animal or vegetable matter.

6. Stable-yards shall be cleaned during the first week of every month from the 1st day of May until the 1st day of November in each year.

7. All garbage, swill, slops and other rubbish shall be placed in suitable receptacles and removed regularly at least once every week between the 1st day of May and the 1st day of November in each year.

8. No stable-yard shall be allowed to become offensive at any time because of decaying animal or vegetable matter.

9. Foul water shall not be allowed to accumulate on any property.

10. Any person guilty of a violation of any of the provisions of this section shall be liable to a penalty not exceeding fifty dollars and in default of payment to imprisonment for a period not exceeding ninety days. No. 31 of 1901, s. 32.

#### PREVENTION OF FIRE.

**33.** For the prevention of fire the following regulations shall be observed in each town :

Regulations  
for the  
prevention  
of fires.

1. No person shall keep on any premises a larger quantity of gunpowder or other explosive than twenty-five pounds unless the same is stored at least one hundred feet from any building ;

2. No person shall keep on any premises a greater quantity of kerosene than one hundred and fifty gallons unless the same is stored at least sixty-five feet from any building ;

3. No person shall set out fire within fifty feet of any building, provided nevertheless that a blacksmith may build a fire within fifty feet of his shop for the purposes of his trade ;

4. No person shall deposit any ashes in any wooden vessel unless it is lined with metal. No. 31 of 1901, s. 33.

**34.** There shall be a space of at least nine inches between any stovepipe and partition or floor through which it passes unless such stovepipe is surrounded in such partition or floor by a thimble of brick, cement or concrete at least two inches in width and of the full thickness of such partition or floor or by a metal safety flue with an air space of at least three inches.

Space between  
stove pipes,  
floor and  
partition.

(2.) At least twelve inches shall intervene between any stove in use and the partition or wall nearest thereto.

(3.) Every proprietor of any house more than one storey high, with a roof having a pitch greater than one foot in three shall keep a ladder on such roof near the chimney thereof.

(4.) Any person guilty of a violation of any of the provisions of this section shall be liable to a penalty not exceeding fifty dollars and in default of payment to imprisonment for a period not exceeding ninety days. No. 31 of 1901, s. 34

#### REMUNERATION OF OVERSEER.

**35.** The remuneration of the overseer shall be fixed at the annual business meeting but shall not be less than one hundred dollars nor more than three hundred dollars per annum, together with two and one-half per centum of all rates and taxes collected by him and the overseer may retain such remuneration at the expiration of his term of

Remuneration  
of overseer.

office out of the moneys then in his hand. No. 31 of 1901, s. 35.

#### AUDIT AND DELIVERY OF BOOKS, ETC.

Audit of  
overseers  
books.

**36.** At the expiration of the term of office of any overseer or upon his ceasing to hold office for any cause, all books, accounts, records, lists, vouchers, moneys and other property of the town shall be examined by the auditor and handed over to the successor in office of such overseer; the auditor shall make a full report thereon at the next meeting of the voters. No. 31 of 1901, s. 36.

#### OFFENCES AND PENALTIES.

Offenses and  
penalties.

**37.** Any overseer who neglects or refuses to render a true and correct account as and when required herein or neglects or refuses to hand over to his successor in office any property of the town as directed by the next preceding section shall be liable to a penalty not exceeding five hundred dollars and in default of payment to imprisonment for a period not exceeding six months.

(2.) Any overseer who neglects or refuses to discharge any other duty by this Ordinance imposed upon him shall be liable to a penalty not exceeding two hundred dollars and in default of payment to imprisonment for a period not exceeding three months.

(3.) Any person who violates any provision of this Ordinance for which violation no penalty is in this Ordinance provided or who violates the provisions of any judgment, order or regulation given or made under the provisions of this Ordinance shall be liable to a penalty not exceeding two hundred dollars and in default of payment to imprisonment for a period not exceeding three months.

(4.) All penalties imposed by this Ordinance shall when recovered be paid to the overseer to form part of the town funds. No. 31 of 1901, s. 37.

#### TITLE TO REAL ESTATE.

Real estate  
held by town  
to be in  
commissioners  
name.

**38.** The title of any real property owned or purchased or in any way acquired by any town shall be vested in the Commissioner of the Yukon Territory who shall hold the same for the purposes of the town. No. 31 of 1901, s. 38.

#### ALTERATION OF BOUNDARIES.

Commissioner  
may alter  
boundaries  
of town.

**39.** The Commissioner of the Yukon Territory may alter the boundaries of any town and may add to or take from the area of such town. No. 31 of 1901, s. 39.

NOTICE OF MEETING.

**40.** Any notice required under this Ordinance for calling any meeting may be published in any newspaper published in such town instead of being posted, as in this Ordinance hereinbefore provided. No. 31 of 1901, s. 40.

Notices may be published in newspapers instead of being published.

**41.** Any affidavit or declaration required under any provision of this Ordinance may be sworn or made before a notary public, commissioner for taking affidavits or a justice of the peace, any one of whom may administer any oath or take any declaration required by any such provision. No. 31 of 1901, s. 41.

Who may swear affidavit.

SCHEDULE.

FORM A.

SECTION 5.

I, A. B., of \_\_\_\_\_ in the Yukon Territory (occupation) solemnly declare :

1. That I am a British subject of the full age of twenty-one years ;
2. That I reside within the town of \_\_\_\_\_ and that I possess, hold or occupy land within the said town and (in case of a female) ;
3. I am an unmarried woman or widow (as the case may be).

Declared at		in the			
Yukon Territory this		}	A.D.	.	(Voter here sign.)
day of					
190 before me.					
					Returning officer.

FORM B.

SECTION 7.

I, A. B., returning officer for the town of \_\_\_\_\_, hereby solemnly declare that the record of votes hereto attached and signed by me is a true record of the votes given at the election of an overseer for the said town held on the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 190 \_\_\_\_\_ when \_\_\_\_\_ of \_\_\_\_\_ in the Yukon Territory was duly elected overseer for the said town.

Declared at		in the			
Yukon Territory this		}	A.D.	.	(Returning officer signs here.)
day of					
190 before me.					

A Commissioner for taking affidavits.

FORM C.

SECTION 8.

Know all men by these presents that we  
of \_\_\_\_\_ in the Yukon Territory  
as principal, and \_\_\_\_\_ of \_\_\_\_\_ in the  
said territory and \_\_\_\_\_ of  
\_\_\_\_\_ in the said territory

as sureties, are held and firmly bound unto the Commis-  
sioner of the Yukon Territory, the said principal, in the  
sum of one thousand dollars, and each of the said sureties  
in the sum of five hundred dollars of good and lawful money  
of Canada to be paid to the said Commissioner, for which  
payments well and truly to be made we severally bind our-  
selves and our respective heirs, executors and administrators.

Sealed with our seal and dated the \_\_\_\_\_ day  
of \_\_\_\_\_ A.D. 190 .

L.S.  
L.S.  
L.S.

Whereas under the provisions of the Towns Ordinance  
the said \_\_\_\_\_ was on the  
day of \_\_\_\_\_ A D. 190 \_\_\_\_\_ duly elected to the office  
of overseer in the town of \_\_\_\_\_

Now the condition of the above obligation is such that  
if the said \_\_\_\_\_ shall at all times until  
his successor in such office is duly appointed accord-  
ing to law keep, fulfil, observe and comply with all and  
every provision of the said Ordinance to which the said  
\_\_\_\_\_ as such overseer is or shall be subject  
and truly and faithfully whenever required by law so to do  
render accounts and delivery of all moneys and property of  
any nature which may or but for the default of the said  
\_\_\_\_\_ would have come into his hands as such  
overseer, and if the said \_\_\_\_\_ in all respects  
faithfully performs his duty as such overseer in said town  
then this obligation shall be void, but otherwise shall re-  
main in full force and virtue.

AFFIDAVIT OF JUSTIFICATION TO ACCOMPANY  
FOREGOING BOND.

We \_\_\_\_\_ and \_\_\_\_\_ the  
sureties whose names are signed to the foregoing bond, do  
severally solemnly declare and say as follows :

I, the said \_\_\_\_\_ for myself say that I  
am worth property situate in the Yukon Territory to the  
value of five hundred dollars over and above what will pay  
my just debts and over and above all sums for which I am  
liable as surety and the exemptions allowed by law.



2. And I, the said  
 for myself say that I am worth property situate in the  
 Yukon Territory to the value of five hundred dollars over  
 and above what will pay all my just debts and over and  
 above all sums for which I am liable as surety and the ex-  
 emptions allowed by law.

The above named	}	Sureties sign here.
and		
severally made		
the foregoing declaration at		
in the Yukon Territory		
this	day of	A.D.
19		
Before me.		

A commissioner for taking affidavits. No. 31 of 1901.

## CHAPTER 66.

### An Ordinance respecting Schools.

#### SHORT TITLE.

Short title. **1.** This Ordinance may be cited as "*The School Ordinance*," No. 27 of 1902, s. 1.

#### INTERPRETATION.

Interpretation **2.** In this Ordinance, unless the context otherwise requires:

"Department,"  
"Municipality,"  
"Superintendent,"  
"Board."

1. "Department" means the Department of Education.  
2. "Municipality" includes the City of Dawson and any place incorporated under the Towns' Ordinance.  
3. "Superintendent" means the Superintendent of Schools.  
4. "Board" means Board of School Trustees, No. 27 of 1902, s. 2.

#### COUNCIL OF PUBLIC INSTRUCTION.

Council of Public Instruction. **3.** The members of the Council of the Yukon Territory and two persons, one of whom shall be a Protestant and one a Roman Catholic, appointed by the Commissioner of the Yukon Territory in Council for the term of two years, shall constitute a Council of Public Instruction; and one of the said Council of the Yukon Territory, to be nominated by the Commissioner, shall be Chairman of the said Council of Public Instruction. The appointed members shall be entitled to vote. No. 27 of 1902, s. 3.

Quorum. **4.** A majority of the Council of Public Instruction or of any sub-committee thereof appointed for that purpose, shall constitute a quorum of the Council of Public Instruction. No. 27 of 1902, s. 4.

Annual meeting. **5.** An annual meeting of the Council shall be held in the month of July at such time and place as the Commissioner appoints;  
(2.) Additional meetings of the Council may be called at any time by the Commissioner or at the request of any two members. No. 27 of 1902, s. 5.

**6.** All general regulations respecting the inspection of schools, the examination, licensing and grading of teachers, courses of study, teachers' institutes and text and reference books shall before being adopted or amended be referred to the Council for its discussion and report. No. 27 of 1902, s. 6. Powers of Council.

**7.** The Council shall consider such matters as may be referred to it as hereinbefore provided or by the Commissioner, and may also consider any question concerning the educational system of the Territory as to it seems fit, and shall report thereon to the Commissioner in Council. No. 27 of 1902, s. 7. General powers.

**8.** The Council may also select, adopt and prescribe series of text books to be used in the schools of the Territory, as well as the courses and standards of instruction for schools. To prescribe series of text books.

(2.) Suspend or cancel for cause the certificate of qualification of any teacher.

(2.) Determine all cases of appeal arising from the decisions of trustees and make such orders thereon as may be required. No. 27 of 1902, s. 8.

#### POWERS OF THE COMMISSIONER.

**9.** The Commissioner may appoint a Superintendent of Schools for the Yukon Territory, who shall *ex officio* be Secretary of the Council of Public Instruction. No. 27 of 1902, s. 9. Commissioner to appoint superintendent of schools.

**10.** It shall be lawful for the Commissioner from time to time : Powers of commissioner.

1. To establish schools in any part of the Territory not within a school district, as he considers necessary.

2. On application of the trustees of any school district to grant such moneys as he considers necessary to pay the salary of the teacher in such school district, and the cost of erecting a school-house.

3. To grant such sum as he thinks proper to aid in the establishment and maintenance of a school in any part of the Territory not being a school district.

4. To appoint two or more examiners, at such remuneration as he thinks proper, who, together with the superintendent of schools, shall constitute a board of examiners, to examine teachers and grant certificates of qualification. Such certificates shall be of two classes, viz.: First class certificates and Second class certificates.

5. To grant interim certificates of qualification for one year to teachers having first or second class certificates of the North-west Territories or any province of Canada, and on the report of the Superintendent of Schools, to make such certificates permanent.

6. To appoint an official trustee to conduct the affairs of any district; and any such official trustee shall have all the powers and authorities conferred by this Ordinance on a board and its officers; and shall be remunerated out of the funds of the district or otherwise as the Commissioner decides, and upon the appointment of any such official trustee the board of any district for which he is appointed shall cease to hold office as such.

7. To appoint some person to inquire into and report upon the conditions existing in any portion of the Territory that has not been erected into a school district, and subject to the provisions of this Ordinance in that behalf to take such action thereon as to him seems expedient; and such person shall receive such remuneration as the Commissioner determines.

8. To make any provision not inconsistent with this Ordinance that may be necessary to meet exigencies occurring under its operation: and generally from time to time to make and enforce all such general rules orders and regulations as are necessary for the purpose of giving full effect to all or any of the provisions of this Ordinance.

9. To direct the Department of Education to perform any of the duties conferred upon him by this Ordinance. No. 29 of 1902, s 9.

#### DUTIES OF SUPERINTENDENT OF SCHOOLS.

Duties of  
superin-  
tendent of  
schools.

**11.** It shall be the duty of the Superintendent of Schools:

1. To visit all schools established under this Ordinance and inquire into and report to the Commissioner and to the Council of Public Instruction upon the progress and attendance of the pupils, the discipline and management of schools, the system of education pursued, the mode of keeping school registers, the condition of school buildings and premises, and generally the compliance with the provisions of this Ordinance and all such other matters as by the Commissioner is deemed expedient or advisable in the public interests:

2. Subject to the approval of the Commissioner to make and establish rules and regulations for the conduct of schools, to prescribe the duties of teachers and their classification not inconsistent with the provisions of this Ordinance.

3. To perform the duties of a board of trustees in respect to all schools heretofore established or which are hereafter established under this Ordinance which are not within the limits of an established school district;

4. To make annually for the information of the Yukon Council a report of the actual state of the public schools throughout the Territory, showing the number of pupils taught in each school, the branches taught, and average

attendance, the amount of moneys expended in connection with each school, the number of official visits made to each school, the salaries of teachers, the number of qualified teachers, their standing and sex, together with any other information that he may possess respecting the educational state and wants and advantages of each school and district in the Territory, and such statements and suggestions for improving the schools and school laws, and promoting education generally, as he deems useful and expedient; which report shall be laid before the Yukon Council immediately after the opening of the next succeeding session thereof;

5. To prepare suitable forms and give such instructions as he considers necessary and proper for making all reports and conducting all proceedings under this Ordinance.

6. With due diligence, after any complaint has been made to him respecting the mode of conducting any election of trustees (as hereinafter provided for) to investigate such complaint, and report the facts to the Commissioner;

7. To close schools when the average attendance falls below seven.

8. To perform such other duties as are assigned to him by the Commissioner or by the Council of Public Instruction.

No. 27 of 1902, s. 11.

#### SCHOOL DISTRICTS.

**12.** The Commissioner may by proclamation establish the City of Dawson and every town incorporated under the Towns Ordinance or which is hereafter incorporated under said Ordinance or any other part of the Territory where a school has been established, a school district under this Ordinance; and on the petition of three ratepayers in an area of not more than five square miles containing not less than four ratepayers and twelve children between the ages of 5 and 16 inclusive, and upon verification of these facts by solemn declaration the Commissioner shall erect such area into a school district under this Ordinance. No. 27 of 1902, s. 12.

Commissioner  
may establish  
school  
districts.

**13.** As soon as the City of Dawson is erected into a school district it shall elect from amongst the ratepayers of the city entitled to vote at an election for mayor and aldermen, five trustees who shall hold office until the first Monday of January next following the date of their election or until their successors are elected. No. 27 of 1902, s. 13.

Dawson to  
elect five  
trustees.

**14.** The persons qualified to vote at the election of trustees for the Dawson school district shall be those persons whose names appear on the last revised voters' list of said city, and who are entitled to vote at an election for mayor and Alderman in said city. No. 27 of 1902, s. 14.

Who may  
vote.

First election  
in Dawson.

**15.** The first election of school trustees for the city of Dawson shall be held by a returning officer to be appointed by the Commissioner, and the nomination and election of said trustees shall be conducted in the same manner as the nomination and election of a mayor and aldermen under the Dawson City Charter. No. 27 of 1902, s. 15.

Subsequent  
elections.

**16.** The nomination and election of trustees for the Dawson school district after the first election shall be held at the same time and place, and by the same returning officer or officers, and be conducted in the same manner as the nomination and election of a mayor and aldermen for said city, and the provisions of the Dawson City Charter respecting the time for opening and closing of the poll, the mode of voting, corrupt or improper practices, vacancies and declaration of office shall *mutatis mutandis* apply to the election of school trustees. No. 27 of 1902, s. 16.

Separate  
ballot papers.

**17.** A separate set of ballot papers shall be prepared by the returning officer, containing the names of the candidates nominated for school trustees in the same form as those used for mayor and aldermen except in the substitution of the words "School Trustee of the Dawson School District" for "Council of the City of Dawson" and "School Trustees" for "Mayor or Aldermen" on said ballot paper. No. 27 of 1902, s. 17.

Oath of voter.

**18.** In case any objection is made to the right of any person to vote at an election of trustees in any public school district, the returning officer may require the person whose right to vote is objected to to make the following oath or affirmation:

"I, .....do solemnly swear or affirm that I am a bona fide ratepayer of (give name of district in full) and a duly qualified voter in said district, and have paid all taxes due by me to the said school district; that I am of the full age of twenty-one years; that I have not before voted at this election; and that I have not received any reward either directly or indirectly nor have I any hope of receiving any reward for voting at this time and place. So help me God." No. 27 of 1902, s. 18.

First election  
in all other  
districts.

**19.** As soon as any other part of the Territory is erected into a school district it shall elect from amongst those persons who would be entitled to vote for an overseer under the Towns Ordinance, three trustees, who shall hold office until the first Wednesday in September next following the date of their election, or until their successors are elected. No. 27 of 1902, s. 19.

Who may  
vote.

**20.** The persons qualified to vote at the election of trustees in any school district other than the Dawson school

district shall be those persons in said district who would be entitled to vote for an overseer under the Towns Ordinance if said district was incorporated as a town under said Ordinance No. 27 of 1902, s. 20.

**21.** The nomination and election of trustees for any school district other than the Dawson school district shall take place on the first Wednesday of September in each year, and the nomination and election of said trustees shall be conducted in the same manner as the nomination and election of an overseer under the Towns Ordinance. If said school district is within the limits of a town said nomination and election shall be held at the same time and place and before the same returning officer as the nomination and election of the overseer of said town, but if said district is not within the limits of a town, the Commissioner shall appoint a returning officer for said nomination and election, and fix the polling places, and the provisions of the Towns Ordinance respecting the time for opening and closing of the poll, the mode of voting, vacancies and declaration of office shall *mutatis mutandis* apply to the election of school trustees. No. 27 of 1902, s. 21. Subsequent elections.

DECLARATION OF OFFICE.

**22.** Every trustee shall before the first meeting of the board is held make the following declaration before a justice of the peace or commissioner for taking affidavits : Trustee to make declaration.

I, .....do hereby accept the office of trustee to which I have been elected (name of school district in full) and I will to the best of my ability honestly and faithfully discharge the duties devolving on me as such trustee.

Dated this....day of....19 . No. 27 of 1902, s. 22.

ORGANIZATION OF BOARD.

**23.** Upon the erection of a district one of the trustees elected shall be notified of the erection of the district by the Commissioner and he shall thereupon within ten days after the receipt of such notice call a meeting of the board in the manner provided in this Ordinance for calling such meetings for the purpose of choosing one of its number as chairman and appointing a secretary and treasurer or secretary-treasurer and transacting such other business as is necessary. No. 27 of 1902, s. 23. First meeting of board.

SEPARATE SCHOOLS.

**24.** The minority of the ratepayers of any school district, whether Protestant or Roman Catholic, may petition the Separate schools.

Commissioner to establish a separate school district therein, and in such case the ratepayers of such Protestant or Roman Catholic separate school district shall be liable only for assessments of such rates as they impose upon themselves in respect thereof. No. 27 of 1902, s. 24.

To be erected  
on petition.

**25.** The petition for the erection of a separate school district shall be signed by three resident ratepayers of the religious faith indicated in the name of the proposed district. The petition shall set forth :

1. The religious faith of the petitioners ;
2. The proposed name (stating whether Protestant or Roman Catholic) of the district ;
3. The proposed limits, definite location and approximate area ;
4. The total number of ratepayers and of children between the ages of five years and sixteen years inclusive, of the religious faith (Protestant or Roman Catholic) of the petitioners residing within the limits of the proposed district ;

5. The total assessed value of the real and personal property according to the last revised assessment roll of the district ;

and such petition shall be accompanied with a solemn declaration of one of the petitioners verifying the facts set forth in their petition. No. 27 of 1902, s. 25.

Commissioner  
to issue  
proclamation  
on being  
satisfied of  
certain  
particulars.

**26.** If the Commissioner is satisfied that said district contains :

1. Twelve children of the religious faith (Protestant or Roman Catholic) of the petitioners ;
  2. Four persons actually residing therein who on the erection of the district would be liable to assessment ;
- he shall by proclamation order the erection of such parties into a school district. No. 27 of 1902, s. 26.

Number of  
trustees same  
as public  
school  
districts.

**27.** The number of trustees, their term of office and the manner of their nomination and election shall be the same as for the public school district within which said separate school district is situated. No. 27 of 1902, s. 27.

Who may  
vote.

**28.** The persons qualified to vote for the election of trustees of a separate school district shall be the qualified voters in the district of the same religious faith (Protestant or Roman Catholic) as the petitioners. No. 27 of 1902, s. 28.

Oath of voter.

**29.** In case any objection is made to the right of any person to vote at an election of trustees in any separate school district, the returning officer may require the person whose right of voting is objected to to make the following oath or affirmation :



"I .....do solemnly swear or affirm that I am a bona fide ratepayer of (give name of district in full) and a duly qualified voter in said district and have paid all taxes due by me to the said school district; that I am a (give religious denomination, either Protestant or Roman Catholic) and a supporter of said separate school; that I am of the full age of twenty-one years; that I have not before voted at this election; and that I have not received any reward either directly or indirectly nor have I any hope of receiving any reward for voting at this time and place. So help me God." No. 27, of 1902, s. 29.

**30.** After the establishment of a separate school district under the provisions of this Ordinance such separate school district and the board thereof shall possess and exercise all rights, powers, privileges and be subject to the same liabilities and method of government as is herein provided in respect to public school districts; Board to possess same powers as public school district.

(2.) Any person who is legally assessed for a public school shall not be liable to assessment for any separate school established therein. No. 27 of 1902, s. 30.

ANNUAL SCHOOL MEETING.

**31.** An annual meeting of the ratepayers of every school district other than the Dawson school district shall be held in the school house or some other suitable place within the district, not later than the first Tuesday of September in each year, commencing at the hour of eight o'clock in the evening. No. 27 of 1902, s. 31. Annual meetings.

**32.** The meeting shall be called by the board which shall at least eight days before the day for which the meeting is called post public notices giving the day, place and hour of the meeting; and such notices shall be posted up in five conspicuous places within the district, one of which shall be the post office and if there be no such post office, a sixth notice shall be posted up in the post office nearest thereto. No. 27 of 1902, s. 32. Notice to be given.

**33.** At the time hereinbefore provided for the commencement of the meeting the chairman of the board shall take the chair and call the meeting to order and the secretary of the board or some one appointed by the chairman shall record the minutes of the meeting, and perform such other duties as may be required of him by this Ordinance; Officers of annual meeting.

(2.) In the absence of the chairman the ratepayers present shall forthwith elect one of their number to preside. No. 27 of 1902, s. 33.

Chairman to have only casting vote.

**34.** The chairman shall not vote on any question whether the same is to be declared by a show of hands or a poll, but in case of a tie, he shall give a casting vote. No. 27 of 1902, s. 34.

Order of business.

**35.** The business of the annual meeting may be conducted in the following order :

1. Reading and approving minutes of the last annual meeting ;
2. Receiving and considering the statements prepared by the teacher, trustees, treasurer, collector and auditor ;
3. Receiving and considering the report of the Superintendent of Schools ;
4. Miscellaneous business. No. 27 of 1902, s. 35.

Secretary to read minutes and statements.

**36.** The chairman upon taking his place shall immediately call upon the secretary to read the following statements and reports, which shall be considered and disposed of by the meeting :

Teachers statement.

1. A statement of the teacher signed by him giving the following particulars :

- (a.) The number of days on which school was kept open during each term succeeding the last annual meeting ;
- (b.) The total number of children attending school during that period specifying the number of males and females ;
- (c.) The number of children of school age residing in the district who did not attend school during the year ;
- (d.) The average daily attendance for each term and for the year ;
- (e.) The classification of pupils and the number of pupils in each standard or class ;
- (f.) The subjects taught in the school and the number of children studying each ;
- (g.) The number of scholars suspended or expelled for misbehaviour or other causes ;
- (h.) The date upon which the public examination of the school was held and the number of visitors present.

Trustees statement.

2. A statement prepared by the trustees showing :

- (a.) The names of the trustees ;
- (b.) The officers of the district appointed by the trustees, and their salaries ;
- (c.) Vacancies created in the board during the year, giving the causes thereof with an account of the elections held to fill such vacancies and the results thereof ;
- (d.) The engagements entered into during the year by the board as well as an account of those entailed upon them by their predecessors ;
- (e.) The number of regular and special meetings of the board held during the year together with a statement showing the number of meetings attended by each member ;

(f.) The number of visits made by each member of the board to the school while it was in operation.

3. The treasurer's statement for the fiscal year ending the 30th day of June preceding the annual meeting, in which shall be set forth :

Treasurer's statement.

(a.) The amounts of money received by the district from each source of revenue including government grants whether paid directly to the teachers or not ;

(b.) The amount of money paid out by the district with particulars of payment ;

(c.) The amount of money due to the district from all sources with the particulars ;

(d.) The amount of money due by the district and the terms and times of payment ;

4. A statement prepared by the collector of taxes and signed by him giving the following particulars :

Statement of collector of taxes.

(a.) The total assessed value of all property as shown by the last revised assessment roll ;

(b.) The rate of the school tax ;

(c.) The total amount of taxes levied during the year ;

(d.) The current taxes collected during the year ;

(e.) The arrears of taxes collected during the year ;

(f.) The total arrears of taxes which are due together with a statement of the amount owing by each ratepayer.

5. The Auditor's report ;

6. The Superintendent of School's report received since the next preceding annual meeting was held ;

Auditors report  
Superintendent of school's report  
Other statements.

7. Such further statements in relation to the affairs of the district as is deemed advisable. No. 27 of 1902, s. 36.

#### DAWSON SCHOOL DISTRICT.

**37.** An annual meeting of the ratepayers of the Dawson school district shall be held at the same time and place as may be appointed for the nomination of mayor and aldermen. No. 27 of 1902, s. 37.

Annual meeting of Dawson school district

**38.** At the annual meeting held in the Dawson school district the reading of any or all reports mentioned in section 35 of this Ordinance may be omitted upon a resolution being passed to that effect by the ratepayers present, but any ratepayer of the district may have access to such reports and statements either during or after the meeting is held ; and the board if it deem it advisable or upon being authorized to do so by resolution of the ratepayers at the annual meeting, may have any or all of such reports or statements, or any parts of them except the Superintendent of School's report printed in a newspaper published in the district. No. 27 of 1902, s. 38.

Reports may be published instead of being read.

## DEFERRED SCHOOL MEETINGS.

Deferred school meetings, how called and powers.

**39.** In case from want of proper notice or other cause any first, annual or other school meeting required to be held under this Ordinance, is not held at the proper time it shall be the duty of the secretary of the board when required to do so by any two resident ratepayers or by the Commissioner to call a meeting of the ratepayers by posting notices in the manner prescribed by this Ordinance for such meeting; and the meeting thus called shall possess all the powers and perform all the duties of the meeting in the place of which it was called. No. 27 of 1902, s. 39.

## SPECIAL MEETINGS OF RATEPAYERS.

Special meeting of ratepayers.

**40.** A special meeting of the ratepayers of any district may be held at any time for any necessary purpose not otherwise provided for in this Ordinance. No. 27 of 1902, s. 40.

Secretary to call meetings.

**41.** It shall be the duty of the secretary of the board to call any special meeting when required to do so;

(a.) by the board;

(b.) by the Commissioner;

(c.) by the Superintendent of Schools.

(2.) The notice calling a special meeting shall set forth the purpose of the meeting and shall be posted in the manner provided for notices of annual meetings. No. 27 of 1902, s. 41.

To elect chairman and secretary.

**42.** At the meeting so held the ratepayers present shall elect a chairman and secretary and no business shall be considered by the meeting other than that mentioned in the notices calling the same. No. 27 of 1902, s. 42.

## AUDIT.

Books of district to be audited each year.

**43.** The books and accounts of every school district shall be audited in each year prior to the annual meeting, by an official auditor appointed by the Commissioner. No. 27 of 1902, s. 43.

## BOARD OF TRUSTEES.

## TRUSTEES A BODY CORPORATE.

Trustees to be a corporation.

**44.** The trustees of every district shall be a corporation under the name "The Board of Trustees for the .....School District No. .... of the Yukon Territory. No. 27 of 1902, s. 44.

ORGANIZATION OF BOARD.

45. Within ten days after his election every trustee shall make the declaration of office provided for in section 22 of this Ordinance. No. 27 of 1902, s. 45. Trustees to make declaration.

46. The board shall meet within ten days after the election of trustees in each year for the purpose of organizing, and transacting such other business as is required. No. 27 of 1902, s. 46. Organization of board.

47. At the meeting thus held the board shall appoint a chairman and shall also appoint a secretary and a treasurer or a secretary-treasurer who shall respectively hold office during the pleasure of the board and shall be allowed such remuneration as the board fixes. Board to appoint chairman and secretary.

(2.) Any member of the board other than the chairman may be appointed secretary, treasurer or secretary-treasurer.

(3.) The teacher of a school district may be appointed secretary, but not treasurer, nor secretary-treasurer. No. 27 of 1902, s. 47.

BOARD MEETINGS.

48. A meeting of the board may be called by the chairman or any trustee. No. 27 of 1902, s. 48. Meetings how called.

49. Every regular or special meeting of the board shall be called by giving two clear days' notice in writing, which notice may be given by delivering such notice to each trustee or in the absence from his residence of any trustee, to any adult person thereat; Two days notice.

Provided that the board of any district may at any meeting at which all the members of the board are present decide by resolution to hold regular meetings of the board, and such resolution shall state the day, hour and place of every such meeting and no further or other notice of any such meeting shall be necessary.

(2.) The board may by unanimous consent waive notice of meeting and hold a meeting at any time, which consent shall be subscribed to by each member of the board and shall be recorded in the minutes of the meeting in the following form :

We the undersigned trustees of hereby waive notice of this meeting.

.....  
.....  
.....  
Trustees.

Acts of board to be valid must be adopted at meeting.

**50.** No act or proceeding of any board shall be valid or binding on any party which is not adopted at a regular or special meeting at which a quorum of the board is present ;  
(2.) A majority of the board shall be a quorum. No. 27 of 1902, s. 50.

One trustee not to transact business.

**51.** If the number of trustees be reduced to one, that one shall immediately take the necessary steps to fill the vacancies in the board but he shall not transact any other business of the district. No. 27 of 1902, s. 51.

Secunder not required for motion.

**52.** All questions shall be submitted to the board on the motion of the chairman or any other trustee, and no secunder shall be required. No. 27 of 1902, s. 52.

Questions to be decided by majority of votes.

**53.** At all meetings of the board all questions shall be decided by the majority of the votes, and the chairman shall have the right to vote, but in case of an equality of votes the question shall be decided in the negative.

In absence of chairman trustee to elect one.

(2.) In case of the absence of the chairman from any meeting of the board the trustees present shall elect one of their number to act as chairman of the meeting. No. 27 of 1902, s. 53.

#### *Duties of Trustees and their Officers.*

Duties of board.

**54.** It shall be the duty of the board of every district, and it shall have power :

1. To appoint a chairman, a secretary and treasurer or a secretary-treasurer and such other officers and servants as are required by this Ordinance ;

2. To procure a corporate seal for the district ;

3. To see that all the reports and statements required by this Ordinance or by the Superintendent of Schools are transmitted to the department without delay ;

4. To keep a record of the proceedings of each meeting of the board signed by the chairman and secretary and see that true accounts both of the school and district are kept, and that the affairs of the district are conducted in the manner provided by this Ordinance and with due regard to efficiency and economy ;

5. To provide the officers of the board with the books necessary for keeping proper records of the district ;

6. To take possession and to have the custody and safe keeping of all the property of the district ;

7. To purchase or rent school sites or premises, and to build, repair, furnish and keep in order the school house or houses, furniture, fences and all other school property ; to keep the well, closets and premises generally in a proper sanitary condition, and to make due provision for properly lighting, heating, ventilating and cleaning the school room

or rooms under its control and if deemed advisable to purchase or rent sites or premises for a house for the teacher and to build, repair and keep in order such house ;

9. To provide wholesome drinking water for the use of the children during school hours ;

10. To provide separate buildings for privies for boys and girls. The buildings shall be erected in the rear of the school house at last ten feet apart, their entrances facing in opposite directions or otherwise effectually screened from each other ;

11. To erect and keep in order if deemed advisable suitable stabling accommodations ;

12. To insure and keep insured the school building and equipment ;

13. To provide when deemed expedient a suitable library for the school and to make regulations for its management ;

14. To select and provide from the list authorized by the Commissioner all such reference books for the use of pupils and teachers and all such globes, maps, charts and other apparatus as are required for the proper instruction of pupils ;

15. To require that no text books or apparatus be used in the school under its control other than those authorized by the Council of Public Instruction ;

16. To exempt, in its discretion, from the payment of school taxes wholly or in part any indigent persons resident within the district, and where necessary to provide for the children of such persons text books and other supplies at the expense of the district ;

17. To engage a teacher or teachers duly qualified under the regulations of the department to teach in the school or schools in its charge on such terms as it deems expedient ; the contract therefor shall be in writing and may be in the form prescribed by the Superintendent of Schools and a certified copy of such contract shall forthwith be transmitted to the department ;

18. To suspend or dismiss any teacher for gross misconduct, neglect of duty or for refusal or neglect to obey any lawful order of the board and to forthwith transmit a written statement of the facts to the department ;

19. To see that the school is conducted according to the provisions of this Ordinance and the regulations of the Commissioner or department ;

20. To provide for the payment of teachers' salaries at least once in every three months ;

21. To make regulations for the management of the school subject to the provisions of this Ordinance and to communicate them in writing to the teacher ;

22. To provide in the cases of graded schools when deemed expedient at what times pupils may be admitted to Standard I ;

23. To settle all disputes arising in relation to the school between the parents or children and teacher ;

24. To suspend or expel from school any pupil who upon investigation by the board is found to be guilty of truancy, open opposition to authority, habitual neglect of duty, the use of profane or improper language or other conduct injurious to the moral tone or well-being of the school ;

25. To see that the law with reference to compulsory education and truancy is observed ; and

26. To perform such duties as are required by this Ordinance or the regulations of the Commissioner or department. No. 27 of 1902, s. 54.

Duties of  
chairman.

**55.** It shall be the duty of the chairman of the board :

1. To have the general supervision of the affairs of the district ;

2. To certify all accounts against the district passed by the board before such accounts are paid by the treasurer. No. 27 of 1902, s. 55.

Duties of  
secretary.

**56.** It shall be the duty of the secretary or secretary-treasurer of the board—

1. To keep a full and correct record of the proceedings of every meeting of the board in the minute book provided for that purpose and to see that the minutes when confirmed are signed by the chairman ;

2. To conduct the correspondence of the board as he is directed by the board ;

3. To have charge of and keep on record all the books, papers, accounts, assessment rolls, plans and maps committed to his charge by the board during his term of office and deliver the same to the chairman on ceasing to hold office ;

4. To faithfully prepare and duly transmit to the department such reports and statements and such other information in regard to the district as is from time to time required by the Superintendent of Schools and in such form as is provided by the Superintendent of Schools ;

5. To call, at the request in writing of the chairman or any trustee, a meeting of the board ;

6. To produce the minute and other books assessment rolls and all papers and other records of the board for inspection when required by the Superintendent of Schools so to do ;

7. To prepare the statement of the trustees to be submitted at the annual meeting of the ratepayers ;

8. To give the notice required by this Ordinance of each annual meeting of the ratepayers and to call special meetings of the ratepayers as provided by section 41 of this Ordinance. No. 27 of 1902, s. 56.



**57.** It shall be the duty of the treasurer or secretary-treasurer of the board : Duties of treasurer.

1. To give security to the board before entering upon his duties by a bond signed and acknowledged in duplicate before a commissioner, notary public or justice of the peace, and such security shall be given by any two solvent sureties jointly and severally to the satisfaction of the board, or he may furnish in lieu thereof a guarantee bond from any guarantee company authorized to do business in Canada to the amount of any moneys for which the treasurer may at any time be responsible whether arising from the school fund or from any particular contribution or donation paid into his hands for the support or benefit of the district and such security shall be renewed at the beginning of each year or renewed at other times or changed whenever renewal or change is necessary as required by the board. The members of any board failing to take such bond or security from its treasurer shall be jointly and severally liable for his default to the extent of the sum for which such bond should have been taken ;

Provided that when the majority of the board refuse or neglect to take security from the treasurer on the demand of any trustee such demand shall be duly recorded in the minutes and such trustee shall be relieved from all personal liability in case of the default of such officer ;

2. To receive all school moneys collected from the ratepayers or other persons for the purpose of the district of which he is treasurer and to disburse such moneys in the manner directed by the board ;

3. To pay all accounts against the district only when they are certified by the chairman of the board ;

4. To keep in a cash book provided for the purpose a complete and detailed account of all moneys received and disbursed for school purposes including government grants which may have been paid directly to the teacher ;

5. To give and take receipts for all school moneys received and paid out and to keep on file all vouchers of expenditure ;

6. To close and balance the books of the district at the end of the school year ;

7. To produce when called for by the trustees, auditor, Superintendent of Schools, or other competent authority, all books, vouchers, papers and moneys belonging to the district and to hand over the same to the trustees or any person named by them upon his ceasing to hold office ;

8. To prepare at the end of each year and in the manner provided by this Ordinance a statement of the finances of the district to be submitted to the annual meeting of the ratepayers ;

9. To faithfully prepare and duly transmit to the department such reports and statements with reference to the

finances of the district as are from time to time required by the Superintendent of Schools and in such form as is provided by the Superintendent of Schools. No. 27 of 1902, s. 57.

#### HALF YEARLY AND YEARLY RETURNS.

Returns  
and reports.

**58.** The board of every district shall cause to be prepared by the proper officers of the district and transmitted to the department the half yearly and yearly returns respecting attendance and classification of pupils and the finances of the district which returns shall be in the form prescribed by the Superintendent of Schools.

(2.) In case the board of any district neglects or refuses to have prepared and transmitted to the department such half yearly and yearly returns within thirty days from the close of the half year or year, as the case may be, such district shall forfeit the sum of \$10 out of any government grant which may have been earned and to which the district is entitled for each week that the returns are delayed, and the trustees through whose neglect or refusal such sums have been forfeited shall be jointly and severally responsible for the amount thus lost to the district, which amount may be recovered by action in the Territorial Court of the Yukon Territory by any person authorized by the Superintendent of Schools to bring such action. No. 27 of 1902, s. 58

#### RESIGNATION OF TRUSTEES.

How trustee  
may resign.

**59.** Any trustee wishing to resign may do so by sending notice in writing to the remaining member or members of the board who shall immediately take the necessary steps to fill the vacancy, and such resignation shall only take effect upon the election of a new trustee.

2. A trustee who resigns his office may be re-elected with his own consent. No. 27 of 1902, s. 59.

#### DISQUALIFICATION OF TRUSTEES.

Trustee to  
vacate seat if  
convicted of  
crime or  
absent for  
three months,  
etc.

**60.** Any trustee who is convicted of any felony or misdemeanour or becomes insane or absents himself from the meetings of the board for three consecutive months without being authorized by resolution entered upon its minutes, or ceases to be an actual resident within the district for which he is trustee shall, *ipso facto* vacate his seat and the remaining trustee or trustees shall declare his seat vacant and forthwith order a new election to fill any vacancy thus created. No. 27 of 1902, s. 60.

Trustee not to

**61.** No trustee shall take or possess any pecuniary interest, profit or promise or expected benefit in or from

any contract, agreement or engagement either in his own name or in the name of another, with the corporation of which he is a member, or receive or expect to receive any compensation for any work, engagement, employment or duty on behalf of such corporation except as secretary, treasurer, secretary-treasurer or for a school site. have interest in contract.

(2.) Any trustee violating any of the provisions of this section shall thereby forfeit his seat, and the remaining trustees shall declare the seat vacant, and it shall thereby become vacant, and an election to fill the vacancy so created shall be held forthwith. No. 27 of 1901, s. 61.

#### ELECTIONS TO FILL VACANCIES.

**62.** When any vacancy is created in the board of any school district, it shall be the duty of the remaining trustee or trustees in office to forthwith appoint a returning officer and hold an election to elect the required number of trustees to complete the board, which election shall be held in the same manner as is provided by this Ordinance for the annual election of trustees. In case of vacancy remaining trustee to hold election.

Provided that if any vacancy is not filled within one month the Commissioner may appoint some qualified person to fill the same. No. 27 of 1902, s. 62.

**63.** A trustee elected to fill a vacancy shall hold office only for the unexpired term of the person in whose place he has been elected, and he shall within ten days after his election take the declaration of office provided for in section 22 of this Ordinance. No. 27 of 1902, s. 63. Trustee elected to fill vacancy to hold seat for remainder of term.

#### BORROWING POWERS OF DISTRICT.

**64.** The board of any district may by resolution authorize its chairman and treasurer to borrow from any person, bank or corporation such sum of money as is required to meet the expenditures of the district until such time as the taxes levied for the current year are available, and such loan shall be repaid out of and shall be a first charge upon the taxes which are collected for the year in which the loan was made, and may be secured by the promissory note or notes of the chairman and treasurer given on behalf of the board. No. 27 of 1902, s. 64. Board may borrow until taxes received.

**65.** The board of any district may upon receiving the approval of the Commissioner borrow a sum of money not to exceed \$2,000 for the purposes of securing or improving a school site, or purchasing, repairing, erecting, furnishing or adding to any school building or for all or any of the said purposes: With approval of commissioner may borrow for certain purposes.

Provided that any such loan shall be made repayable in equal annual instalments with interest and may be extended over a period of not more than five years; and any such loan may be secured by the promissory note or notes of the chairman and treasurer given on behalf of the board. No. 27 of 1902, s. 65.

#### ASSESSMENT AND TAXATION.

Assessment Ordinance to apply.

**66.** The Assessment Ordinance shall be deemed to form part of this Ordinance and shall apply *mutatis mutandis* to all school districts established throughout the Territory.

(2.) Where a district is situated within a municipality the trustees may as soon as may be after the final revision of the assessment roll of the municipality make a demand on the overseer or council of such municipality for the sum required for school purposes for the then current year; but such sums shall not exceed an amount equal to five mills on the dollar according to the last revised assessment roll on the property liable to assessment in such district for ordinary school purposes with such additional amount as may be necessary to meet any indebtedness that has been incurred and is coming due, and the same shall be assessed and collected as the rates of the municipality.

(3.) For the purposes of this section any portion of a district which is not within the limits of a municipality shall be deemed to be within the limits of the municipality, and the provisions of the Towns Ordinance or of any special Ordinance creating such municipality and any amendments thereto shall apply to such portion as if the same formed a part of the municipality.

Subject to the provisions of this Ordinance the property liable to assessment and taxation for school purposes shall be the property liable to assessment and taxation for municipal purposes. No. 27 of 1902, s. 66.

#### WHERE SEPARATE SCHOOL DISTRICT.

In separate school district column to be added by assessor for religion.

**67.** After a separate school district is established the assessor shall add a column to the assessment roll, in which he shall place the religion (Protestant or Roman Catholic) of the person assessed. No. 27 of 1902, s. 68.

Joint interests of persons of different religion to be assessed separately.

**68.** In cases where separate school districts have been established whenever property is held by two or more persons as joint tenants or tenants in common, the holders of such property being Protestants and Roman Catholics, they shall be assessed in proportion to their interest in the property in the district to which they respectively are rate-payers No. 27 of 1902, s. 69.

**69.** A company may by notice in that behalf to be given to the overseer or treasurer of any municipality wherein a separate school district is either wholly or in part situated and to the secretary of the board of any public school district in which a separate school has been established, and to the secretary of the board of such separate school district, require any part of the real property of which such company is either the owner and occupant, or not being such owner is the tenant or occupant or in actual possession of and any part of the personal property if any of such company liable to assessment to be entered, rated and assessed for the purposes of said separate school and the proper assessor shall thereupon enter said company as a separate school supporter in the assessment roll in respect of the property specially designated in that behalf in or by said notice and so much of the property as shall be so designated shall be assessed accordingly in the name of the company for the purposes of the separate school and not for public school purposes, but all other property of the company shall be separately entered and assessed in the name of the company as for public school purposes ;

Company to be assessed according to religion of shareholders.

Provided always that the share or portion of the property of any company entered rated or assessed in any municipality or in any school district for separate school purposes under the provisions of this section shall bear the same ratio and proportion to the whole property of the company assessable within the municipality or school district as the amount or proportion of the shares or stock of the company so far as the same are paid or partly paid up, held and possessed by persons who are Protestants or Roman Catholics as the case may be, bears to the whole amount of such paid or partly paid up shares or stock of the company ;

(2) Any such notice given in pursuance of a resolution in that behalf of the directors of the company shall for all purposes be deemed to be sufficient and every such notice so given shall be taken as continuing and in force and to be acted upon unless and until the same is withdrawn, varied or cancelled by any notice subsequently given pursuant to any resolution of the company or of its directors ;

(3) Every such notice so given to such overseer or treasurer shall remain with and be kept by him on file in his office and shall at all convenient hours be open to inspection and examination by any person entitled to examine or inspect the assessment roll, and the assessor shall in each year before the completion and return of the assessment roll search for and examine all notices which may be on file in the overseer or treasurer's office and shall thereupon in respect of said notices if any follow and conform thereto and to the provisions of this Ordinance in that behalf ;

4. False statements made in any such notice shall not relieve the company from rates. Any company fraudu-

lently giving such notice or making false statements therein shall be liable to a penalty not exceeding \$100. Any person giving for a company such a statement fraudulently or wilfully inserting in any such notice a false statement shall be guilty of an offence and liable on summary conviction to a like penalty. No. 27 of 1902, s. 70.

#### EXECUTION AGAINST SCHOOL DISTRICTS.

Writs of execution how realized.

**70.** Any writ of execution against the board of any district may be indorsed with a direction to the sheriff to levy the amount thereof by rate; and the proceedings thereon shall be the following;

1. The sheriff shall deliver a copy of the writ and indorsement to the treasurer or leave such copy at the office or dwelling house of such officer with a statement in writing of the sheriff's fees and of the amount required to satisfy such execution including such amount of interest calculated to some day as near as is convenient to the day of service;

2. In case the amount with interest thereon from the day mentioned in the statement be not paid to the sheriff within one month after the service the sheriff shall examine the assessment roll of such district and shall in like manner as rates are struck for general school purposes, strike a rate on the dollar on the assessable property in the said district sufficient to cover the amount due on the execution, with such additional amount as the sheriff deems sufficient to cover the interest and his own fees up to the time when such rate will probably be available;

3. He shall thereupon issue a precept or precepts under his hand and seal of office directed to the said treasurer and shall by such precept after reciting the writ and that the said board had neglected to satisfy the same, command the said treasurer to levy or cause to be levied such rate at the time and in the manner by law required in respect to the general school rates;

4. At the time for levying the annual rate after the receipt of such precept the treasurer shall add a column to the tax roll in the said district headed "Execution rate A. B. vs. Trustees of School District....." (or as the case may be, adding a column for each execution if more than one) and shall insert therein the amount of such precept required to be levied upon each person respectively, and shall levy the amount of such execution rate as aforesaid; and such treasurer so soon as the amount of such execution or executions is collected shall return to the sheriff the precept with the amount levied thereon;

5. The sheriff shall after satisfying the executions and all fees thereon return any surplus within ten days after receiving the same to the said treasurer for the general purposes of the said district;

6. The treasurer shall for all purposes connected with carrying into effect or permitting or assisting the sheriff to carry into effect the provisions of this Ordinance with respect to such executions be deemed to be an officer of the court out of which the writ issued and as such shall be amenable to the court and may be proceeded against by attachment, mandamus or otherwise in order to compel him to perform the duties hereby imposed upon him. No. 27 of 1902, s. 71.

**71.** In the foregoing section the word "treasurer" shall mean: Meaning of  
"Treasurer."

1. In the case of a school district situate wholly or partially within a municipality, the overseer or treasurer of said municipality:

2. In the case of any other school district, the treasurer of the school district. No. 27 of 1902, s. 72.

## CONDUCT OF SCHOOLS.

### FEES.

**72.** No fees shall be charged by the board of any district on account of the attendance at its school of any child whose parent or lawful guardian is a ratepayer of the district; Fees not to  
be charged  
ratepayers.

Provided that if the board of any district maintains one or more departments in its school exclusively for pupils above standard V. as it may be defined from time to time by the regulations of the department it may charge the parent or lawful guardian of any pupil in attendance at any such department a fee not exceeding nine dollars for the first term and six dollars for the second term in any year if such parent or lawful guardian is a resident ratepayer of the district, and in case such parent or lawful guardian is not a resident ratepayer of the district, a fee not exceeding thirteen dollars for the first term and eight dollars for the second term and all such fees shall be payable at such times and in such amounts as may be determined by the board. No. 27 of 1902, s. 73. Exceptions.

### SCHOOL TERMS.

**73.** The school shall begin on the first day of January and end on the thirty-first day of December, and shall be divided into two terms ending the thirtieth day of June and the thirty-first day of December respectively. No. 27 of 1902, s. 74. School terms.

## HOURS.

Hours of attendance.

**74.** School shall be held between nine o'clock and twelve o'clock in the forenoon and half past one o'clock and four o'clock in the afternoon of every day standard time, not including Saturdays, Sundays or holidays, but the board may alter or shorten the school hours upon receiving the permission of the Commissioner.

(2) A recess of fifteen minutes in the forenoon and in the afternoon shall be allowed the children attending school. No. 27 of 1902, s. 75.

## VACATION AND HOLIDAY.

Vacations.

**75.** In any school open during the whole year there shall be seven weeks holidays of which not less than two nor more than six shall be given in the summer and not less than one nor more than five shall be given in the winter, to be apportioned at the discretion of the board. The summer holidays shall fall between the second day of July and the thirty-first day of August and the winter holidays shall commence on the twenty fourth day of December in all schools.

(2.) The board of any district in which the school is open during the whole year may allow two weeks' additional holidays.

(3.) When a school is open during only a portion of the year the board may give holidays not to exceed two weeks beginning on the second day of July ;

Provided that the Commissioner may on proper representation being made to him allow the board to give holidays not exceeding two weeks at some other time. No. 27 of 1902, s. 76.

Holidays.

**76.** Ash Wednesday. Good Friday. Easter Monday. Arbour Day (second Friday in May) the birthday of the reigning sovereign, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Christmas Day, New Year's Day and any day specially appointed as a holiday by the Governor General, the Commissioner of the Yukon Territory, the Mayor of a city, or overseer of a town shall be holidays ; and it shall be at the discretion of the board to permit any other holiday not exceeding one day at a time. No. 27 of 1902, s. 77.

## LANGUAGES TO BE USED.

English language to be used but preparatory course may be taught in French.

**77.** All schools shall be taught in the English language, but it shall be permissible for the board of any district to cause a primary course to be taught in the French language.



(2.) The board of any district may, subject to the regulations of the department employ one or more competent persons to give instructions in any language other than English in the school of the district to all pupils whose parents or guardians have signified a willingness that they should receive the same, but such course of instruction shall not supersede or in any way interfere with the instruction by the teacher in charge of the school as required by the regulations of the department and this Ordinance;

(3.) The board shall have the power to raise such sums of money as are necessary to pay the salaries of such instructors and all costs, charges and expenses of such course of instruction shall be collected by the board by a special rate to be imposed upon the parents or guardians of such pupils as take advantage of the same. No. 27 of 1902, s. 78.

#### RELIGIOUS INSTRUCTION.

**78.** No religious instruction except as hereinafter provided shall be permitted in the school of any district from the opening of such school until one-half hour previous to its closing in the afternoon after which time any such instruction permitted or desired by the board may be given.

Religious instruction not to be given until close of school.

(2.) It shall, however, be permissible for the board of any district to direct that the school be opened by the recitation of the Lord's prayer. No. 27 of 1902, s. 79.

**79.** Any child shall have the privilege of leaving the school at the time at which the religious instruction is commenced as provided for in the next preceding section, or of remaining without taking part in any religious instruction that is given if the parents or guardians so desire. No. 27 of 1902, s. 80.

Child may leave during religious instruction.

**80.** No teacher or school trustee shall in any way attempt to deprive such child of any advantage that it might derive from the ordinary education given in such school, and any such action on the part of any trustee, or teacher shall be held to be a disqualification for and voidance of the office held by him. No. 27 of 1902, s. 81.

Teacher not to deprive child of ordinary education.

#### KINDERGARTEN CLASSES.

**81.** Kindergarten classes may be established in any school for the teaching and training of children between the ages of four and six years according to kindergarten methods and in such school a fee may be charged not exceeding \$1 per month for each pupil to cover cost of maintaining such department. No. 27 of 1902, s. 82.

Kindergarten classes.

## NIGHT CLASSES.

Night schools. **S2.** The board of any district may engage a qualified teacher and make necessary arrangements at the expense of the district for the maintenance of a night school :

Provided that if the school is kept open for one month a fee may be charged of not more than \$2 per month for each month or portion of month that the pupil is in attendance. No. 27 of 1902, s. 83.

## COMPULSORY EDUCATION.

Certain schools to be kept open whole year.

**S3.** In every district where there are at least fifteen children between the ages of seven and fourteen inclusive within a radius of one mile from the school house, it shall be compulsory for the board of such district to keep the school open the whole year. No. 27 of 1902, s. 84.

Schools with 10 children to be kept open six months.

**S4.** In every district where there are at least ten children between the ages of seven and fourteen years inclusive it shall be compulsory for the board of such district to keep the school in operation at least six months in every year. No. 27 of 1902, s. 85.

Children must be sent to school 16 weeks in year.

**S5.** Every parent, guardian or other person resident in a school district having charge of any child or children between the ages of seven and twelve inclusive, shall be required to send such child or children to school for a period of at least sixteen weeks in each year, at least eight weeks of which time shall be consecutive, and every parent, guardian or other person who does not provide that every such child under his care shall attend school or be otherwise educated shall be subject to the penalties hereinafter provided. No. 27 of 1902, s 86.

Penalty for not sending child to school

**S6.** It shall be the duty of the board of every district or any person authorized by it after being notified that any parent, guardian or other person having control of any child or children neglects or violates the provisions of the next preceding section to make complaint of such neglect or violation to a justice of the peace and the person complained of shall on summary conviction be liable to a fine not exceeding \$1 for the first offence and double that penalty for each subsequent offence. No. 27 of 1902, s. 87.

Excuses for not sending child to school

**S7.** It shall be the duty of the justice of the peace to ascertain as far as may be the circumstances of any party complained of for not sending his child or children to school or otherwise educating him or them, and he shall accept any of the following as a reasonable excuse :

1. That the child is under instruction in some other satisfactory manner ;

2. That the child has been prevented from attending school by sickness or unavoidable cause ;

3. That there is no school open which the child can attend within such distance not exceeding one mile measured according to the nearest passable road from the residence of such child ;

4. That such child has reached a standard of education of the same or of a greater degree than that to be attained in the school of the district within which such child resides ;

5. That such parent or guardian was not able by reason of poverty to clothe such child properly or that such child's bodily or mental condition has been such as to prevent his or her attendance at school or application to study for the period required. No. 27 of 1902, s. 88.

#### TRUANCY.

**88.** The board of any district may appoint a truant officer who shall for the purpose of this Ordinance be vested with police powers and it shall have authority to make regulations for the direction of such officer in the enforcement of the provisions of this Ordinance as it deems expedient, provided such regulations are not inconsistent with any of the provisions of this Ordinance and have been approved by the Commissioner. No. 27 of 1902, s. 89.

Truant officer may be appointed.

**89.** If the parent, guardian or other person having the legal charge of any child shall neglect or refuse to cause such child to attend some school within five days after being notified as herein required, unless excused from such attendance as provided in this Ordinance the truant officer shall make or cause to be made a complaint against such person before a justice of the peace and such person shall on summary conviction be liable to a fine not exceeding \$1 and costs for the first offence and double that penalty for each subsequent offence.

Penalty for neglecting to send child to school after being notified.

Provided that the provisions of the foregoing clauses relating to truancy shall not apply to children who may reside more than one mile from the school house. No. 27 of 1902, s. 90.

Proviso.

#### TEACHER.

##### QUALIFICATION.

**90.** No person shall be engaged, appointed, employed or retained as teacher in any school unless he holds a valid certificate of qualification issued under the regulations of the Council of Public Instruction or of the department. No. 27 of 1902, s. 91.

Qualification of teacher.

## ENGAGEMENT AND DISMISSAL.

Teacher to be engaged by resolution.

**91.** A teacher shall not be engaged except under the authority of a resolution of the board passed at a regular or special meeting of the board. No. 27 of 1902, s. 92.

Contract.

**92.** The contract entered into shall be in the form prescribed by the Superintendent of Schools and such form may be altered or amended as may be mutually agreed upon by the contracting parties, provided such alterations or amendments are not inconsistent with any of the provisions of this Ordinance or the regulations of the department. No. 27 of 1902, s. 93.

Contract to be signed by teacher and chairman.

**93.** The contract shall be valid and binding if signed by the teacher and by the chairman on behalf of the board. No. 27 of 1902, s. 94.

Teacher may be suspended or dismissed.

**94.** Any teacher who has been suspended or dismissed by the board may appeal to the Superintendent of Schools who shall have power to take evidence and confirm or reverse the decision of the board and in the case of reversal he may order the reinstatement of said teacher :

Proviso.

Provided that in case there is no appeal to the Superintendent of Schools or in the event of an appeal if the decision of the board is sustained the teacher shall not be entitled to salary from and after the date of such suspension or dismissal. No. 27 of 1902, s. 95.

## PAYMENT OF TEACHERS.

Salary to be paid every three months.

**95.** Every teacher shall be paid the amount of salary due to him at least once in every three months, and it shall be the duty of the board to make provision for such payment. No. 27 of 1902, s. 96.

Salary how estimated.

**96.** The salary of a teacher who has been engaged in any district for four months or more continuously shall be estimated by dividing the rate of salary for the year by 210 and multiplying the result obtained by the number of actual teaching days within the period of his engagement :

Provided that if a teacher has taught more than 210 days in any calendar year, he shall only be entitled to a year's salary. No. 27 of 1902, s. 97.

Teacher entitled to salary during sickness.

**97.** Every teacher in case of sickness certified by a qualified medical practitioner shall be entitled to his salary during such sickness for a period not to exceed four weeks for the entire year, which period may be increased by the board. No. 27 of 1902, s. 98.

**98.** A teacher whose agreement with a board has expired or who is dismissed by them shall be entitled to receive forthwith all moneys due him for his services as teacher while employed by said board; if such payment be not made by the board or tendered to the said teacher he shall be entitled to recover the full amount of his salary due and unpaid with interest in any court of competent jurisdiction. No. 27 of 1902, s. 99.

If salary not paid teacher may recover same.

#### DUTIES OF TEACHER.

**99.** It shall be the duty of every teacher :

Duties of teacher.

1. To teach diligently and faithfully all the subjects required to be taught by the regulations of the department;

2. To maintain proper order and discipline and to conduct and manage the school according to the regulations of the department;

3. To keep in a conspicuous place in the school room a time table which shall show the classification of pupils, the subjects taught each day and week, the length of each recitation period and the seat work given; and to submit such time table to the Superintendent of Schools for his approval and signature on the occasion of his visit to the school;

4. To keep in the prescribed form the school registers and to give access to them to trustees, officers of the board, the Superintendent of Schools and any other person authorized thereto by the Commissioner;

5. To make at the end of each term or at any other time promotions from one class or standard to another as he may deem expedient, subject to the ratification of the Superintendent of Schools at his next visit;

6. To hold during each year a public examination of his school of which he shall give due notice to the board, and through the pupils to their parents or guardians;

7. To send monthly to the parents or guardians of each pupil if required by the board a report of the pupil's attendance, conduct and progress;

8. To encourage the observance of Arbour Day by holding suitable exercises, to take an interest in the cleanliness and tidiness of the school grounds and to secure the co-operation of trustees and parents in planting trees and shrubs about the school;

9. To give strict attention to the proper heating, ventilating and cleanliness of the school house and to the condition of the outhouses in connection with the same and to report to the board any defect with respect thereto;

10. To exercise vigilance over the school property, the buildings, fences, furniture and apparatus so that they may not receive unnecessary injury, and to give prompt notice in writing to the board of any such injury;

11. To report to the secretary of the board any necessary repairs to the school buildings or furniture and any required supply of fuel, drinking water, furniture or equipment ;

12. To see that the provisions of clause 10 of section 54 of this Ordinance have been complied with, and if not to report to the board and in case of any neglect on the part of the board to notify the Commissioner ;

13. To notify the chairman of the board whenever he has reason to believe that any pupil attending school is affected with or exposed to small-pox, cholera, scarlatina, diphtheria, whooping cough, measles, mumps, or other infectious or contagious disease, and to prevent the attendance of any pupil so affected or exposed or suspected of being affected or exposed until furnished with the written statement of a physician or the chairman of the board that such contagious or infectious disease does not exist or that all danger from exposure to any of them has passed away ;

14. To suspend from school any pupil for violent opposition to authority and to forthwith report in writing the facts of such suspension to the board which may take such action with regard thereto as it deems necessary ;

15. To assist the board and its officers in making the prescribed returns to the department ;

16. To furnish to the Commissioner, the Superintendent of Schools, the board or any person appointed by the Commissioner any information which it is in his power to give respecting anything connected with the operation of the school or in anywise affecting its interests or character ;

18. To deliver up any school registers, school house key or other property of the district in his possession when required to do so by a written order of the board ;

19. To attend all meetings of the teachers called by the Superintendent of Schools where more than one teacher is employed ;

20. If the school is not within the limits of an established school district, to make all reports to the Superintendent of Schools which he is required by this Ordinance to make to the Board of School Trustees. No. 27 of 1902, s. 100.

#### DUTIES OF PRINCIPAL OF SCHOOLS.

Principal.

**101.** In every school in which more teachers than one are employed the head teacher shall be called the principal and the other teachers the assistants. No. 27 of 1902, s. 101.

Duties of principal.

**102.** The principal shall prescribe with the concurrence of the board the duties of the assistants and shall be responsible for the organization and general discipline of the whole school. No. 27 of 1902, s. 102.

## TEACHERS' ASSOCIATION.

**103.** Any number of teachers may organize themselves into an association, and subject to the regulations of the department, may hold conventions and institutes for the purpose of receiving instructions in and discussing educational matters. No. 27 of 1902, s. 103.

Teachers' association.

## EDUCATION OF NON-RESIDENT CHILDREN.

**104.** The parent or lawful guardian of any child residing outside the limits of any district may apply to the board for the admission of such child to its school, and it shall be the duty of the board to admit such child.

Persons outside district may have children taught in school.

Provided always that the board may demand that the application for admission of any non-resident child be accompanied by a statement from the Superintendent of Schools to the effect that the accommodation of the school is sufficient for the admission of such child. No. 27 of 1902, s. 104.

**105.** The parent or lawful guardian of any child residing within the limits of any district and who is not a ratepayer thereof may send his children to the school operated within the district. No. 27 of 1902, s. 105.

Persons not ratepayers may send children to school.

**106.** Any person not living within a district may apply to the board of any district to have his or her property if not already included in any other district, assessed in such district to secure the advantages of education for his children, and in such case on the report of the Superintendent of Schools that the accommodation of the school room is sufficient for the admission of the children of such person the board shall receive such application and place the said property on the assessment roll of the district, and such property shall remain liable to assessment in such district until a new district is established including the said property; and for the purpose of enforcing payment of taxes and of all remedies therefor the said property shall be deemed to be within the school district on whose assessment roll it is placed. No. 27 of 1902, s. 106.

Persons outside district may have their property assessed.

## PENALTIES AND PROHIBITION.

**107.** Any board or any member thereof that wilfully neglects or refuses to exercise or to assist in exercising all the corporate powers vested in such board by this Ordinance for the fulfilment of any contract or agreement made by it shall be personally responsible for the fulfilment of such contract or agreement. No. 27 of 1902, s. 107.

Liability of trustees.

Liability  
of trustees  
for debts.

**108.** Should the board of any district wilfully contract liabilities in the name of the district, greater or other than as provided or allowed by this Ordinance, or appropriate any of the moneys of the district for purposes other than are provided or allowed by this Ordinance, the treasurer of the district or some other person authorized by the Commissioner may recover as a debt in a court of competent jurisdiction from such board jointly or severally the sum or sums for which the district has been rendered liable through the action of such trustees over and above the amount so provided by this Ordinance in addition to the total amount of any moneys that have been misappropriated by such trustees. No. 27 of 1902, s. 108.

Penalty for  
false report.

**109.** If any trustee knowingly signs a false report, or if any teacher keeps a false school register, or knowingly makes a false return, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$20.00. No. 27 of 1902, s. 109.

Penalty for  
retaining  
money  
or books.

**110.** Any trustee, officer or employee of a district who after ceasing to hold office retains any money, book, paper or thing belonging to the district, shall thereby incur a penalty not exceeding \$20.00 for each day during which he wrongfully retains possession of such money, book, paper or thing after having received notice in writing from the chairman of the board or from the Commissioner requiring him to deposit the same in the hands of some person mentioned in such notice. No. 27 of 1902, s. 110.

Penalty on  
returning  
officer for  
prejudicing  
result of  
election.

**111.** Any returning officer of any district or proposed district acting under the provisions of this Ordinance who shall knowingly and wilfully prejudice the result of any voting by preventing votes from being taken or by taking unlawful votes or by altering returns or books in any way, or by any other means, shall be liable to a penalty of not less than \$10.00 and not exceeding \$100.00. No. 27 of 1902, s. 111.

Penalty for  
disturbing  
meeting.

**112.** Any person who wilfully disturbs, interrupts or disquiets the proceedings of any school meeting authorized to be held by this Ordinance, or any one who wilfully interrupts or disquiets any school established and conducted under its authority by rude or indecent behaviour, or by making a noise either within the place where school is kept or held, or so near thereto as to disturb the order of exercises of the school, shall be guilty of an offence for which he shall forfeit for the use of the district within which the offence was committed a sum not exceeding \$20.00. No. 27 of 1902, s. 112.



**113.** No school trustee shall be eligible to appointment as teacher within the district of which he is trustee, nor shall the teacher of any school hold the office of school trustee. No. 27 of 1902, s. 113. Trustee not to be teacher.

**114.** All moneys accruing from fines or penalties under this Ordinance shall unless otherwise provided belong to the general revenue fund of the Territory. No. 27 of 1902, s. 115. Fines to belong to general revenue fund.

## CHAPTER 67.

### An Ordinance for the Prevention of Fires.

- Quantities of explosives that may be kept in one place.      **1.** No person shall keep on any premises a larger quantity of gunpowder or other explosive than twenty-five pounds unless the same is stored at least one hundred feet from any building, nor shall any greater quantity than one hundred pounds be kept within any fire limits nor within one mile from the centre thereof. No. 2 of 1902, s. 1, and No. 13 of 1902.
- Quantities of kerosene that may be kept in one place.      **2.** No person shall keep on any premises a greater quantity of kerosene than one hundred and twenty gallons or a greater quantity of gasoline than forty gallons, unless the same is stored at least sixty-five feet from any building. No. 2 of 1902, s. 2.
- Fire not to be set within fifty feet of building.      **3.** No person shall set out fire within fifty feet of any building; provided, nevertheless, that a blacksmith may build a fire within fifty feet of his shop for the purposes of his trade. No. 2 of 1902, s. 3.
- Ashes not to be deposited in wooden vessel.      **4.** No person shall deposit ashes in any wooden vessel unless it is lined with metal. No. 2 of 1902, s. 4.
- Space to be left between stovepipe and partition.      **5.** There shall be a space of at least nine inches between any stovepipe and partition or floor through which it passes unless such stovepipe is surrounded in such partition or floor by a thimble of brick, cement or concrete at least two inches in width and of the full thickness of such partition or floor, or by a metal safety flue with an air space of at least three inches.
- Distance of stovepipe from wall.      (2.) At least twelve inches shall intervene between any stovepipe in use and the partition or wall nearest thereto. No. 2 of 1902, s. 5.
- Houses over one story to have ladder on roof.      **6.** Every proprietor of any house more than one-story high, with a roof having a pitch greater than one foot in three shall keep a ladder on such roof near the chimney thereof. No. 2 of 1902, s. 6.
- Commissioner may establish fire districts.      **7.** The Commissioner may by proclamation published in the *Yukon Official Gazette* and in one newspaper published in the district affected by such proclamation (if there is one

published in said district), establish fire limits within the boundaries of which no person shall erect, or after a date therein named, maintain any building or structure of any description constructed or partly constructed, as to its outer walls and roof, of any material other than wood, brick, stone or metal, and any building or other structure erected or maintained contrary to this section may after a notice to that effect has been posted on such building for five days, be pulled down and destroyed without compensation by any person under direction of the officer for the time being commanding the Northwest Mounted Police in said district. No. 2 of 1902, s. 7.

**8.** Any person guilty of a violation of any of the provisions of this Ordinance shall be liable, on summary conviction, to a penalty not exceeding fifty dollars and costs, and in default of payment to imprisonment for a period not exceeding three months. No. 2 of 1902, s. 8. Penalty.

**9.** This Ordinance shall not apply to the City of Dawson. Ordinance not to apply to Dawson.  
No. 2 of 1902, s. 9.

## CHAPTER 68.

An Ordinance respecting the limits of Dawson and Klondike City.

1. In every Ordinance, unless the context otherwise requires:

Interpretation  
of "Dawson",  
etc.

(1.) The expressions "Dawson," "Dawson City" or "Unincorporated Town of Dawson" means the following described area of land:

Commencing at a point in the production in a straight line northerly of the eastern limit of 2nd Avenue, being a subdivision of Group Lot 16 of Group 2, in the Yukon Territory, said point being distant Northerly on the course of said 2nd Avenue 1221 feet and 6-10 of a foot from the Southern limit of said Group Lot 16.

Thence South 43 degrees, 06 minutes and 55 seconds East 3324 feet and 1-10 of a foot to the Northwestern corner of Lot 12, in Group 2.

Thence South 34 degrees, 18 minutes and 35 seconds West along the Eastern limits of Lots 12 and 3, in Group 2, 3628 feet and 8-10 of a foot to the Northern limit of Lot 25, in Group 2.

Thence South 55 degrees, 31 minutes and 25 seconds East along the said Northern limit of Lot 25 and along its production in a straight line Easterly 5802 feet and 6-10 of a foot to the Western limit of the Boyle Hydraulic Concession on the Klondike River.

Thence South 1 degree, 44 minutes and 35 seconds West along said Western limit of the Boyle Hydraulic Concession 2034 feet, more or less, to the centre of the main channel of the Klondike River.

Thence down stream along the center of the main channel of the said Klondike River to the centre of the main channel of the Yukon River.

Thence down stream along the centre of the main channel of the said Yukon River to the production in a straight line Westerly of the first above described course.

Thence South 43 degrees, 06 minutes and 55 seconds East along the said production to the point of commencement.

Interpretation  
of "Klondike  
City."

(2.) The expression "Klondike City" means the following described area of land:

Commencing at the Southwestern corner of Lot 1, in Block 1, being a subdivision of Group Lot 13 of Group 2, in the Yukon Territory.

Thence South 76 degrees, 30 minutes East, along the Southern limit of said Lot 1, 51 feet and 5-10 of a foot, to the Southeastern corner thereof.

Thence South 76 degrees, 49 minutes and 30 seconds East, 277 feet and 3-10 of a foot, to a post planted at the top of a hill distant about 470 feet from the bank of the Yukon River.

Thence South 47 degrees, 02 minutes, 35 seconds East, 54.8 feet and 9-10 of a foot, to a post planted at the top of the mountain on the South side of the Klondike valley.

Thence South 79 degrees, 03 minutes, 55 seconds East, 4362 feet and 4-10 of a foot, to the production in a straight line Southerly of the Western limit of the Boyle Hydraulic Concession on the Klondike River.

Thence North 1 degree, 44 minutes, 35 seconds East, along the said production and along the said Western limit of the Boyle Hydraulic Concession, 4056 feet, more or less, to the centre, of the main channel of the Klondike River.

Thence down stream along the centre of the main channel of the said Klondike River to the centre of the main channel of the Yukon River.

Thence up stream along the centre of the main channel of the said Yukon River to the production in a straight line Westerly of the first above described course being the Southern limit of Lot 1, Block 1, Group Lot 13, in Group 2.

Thence Easterly along the said production to the point of commencement. No. 41 of 1901, s. 1.

**2.** That a copy of a plan of said described area signed by A. J. McPherson, D.L.S., and dated the 20th day of August, 1901, be deposited in each of the following places, viz.: The offices of the Commissioner of the Yukon Territory, the Gold Commissioner, the Registrar of Land Titles for the Yukon Land Registration District, the Dominion Lands agent and the clerk of the Territorial Court at Dawson. No. 41 of 1901, s. 2.

**3.** That said plans may be referred to and cited as "Plan of Dawson" and "Plan of Klondike City," respectively. No. 41 of 1901, s. 3.

## CHAPTER 69.

An Ordinance respecting fast driving.

- Fast driving prohibited.      **1.** Any person riding or driving in or through the streets or highways of any town, village or assemblage of dwellings in the Yukon Territory at a rate or pace greater than six miles an hour, shall be liable to a penalty not exceeding \$50.00 and costs, to be recovered summarily before a Justice of the Peace. No. 9 of 1901, s. 1.
- Penalty to apply to dogs.      **2.** The provisions of this Ordinance shall apply to the driving of dogs. No. 9 of 1901, s. 2.
- Not to apply to fire departments.      **3.** The fire department of towns, villages or assemblages of dwellings shall not be subject to the provisions of this Ordinance. No. 9 of 1901, s. 2.

## CHAPTER 70.

### An Ordinance respecting Dogs.

1. In this Ordinance, unless the context otherwise re- Interpretation  
quires :

1. The expression "dog" means a dog of the age of six "Dog."  
months and upwards and includes both male and female.

2. The expression "muzzled" means covered by a muz- "Muzzled."  
zle over the mouth in such manner as to make it impossible  
for the dog so secured to touch with the mouth anything  
outside the muzzle and bite it.

3. The expression "owner" mean any person owning "Owner."  
any dog and includes any agent or servant of such owner,  
and any person entitled to the possession or control of any  
dog.

4. The expression "peace officer" means peace officer "Peace  
as defined by the Criminal Code of 1892 and amending Acts,  
and includes any member of the Northwest Mounted Police  
force.

5. The expression "pound" means : "Pound."

(a.) Any place established as a pound for dogs before the  
passing of this Ordinance, and any place established as such  
by the Commissioner by notice of location thereof published  
in the *Yukon Official Gazette*, and,

(b.) If there is no such place established within three  
miles from the place where a dog is captured by a peace  
officer, any place deemed proper for a pound by such peace  
officer.

6. The expressions "run at large" or "running at "Running  
large" mean without being restrained, so as to be unable to at large."  
do injury or harm, by being

(a.) Securely fastened to some stationary object so as to  
be unable to go more than five feet from such object, or,

(b.) Confined within any building or other enclosure. No.  
22 of 1901, s. 1.

2. No dogs shall be permitted to run at large within the No dog to  
Yukon Territory and any dog running at large within such run at large  
Territory, if not muzzled and wearing a strap with the tag without  
muzzle  
and tag.

(2.) The owner of any dog shall on or before the 1st day Owner to tak  
of July in every year obtain in the manner provided in out license.

dog to wear a strap around its neck with the tag furnished by a pound-keeper to such owner attached to such strap.

Penalty.

(3.) The owner of any dog running at large contrary to the provisions of this section shall be liable to a penalty of not less than five dollars and not more than thirty dollars, and, in default of payment, to imprisonment for a term not exceeding thirty days.

Judgment to be recovered against officer.

(4.) No judgment shall be recovered against a peace officer for killing or impounding any dog unless the owner proves that when killed or impounded,

(a.) Such dog was not running at large contrary to the provisions of this section, and

(b.) That the owner had paid the license fee in respect to such dog, and that such dog was wearing a strap with a proper tag. No. 22 of 1901, s. 2.

Officer commanding N. W. M. P. to appoint pound keeper. Keeper to be furnished with license forms and tags.

3. The commanding officer of the Northwest Mounted Police force in the Yukon Territory shall appoint for every pound a peace officer as keeper thereof.

(2.) Such keeper shall be furnished by such officer with license forms, metal tags and straps for fastening such tags to the necks of dogs; every such tag shall be so made as to be easily fastened to a strap placed around the neck of the dog.

License to be numbered.

(3.) Every license form shall have a counterfoil, easily separated from a license form, and its counterfoil shall be numbered with the same number; license forms shall be numbered with consecutive numbers.

Tag to be numbered.

(4.) Each tag shall be numbered to correspond with a license No. 22 of 1901, s. 3.

Pound keeper to issue license on payment of fee.

4. Upon payment by or on behalf of any owner of a license fee of two dollars, the pound-keeper to whom such fee is paid, shall issue to such owner a license in which shall be stated:

1. The date of issue;
2. The name of the owner of the dog in respect to which such license is issued;
3. The name of the person paying the fee,
4. A description of the dog, its name, probable age and sex. No. 22 of 1901, s. 4.

Particulars of license to be entered on counterfoil.

5. The pound-keeper shall enter the same particulars on the counterfoil of the license and retain the counterfoil. No. 22 of 1901, s. 5.

Pound keeper to give tag with license.

6. The pound-keeper shall deliver to the person who obtains a license such one of the tags furnished to such pound-keeper as bears the same number as the license. No. 22 of 1901, s. 6.



**7.** No owner of any dog impounded shall be entitled to recover possession of such dog without paying to the pound-keeper, Owner of dog impounded to pay fees.

1. A sum equal to seventy-five cents a day for each day such dog has been impounded, and

2. A license fee for such dog, if not already paid. No. 22 of 1901, s. 7.

**8.** If such sum and fee have not been paid within one month after such dog has been first impounded, the pound-keeper may sell such dog at public auction after five days' public notice. No. 22 of 1901, s. 8. If fees not paid dog to be sold.

**9.** The sum realized from such sale shall be appropriated How sum realized to be appropriated.

1. To payment of the pound-keeper the sum of seventy-five cents for each day such dog has been impounded ;

2. To payment of any unpaid license fee in respect to such dog ;

3. To payment of any penalty imposed upon the owner in respect to such dog remaining unpaid, unless the owner has undergone or is undergoing the imprisonment in default of such payment, and

4. The balance, if any, shall be paid to such owner on demand.

[2.] If there is no bid for any dog offered for sale at public auction under this Ordinance the pound-keeper may dispose of such dog in such manner as he sees fit at any time after such auction. No. 22 of 1901, s. 9.

**10.** Every pound-keeper shall quarterly, and whenever required by said commanding officer, account to such officer for the licenses, tags and straps furnished to such pound-keeper, and shall deliver to such officer the detached counterfoils in the possession of such pound-keeper, and when so required, the licenses, tags and straps also, and shall pay to such officer the license fees received by such pound-keeper. No. 22 of 1901, s. 10. Pound keeper to make quarterly returns.

**11.** Every pound-keeper shall keep a record of every dog impounded, which record shall show the reason for impounding, the date such dog was first impounded, length of time impounded, the name and address of the owner, if known, and the final disposal made of such dog ; such record shall be open to public inspection, and shall be subject to the order of such commanding officer. No. 22 of 1901, s. 11. To keep record of dogs impounded.

**12.** Every pound-keeper shall forthwith upon selling any dog, report to such officer the facts of such sale, and the price obtained for such dog, and shall pay to such officer the balance of such price after deducting therefrom the sum of seventy-five cents for each day the dog sold was impounded. No. 22 of 1901, s. 12. To report sale of dog.

After three months balance to be paid comptroller.

**13.** If no demand is made on the said commanding officer for any balance to which the owner of any dog sold is entitled, within three months after such sale, such officer shall pay such balance to the Territorial Treasurer, and the same shall form part of the general revenue fund of the Territory. No. 22 of 1901, s. 13.

All penalties, etc., to be paid to.

**14.** Subject to the next preceding sections, all sums received by the commanding officer from pound-keepers or from any other source under the provisions of this Ordinance, and all penalties by whomsoever collected, shall be forthwith paid to such Treasurer and shall form part of said fund. No. 22 of 1901, c. 14.

Owner to state number of dogs owned or kept by him.

**15.** Every owner shall when required by a peace officer furnish in writing to such peace officer a true statement of the number of dogs owned or kept by him. No. 22 of 1901, s. 15.

Penalty.

**16.** Every person violating any provisions of this Ordinance, for violation of which no penalty is provided, shall be liable to a penalty of not less than five dollars and not exceeding one hundred dollars. No. 22 of 1901, s. 16.



## TITLE X.

### RELATING TO ESTRAY ANIMALS AND PROTECTION OF GAME.

#### CHAPTER 71.

#### An Ordinance respecting Trespassing and Straying of Animals.

**1.** In this Ordinance—

1. The word “animal” means any horse, mule, jack, goat, neat cattle, swine or geese ; Interpretation  
“Animal.”

2. The word “trespasser” means any animal which breaks into any ground enclosed by a lawful fence ; “Trespasser.”

3. The word “estrays” means any horse, mule, jack or one of the neat cattle species, or any swine or geese running at large ; “Estray.”

4. A legal fence, for the purpose of this Ordinance, shall be held to be not less than four feet six inches high, and shall consist of such courses of rails or wire, as the case may be, as shall be held sufficient for the protection of the ground within its bounds. No. 43 of 1899, s. 1. Legal fence.

**2.** The Commissioner may, by order published in the *Yukon Official Gazette*, constitute any part of the Yukon into a pound district, and appoint therefor one or more pound-keepers. No. 43 of 1899, s. 2. Commissioner may constitute pound districts and appoint pound keepers.

**3.** The owner or occupier of any land surrounded by a lawful fence, or his agent, may capture any trespasser upon such land, and drive and deliver the same to the nearest pound-keeper of the district in which the trespass was committed, and the said pound-keeper shall impound such trespasser and shall be responsible for the feed and safe-keeping thereof, so long as he is legally bound to hold the same ; and such pound-keeper shall collect the amount of the damages caused by, and all charges for the keep and Owner or occupier of land surrounded by lawful fence may capture trespasser.

Pound keeper  
may collect  
damages.

other incidental expenses connected with such trespasser, before delivering up the same to the owner; and it shall be the duty of the captor to leave with the pound-keeper a statement in writing of his claim for damages done by such trespasser, and his reasonable charges incurred in driving the same to and delivering the same to the pound-keeper. No. 43 of 1899, s. 3.

Any person  
may deliver  
estrays to  
pound keeper.

4. Any resident in the Yukon Territory may capture any estray found within any pound district, and drive and deliver the same to the pound-keeper of such district, and the said estray shall be dealt with in every way as a trespasser under this Ordinance. No. 43 of 1899, s. 4.

Animal  
breaking into  
enclosed land  
trespasser.

5. In every case where damage is done to the enclosed lands of any person by any of the animals hereinbefore mentioned breaking the fences enclosing the same, such animal shall be considered and treated as a trespasser within the meaning of this Ordinance, if that part of the fence broken by such animal is legal; although other parts of the enclosing fence are not legal; and any animal hereinbefore mentioned breaking through a division fence, which its owner is bound to repair and keep up, shall be considered and treated as a trespasser within the meaning of this Ordinance, although the said fence is not a legal fence. No. 43 of 1899, s. 5.

Person in  
charge liable  
same as owner

6. The owner or occupant of any land, or the person in charge of any animal, shall be liable for any damage caused by such animal under his charge as though such animal was his own property; and the owner of any animal not permitted to run at large by law shall be liable for any damage done by such animal, although the fence enclosing the premises is not a legal one. No. 43 of 1899, s. 6.

Person  
leaving  
animal with  
pound keeper  
to deposit  
poundage fees.

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

“I, A. B., do agree that I will pay to the owner of the (*describing the animal*) by me this day impounded, all costs to which the said owner is put in case the distress by me proves to be illegal, or in case the claim for damages by me fails to be established.” No. 43 of 1899, s. 7.

Owner  
entitled to  
animal on  
giving  
security.

8. The owner of any animal impounded shall at any time be entitled to his animal on demand made therefor without payment of any poundage fees, on giving satisfactory security to the pound-keeper for all costs, damages and poundage fees that are established against him. No. 43 of 1899, s. 8.

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

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

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

(a) Twenty days,

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

(b) Six days,

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

If no owner is found the pound-keeper shall advertise and sell the animal in the same manner as herein provided when the owner is known. No. 43 of 1899, s. 9. If owner not found advertise and sell.

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

1. To the payment of his own proper charges;

2. To the payment of the captor's reasonable charges and damages;

3. The balance to the owner of the animal sold, if known, and if not known, after the same has remained in his hands for three months unclaimed, to the Commissioner, to become, if still unclaimed for one year thereafter a part of the general revenue fund. No. 43 of 1899, s. 9.

**11.** The pound-keeper shall neither directly nor indirectly become the purchaser at any sale conducted under his direction. No. 43 of 1899, s. 11. Pound keeper not to be purchaser at sale.

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

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

2. The pound-keeper—

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

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

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

For posting notices of sale, one dollar;

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

And 5 per cent commission upon the amount realized on the sale, for selling animal and applying proceeds according to the provisions of this Ordinance. No. 43 of 1899, s. 12.

Owner may recover animal on tender of expenses and charges.

**13.** The owner of any animal captured or impounded under the provisions of this Ordinance shall be entitled to recover the same from any person in whose possession such animal may be, upon tender of all damages committed and the charges incurred up to the time of the tender. No. 43 of 1899, s. 13.

Penalty for neglect of duty.

**14.** A pound-keeper guilty of any neglect of duty imposed upon him by this Ordinance shall be liable to a penalty not exceeding one hundred dollars, upon the complaint of the party who suffered by such neglect. No. 43 of 1899, s. 14.

Penalty for rescuing stray.

**15.** If any person shall rescue any trespasser or stray from the person lawfully taking the same to the pound, he shall be liable to a penalty not exceeding one hundred dollars; and if any person shall make a breach of any pound, or shall unduly set at large any animal impounded, he shall be liable to a penalty not exceeding one hundred dollars. No. 43 of 1899, s. 15.

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

**16.** In case of dispute between any of the parties mentioned in this Ordinance, or of any complaint being made that any penalty has been incurred, the same may be brought before a justice of the peace and disposed of by him in a summary manner. No. 43 of 1899, s. 16.

Not to affect action for trespass.

**17.** Nothing herein contained shall be construed to impair the action under any Statute, Ordinance or the Common Law, for damages occasioned by trespassers within the meaning of this Ordinance. No. 43 of 1899, s. 17.

Pound keeper to forward report to Commissioner

**18.** Every pound-keeper shall forward to the Commissioner, on the thirty-first day of December of each year, a return in such form as he directs, showing all cattle impounded during the year, and the amount of damages and other charges paid, and all sales made by him, and the surplus, if any, on each sale, and how such surplus was disposed of. No. 43 of 1899, s. 18.

**19.** This Ordinance shall not apply within any municipality.

**20.** No animal is to be turned loose to pasture between the 30th of October and the 30th of March unless it is in good condition, and unless feed and water are obtainable where the animal is turned loose. No. 43 of 1900, s. 1.

**21.** Anyone finding an estray in weak or poor condition during the winter shall notify the nearest police detachment. The police shall, if the owner is known, order him to provide feed for the animal or to kill it; if the owner is not known, the police shall see that the animal is impounded, and it shall then be dealt with as provided in section 9 of this Ordinance, except that it may be sold after twelve days in pound. No. 43 of 1900, s. 2.

**22.** If no purchaser can be found for an animal at the pound-keeper's sale, the pound-keeper may kill it and sell it for dog feed unless it can be disposed of by private sale. No. 43 of 1900, s. 3.

**23.** An estray found damaging caches may be impounded. No. 43 of 1900, s. 4.

**24.** Anyone found guilty of turning an animal out to graze during the period mentioned above in section 1 of this Ordinance, when the animal is in poor condition, or where there is no food nor water, and any owner who fails to stable or feed his animal when warned to do so by any member of the Northwest Mounted Police, may upon summary conviction, before a justice of the peace, be fined not more than \$100.00 and costs, and in default of payment, be sentenced to thirty days imprisonment, with or without hard labour. No. 43 of 1900, s. 5.

## CHAPTER 72.

### An Ordinance respecting the Preservation of Game in the Yukon Territory.

Interpretation **1.** The names by which the beasts and birds mentioned in this Ordinance are therein described include their young and males and females.

“Game guardian.” **1.** The expression “game guardian” means a game guardian appointed under the subsequent provisions of this Ordinance.

“Close season.” **2.** The time fixed with respect to any beast or bird, by sections 2 and 3, or by the Commissioner in Council under section 4 of this Ordinance is called in this Ordinance, “the close season” for that beast or bird. No. 2 of 1901, s. 1.

Buffalo or bison not to be killed. **2.** Except as hereinafter provided, buffalo or bison shall not be hunted, taken, killed, shot at, wounded, injured, or molested in any way, at any time of the year. No. 2 of 1901, s. 2.

**3.** Except as hereinafter provided, the following beasts and birds shall not be hunted, taken, killed, shot at, wounded, injured, or molested in any way during the following times of the year, respectively :

Close season. **1.** Musk ox, elk or wapiti, moose, caribou, deer, mountain sheep or mountain goats, between the first day of January and the first day of October in each year.

**2.** Grouse, partridge, ptarmigan, pheasants and prairie chickens, between the fifteenth day of January and the first day of October in each year.

**3.** Wild swans, wild ducks, and wild geese, snipes, sand pipers or cranes, between the first day of June and the first day of September in each year.

Number of animals to be killed. **4.** No one person shall have the right to kill during the same season, except as hereinafter provided, more than two elk or wapiti, six moose, two musk oxen, and six deer.

Persons killing animals to report. **5.** Any person who kills any of the above beasts shall report himself at the Mounted Police detachment on his way to Dawson or the creeks, and declare his name, the number of beasts killed and the place where he killed them.

Traders to keep date of purchasing meat. **6.** Any person purchasing the meat of the above beasts for trading purposes shall keep a register showing the name of the person or persons from whom it was so purchased, the quantity and kind purchased, and also the date of purchase.



7. All members of the Mounted Police shall be ex-officio "game guardians" under this Ordinance, and the Commissioner may appoint other guardians as he sees fit. Any game guardian may call upon any person at any time found in the possession of game to state when, where and from whom it was obtained, and whenever he has reason to suspect that any person is illegally in the possession of game, he shall have the right to inspect any bag or other receptacle, vehicle or other means of transportation in which he supposes it to be, and any person refusing, molesting or obstructing the said game guardian in the accomplishment of such duties, is liable upon summary conviction to a penalty not exceeding \$100.00 and costs, and in default of payment to imprisonment not exceeding one month. No. 2 of 1901, s. 3; No. 57 of 1901, s. 1.

N. W. M. P. to be game guardians.

4. The Commissioner in Council may from time to time, when they deem it necessary or expedient so to do alter by resolution, any of the time fixed by sections 2 and 3 of this Ordinance. No. 2 of 1901, s. 4.

Close season may be extended.

5. Except as hereinafter provided no eggs on the nests of any of the birds above mentioned, or in the nest of any other species of wild fowl, shall be taken, destroyed, injured or molested at any time of the year. No. 2 of 1901, s. 5.

Eggs not to be taken.

6. Notwithstanding anything in sections 2, 3, 4 and 5 of Ordinance, the beasts and birds mentioned in those sections may be lawfully hunted, taken or killed, and eggs of any of the birds or other wild fowl so mentioned may be lawfully taken :

Exceptions.

1. By explorers, surveyors, prospectors, miners or travelers who are engaged in any exploration, survey or mining operations, or other examination of the Territory, and are in actual need of the beasts, birds or eggs for food.

2. By any person who has a permit to do so granted under the subsequent provisions of this Ordinance. No. 2 of 1901, s. 6.

7. None of the contrivances for taking or killing wild fowl, know as batteries, swivel guns or sunken punts, shall be used at any time of the year, to take, destroy, or kill any of the birds mentioned in this Ordinance, or any other species of wild fowl. No. 2 of 1901, s. 7.

Game not to be taken by certain contrivances.

8. None of the birds and beasts mentioned in this Ordinance shall be taken, or killed, at any time of the year by the use of poison or poisonous substances, or pits or falls. No. 2 of 1901, s. 8.

Not to be poisoned.

9. No dogs shall be used at any time of the year for hunting, taking, running, killing, injuring or in any way

Dogs not to be used.

molesting buffalo or bison, or during the close season, any of the other beasts, or any of the birds mentioned in this Ordinance. No. 2 of 1901, s. 9.

Indians not to be employed.

**10.** No one shall enter into any contract or agreement with or employ any Indian or other person, whether such Indian or person is an inhabitant of the country to which this Ordinance applies or not, to hunt, kill, or take contrary to the provisions of this Ordinance, any of the beasts and birds mentioned in this Ordinance, or to take contrary to such provisions, any eggs. No. 2 of 1901, s. 10.

Offences.

**11.** Every one is guilty of an offence who violates any of the foregoing provisions of this Ordinance, and is liable on summary conviction thereof to a penalty as follows:

1. For the violation of any provisions with regard to musk oxen, buffalo or bison, elk, wapiti, moose, or deer, to a penalty of not more than \$500.00.

2. And for the violation as to any other of the provisions of this Ordinance to a penalty of not more than \$100.00.

3. And he is also liable in every case to pay the costs of conviction. No. 2 of 1901, s. 11.

**12.** The authority making the conviction may order that in default of payment of the penalty and the costs of conviction forthwith, or within such times as he orders, either:

1. The penalty and costs shall be levied by distress and sale of the goods and chattels of the person convicted, and that, if sufficient goods and chattels cannot be found the person convicted shall be imprisoned for a period of not more than three months, unless the penalty and costs are sooner paid, or:

2. The person convicted shall be imprisoned for a period of not more than three months, unless the penalty and costs are sooner paid.

3. When, because of the distance, or for want of means of conveyance or communication, or for any other cause, it is not practicable to confine such person in the nearest jail or other place of confinement, the convicting authority shall have power to confine him in any suitable building which is more convenient and nearest to the place of trial, and to take all reasonable necessary precautions to prevent his escape therefrom during the term for which he has been convicted. No. 2 of 1901, s. 12.

Fines to form part of general revenue fund.

**13.** Every fine or penalty recovered under this Ordinance shall form part of the general revenue fund. No. 2 of 1901, s. 13,

On conviction game to be confiscated.

**14.** Any beast, bird or eggs in respect of which any conviction has been made under this Ordinance shall be held to be thereby confiscated, and the authority who has made

the conviction may make such disposal of them as he thinks fit, except to sell or barter the same.} No. 2 of 1901, s. 15.

**15.** Possession shall be constituted as follows, namely: Possession.

1. Possession at any time of the year of a buffalo or bison dead or alive, or any part of a buffalo or bison; or

2. Possession at any time of the year of eggs of any of the birds mentioned in this Ordinance, or of eggs of any other species of wild fowl; or

3. Possession during the close season of any other beast mentioned in this Ordinance, or of any part of any such beast, or of any birds mentioned in section 3, shall be deemed prima facie evidence of the killing or taking of the beast, bird or eggs, as the case may be, contrary to the provisions of this Ordinance. Provided, moreover, that this section shall not be construed to prevent the exposure and offering of for sale the carcasses, or any part of them, of beasts killed during the open season, for a period of sixty days after the beginning of the close season. No. 2 of 1901, s. 16.

**16.** Any justice of the peace, when he considers it necessary to do so, may appoint a constable or constables to apprehend and arrest any person who has done, or who he has reason to believe has done anything in contravention of any of the provisions of this Ordinance; and any such constable shall, upon apprehending and arresting, bring him for trial without any unnecessary delay before the nearest authority having the right and power to convict under this Ordinance, and shall produce any beast, or bird or eggs or any part of any such beast or bird found in the possession of such person at the time of his apprehension, contrary to the provisions of this Ordinance. No. 2 of 1901, s. 17. Justice may appoint constable.

**17.** Any justice of the peace, upon proper information that there is reason to suspect that a breach of any of the provisions of this Ordinance has been committed, or that any beast, bird or eggs, in respect of which such a breach has been committed, or any part of any beast or bird in respect of which such a breach has been committed, is likely to be in any tent, or on any premises, or on board of any vessel, or at any other place, may by warrant under his hand authorize any constable to enter and search any such place, and if found, to seize any such beast, bird or eggs, or any such part of any beast or bird, to be dealt with afterwards according to the provisions of this Ordinance. No. 2 of 1901, s. 18. Justice may issue search warrant.

**18.** The Commissioner or any officer or person duly authorized by him may issue a permit to any person to take or kill, for scientific purposes, or to take with a view to domestication, any number, not exceeding four of each of the said beasts or birds, except buffalo and bison, or to take Permits to kill for scientific purposes.

eggs not exceeding twelve of each of any of the said birds, or of any other species of wild fowl. Every such permit shall set forth in detail the name, address or calling of the person to whom it is granted, the object for which it is granted, the number of each species or eggs which it is intended such person may kill or take, and the period of time during which the permit is to be in force. No 23 of 1902, s. 3.

Game guardian.

**19.** The Commissioner may appoint one or more game guardians for the purpose of carrying out the provisions of this Ordinance. No. 2 of 1901, s. 20.

To take oath.

**20.** Every game guardian so specially appointed, before acting as such guardian, shall take and subscribe before any judge, notary public or justice of the peace, in and for the Yukon Territory, or before any person specially deputed by the Commissioner the following oath :

I, A B., a game guardian, in and for the Yukon Territory, do solemnly swear that, to the best of my judgment, I will faithfully, honestly and impartially fulfil, execute and perform the office and duty of such game guardian according to the true intent and meaning of the Ordinance respecting the preservation of game in the Yukon Territory and of all regulations made or to be made thereunder. So help me God. No. 2 of 1901, s. 21.

Remuneration

**21.** The remuneration of game guardians, constables and any other person or persons employed to perform any duties imposed by this Ordinance, or any regulations under it, shall be determined by the Commissioner in Council. No. 2 of 1901, s. 21.

Rules and regulations.

**22.** The Commissioner may from time to time make such rules and regulations, not inconsistent with the provisions of this Ordinance, for the carrying out of the true intent and meaning thereof as are found necessary or deemed expedient by him, and may amend or alter such rules and regulations, or any one of them from time to time as is found necessary or deemed expedient. No. 2 of 1901, s. 23.

Meat to be used for food or sold.

**24.** Any person who kills any of the beasts or birds mentioned in this Ordinance and does not use the meat thereof for food himself or cause the same to be used for food, or does not offer the same for sale in some market within the Yukon Territory, shall be liable to a penalty not exceeding \$500 and in default of payment to imprisonment for a period not exceeding three months. No. 37 of 1901, s. 4.

Ordinance not to apply to Indians.

**25.** With the exception of section 2 of this Ordinance, this Ordinance shall not apply to Indians who are inhabitants of the Yukon Territory. No. 23 of 1902, s. 2.

## CHAPTER 73.

### An Ordinance to Prevent the Pollution of Running Streams.

**1.** Any person who deposits or causes or allows to be deposited along the bank of any running stream in the Territory or who casts or throws into its waters any stable manure or any night soil, carcasses, or any other filthy or impure matter or substance of any kind shall be guilty of an offence and on summary conviction for each and every such offence incur a penalty of not less than \$5 together with the costs of prosecution; and on non-payment of such penalty and costs forthwith after conviction be imprisoned in the nearest common gaol for a term not exceeding one month unless such penalty and costs are sooner paid. N. W.T., c. 86, s. 1.

Depositing  
filth in  
streams.

Penalty.

**2.** The banks of all running streams within the Territory shall for the purposes of this Ordinance include all lands within fifty feet of ordinary high water mark on either side of such streams. N.W.T., c. 86, s. 2.

Banks of  
streams.

**3.** This Ordinance shall not refer to the discharge of sewer waters from any pipe or drain leading from any dwelling house, hotel or public institution. N.W.T., c. 86, s. 3.

Sewage.

## CHAPTER 74.

### An Ordinance for the Prevention of Prairie and Forest Fires.

#### SHORT TITLE.

Short title.

**1.** This Ordinance may be cited as "*The Prairie Fires Ordinance.*" N.W.T., c. 87, s. 1.

#### PROVISIONS AGAINST KINDLING FIRES.

Causing prairie fires.

**2.** Any person who shall either directly or indirectly, personally or through any servant, employee or agent—

1. Kindle a fire and let it run at large on any land not his own property ;
2. Permit any fire to pass from his own land ; or
3. Allow any fire under his charge, custody or control or under the charge, custody or control of any servant, employee or agent to run at large,

Penalty.

shall be guilty of an offence and shall on summary conviction thereof be liable to a penalty of not less than \$25 and not more the \$200 and in addition to such penalty shall be liable to civil action for damages at the suit of any person whose property has been injured or destroyed by any such fire. N.W.T., c. 87, s. 2.

#### CAMP OR BRANDING FIRES.

Camp or branding fires, extinguishment.

**3.** Any person who kindles or is a party to kindling a fire in the open air for camping or branding purposes and who leaves the same without having extinguished it shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding \$100. N.W.T., c. 87, s. 3.

#### CLEARING LAND.

Fireguards in certain cases.

**4.** No person shall directly or indirectly, personally or by any servant, agent or employee kindle on any land a fire for the purpose of guarding property, burning stubble or brush or clearing land unless the land on which the fire is started is at the time it is started, completely surrounded by a fireguard not less than twenty feet in width consisting of

land covered with snow or water or so worn, graded, ploughed, burned over or covered with water as to be free of inflammable matter, and any person kindling a fire for such purpose shall during the whole period of its continuance cause it to be guarded by three adult persons provided with proper appliances for extinguishing prairie fire.

(2.) Any person contravening this section shall be guilty of an offence and be liable on summary conviction thereof to a penalty not exceeding \$100. N.W.T., c. 87, s. 4.

#### FIRES BY RAILWAY EMPLOYEES.

**5.** Nothing in this Ordinance shall prevent any railway company or its employees from burning over the land held by it under its right of way and the land adjoining the same to an extent not exceeding three hundred feet in width on each side of the centre line of the railway. Railway companies and employees.

(2.) Every person causing, commencing or in charge of such burning shall cause the same during the whole period of its continuance to be watched and guarded by at least four men provided with suitable appliances for extinguishing prairie fire and in default thereof shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding \$100.

(3.) This section shall not relieve any person from liability under this Ordinance if any fire so started shall escape or run at large. N.W.T., c. 87, s. 5.

#### SPRING BURNING.

**6.** Nothing herein contained shall prevent any person from kindling fire before the 7th day of May in any year for the purpose of clearing any area of land not exceeding three hundred and twenty acres if such land is completely surrounded by a fire guard not less than ten feet in width consisting of land covered with snow or water or being so worn, graded, ploughed, burned over or covered with water as to be free from inflammable matter. Fires before 7th May.

(2.) Any person so kindling a fire shall cause it to be guarded during the whole period of its continuance by three adult persons provided with proper appliances for extinguishing prairie fire and should such fire be left without being so guarded or be allowed to escape such person shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding \$100. N.W.T., c. 87, s. 6.

#### PROSECUTIONS.

**7.** It shall not be necessary that any prosecutor or complainant shall in any information or complaint for an offence Burden of proof.

Negotiating  
exceptions.

under this Ordinance negative any exemption, exception, proviso or condition herein contained or prove any such negative at the hearing or trial, but the accused person may prove the affirmative thereof in his defence if he wishes to avail himself of it. N. W. T., c. 87, s. 8.

#### RIGHTS OF ACTION PRESERVED.

Rights  
preserved.

**8.** Nothing in this Ordinance shall bar or prevent any person from bringing any action against any person to which he is otherwise entitled. N. W. T., c. 87, s. 9.

#### FIRE GUARDIANS.

Fireguardians

**9.** The Commissioner may appoint fire guardians having the powers of constables to enforce the provisions of this Ordinance and all justices of the peace, and all members of the Northwest Mounted Police force shall be *ex officio* fire guardians. N. W. T., -c. 87, s. 10.

Powers of  
fire guardians.

**10.** Any fire guardian may order any grown-up male person under sixty years of age (other than postmasters, railway station agents, members of the medical profession, telegraph operators, conductors, engineers, brakemen, firemen or trainmen) residing or then being within ten miles of a prairie fire or within fifteen miles of a bush fire to proceed at once to the locality of such fire and assist in extinguishing it; and any person neglecting or refusing without lawful excuse to obey any such order shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding \$5. N. W. T., c. 87, s. 10.





# TITLE XI.

## RESPECTING INTOXICATING LIQUORS.

### CHAPTER 75.

An Ordinance respecting the importation of and traffic in intoxicating liquors.

**1.** No person excepting the holder of a license issued under the provisions of the Liquor License Ordinance and except as otherwise provided herein shall import or bring into the Yukon Territory any intoxicating liquor or intoxicant. No. 7 of 1902, s. 1. No one to import liquor except as provided.

**2.** Before any person imports or brings into said Territory any intoxicating liquor or intoxicant he shall make application in writing to the Commissioner of the Yukon Territory for permission to do so. Such application shall specify the number of gallons and the description of the liquor to be imported. No. 7 of 1901, s. 2. Importers of liquors must first obtain permit.

**3.** The following fees shall be paid by the person importing any intoxicating liquor or intoxicant into the Territory under such special permission : Fees.

- Still wines, ale, porter, table beer and lager beer, per gallon..... \$ 50
- All other intoxicating liquors, per gallon. ... 2 00

Provided, that said fees may be reduced by the Commissioner if he considers it necessary to do so in order to regulate the traffic in intoxicating liquors. No. 7 of 1902, s. 3. Fees may be reduced.

**4.** The Commissioner may thereupon issue to such applicant a special permission in writing to import or bring into the Territory such intoxicating liquor or intoxicant. No. 7 of 1902, s. 4. Permit to be issued by Commissioner

**5.** The Commissioner may appoint, prescribe the duties and fix the salary of a Chief Preventive Officer, and such other officers and assistants as he considers necessary for the purpose of enforcing the provisions of this Ordinance. No. 7 of 1902, s. 5. Commissioner may appoint officers.

Penalty for importing without permit.

**6.** Any person importing or bringing into the Yukon Territory any intoxicating liquor or intoxicant without the special permission in writing of the Commissioner shall be guilty of an offence and on summary conviction thereof be liable to a penalty not exceeding \$500.00 with costs, and in default of payment thereof to imprisonment for a term not exceeding six months, with or without hard labour, and such intoxicating liquor or intoxicant so imported or brought into the Territory shall be forfeited to His Majesty, to be dealt with as may be determined by the Commissioner. No. 7 of 1902, s. 6.

Licensee not to sell except under provisions of license.

**7.** No licensee under the Liquor License Ordinance who imports or brings into the Territory any intoxicating liquor or intoxicant by the special permission in writing of the Commissioner shall sell the same in any other manner than that provided for by the license issued to him under said Ordinance. No. 7 of 1902, s. 7.

Penalty for licensee selling otherwise.

**8.** Any infringement of the next preceding section shall subject the offender on summary conviction to a penalty not exceeding \$500.00 with costs, and in default of payment thereof to imprisonment for a term not exceeding three months, and he may be refused any further permission to import or bring liquor into the Territory. No. 7 of 1902, s. 8.

Permit may be granted any one.

**9.** The Commissioner may grant to any person permission to import or bring into the Territory any intoxicating liquor or intoxicant for his own use upon payment of the fees required by section 3 of this Ordinance. No. 7 of 1902, s. 9.

Powers of officers.

**10.** The Chief Preventive Officer and his assistants shall for the purposes of preventing or detecting the violation of any of the provisions of this Ordinance, at any time have the right to enter into or upon any train, boat, vessel, scow, warehouse, shop or other building, and to make searches in every part thereof and of the premises connected therewith. No. 7 of 1902, s. 10.

Penalty for refusing to admit officers.

**11.** Every person being therein or having charge thereof who refuses or fails to admit such Chief Preventive Officer or assistant, or who obstructs or attempts to obstruct the entry of such Chief Preventive Officer or assistant, or any such searches as aforesaid, shall be guilty of an offence, and on summary conviction thereof be liable to a fine not exceeding \$500.00 and costs, and in default of payment forthwith after conviction, to imprisonment for a term not exceeding three months. No. 7 of 1902, s. 11.

## CHAPTER 76.

### An Ordinance respecting intoxicating liquors.

**1.** This Ordinance may be cited as "*The Liquor License Ordinance.*" No. 8 of 1902, s. 1. Short title.

#### INTERPRETATION.

**2.** In this Ordinance and in the Schedules thereto the words and expressions following shall, unless such interpretation is repugnant to the subject or inconsistent with the context, be construed as follows: Interpretation

1. "District" means a license district. "District."

2. "Commissioner" means the Commissioner of the Yukon Territory. "Commissioner."

3. "Magistrate" means a justice of the peace or a stipendiary magistrate, or police magistrate. "Magistrate."

4. "Town" includes towns incorporated under the Town's Ordinance and the settlements known as White Horse and Klondike City. "Town."

5. "Hotel License" means and includes every license granted for the sale by retail of fermented, spirituous or other liquors, which may be consumed on the premises on which the same is sold, whether "hotel" premises or not. "Hotel License."

6. "Saloon License" means and includes every license granted for the sale by retail of fermented, spirituous or other liquors for consumption on the premises on which the same is sold, but upon which premises accommodation is not provided for the travelling public. "Saloon License."

7. "Licensee" means a person holding a license under this Ordinance. "Licensee."

8. "Person" includes every member of a firm, and the servant, office-holder, agent of a company or body of persons whether incorporated or not under special Ordinance or by Letters Patent under the seal of the Yukon Territory. "Person."

9. "Licensed Premises" means the premises in respect of which a license under this Ordinance has been granted and is in force and extends to every room, closet, cellar, yard, stable, outhouses, shed or any other place whatsoever, of, belonging, or in any way appertaining to such house or place. "Licensed Premises."

10. "Liquor" or "liquors" means and comprehends all spirituous and malt liquors and all combinations of liquors and drinkable liquors which are intoxicating "Liquor."

- “Public bar.” 11. “Public bar” or “bars” means and includes any room, passage or lobby in any licensed premises into which the public may enter and purchase liquors.
- “Chief Inspector.” 12. “Chief Inspector” means Chief Inspector of Licenses.
13. “Inspector” means Inspector of a district or for the Territory, as the case may be.
- “Sale by retail.” 14. “Sale by Retail” means the sale of a quantity not to exceed half a gallon at any one time of ale, beer or porter, or one quart of wine or spirits.
- “Judge.” 15. “Judge” means a Judge of the Territorial Court. No. 8 of 1902, s. 2.

**3. Nothing in this Ordinance shall apply :**

Not to apply to native wines.

1. To the manufacture of native wines from fruit grown and produced in Canada, or the sale of such wine in quantities of not less than one gallon or not less than two bottles of three half pints each at one time at the place of manufacture.

Nor auctioneers.

2. To any person who holds a license as auctioneer, selling liquor at public auction. Provided that the liquor being sold forms part of an insolvent debtor's estate, and is named in the inventory thereof offered for sale under instructions from the creditor or creditors of such estate or his or their heirs, assignee, agent or trustee, and that the stock of such liquors is not broken for the purposes of such sale, and is not removed from the place in which such liquors were originally exposed under license.

Nor N.W M.P.

3. To the sale of beer in any canteen of the Northwest Mounted Police and the permanent military force established under proper authority; such sale to be restricted to members of the Northwest Mounted Police and the permanent military force.

Nor liquor sold under execution.

4. To the sale of any liquor by virtue of an execution or any other judicial process. No. 8 of 1902, s. 3.

**LICENSE DISTRICTS.**

License districts.

4. The Commissioner may establish districts for the purposes of this Ordinance, to be called license districts, and may from time to time alter and re-define the same; until the establishment of such districts the Yukon Territory shall form one license district. No, 8 of 1902, s. 4.

**LICENSE COMMISSIONERS.**

Board of license commissioners

5. The Commissioner may appoint a Board of License Commissioners consisting of three persons for each license district, who shall hold office until the thirty-first day of December in each year, subject, however, to removal at any time before that date at the pleasure of the Commissioner,

but may be reappointed, and such License Commissioners shall be paid such salaries and travelling and other expenses as are fixed by the Commissioner, and each of said Boards may elect one of their number to act as chairman and one to act as Secretary :

(2.) Every License Commissioner shall forthwith after his appointment and before performing any duties of his office, take and subscribe the following oath or affirmation : License commissioner to take oath.

I (name in full) do hereby solemnly swear (or affirm) that I will faithfully perform my duty as a License Commissioner for the license district number \_\_\_\_\_ So help me God. Oath.

Sworn (or affirmed) before me at \_\_\_\_\_, in the Yukon Territory, this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 19\_\_\_\_.

A Commissioner, etc.

(In case of an affirmation the words "So help me God" shall be omitted.)

(3.) The said oath or affirmation shall be forthwith returned by the License Commissioner to the Chief Inspector. Every license shall be issued upon the recommendation of the License Commissioners except as hereinafter provided. No. 8 of 1902, s. 5. Oath to be sent to Chief Inspector.

**6.** The License Commissioners shall sit during the month of June in each year at such place and upon such date as is arranged and notified to them by the Chief Inspector, to receive and dispose of applications for licenses. No. 8 of 1902, s. 6. License commissioners to sit in June.

**7.** At such meeting the License Commissioners may adjourn the hearing of any application to any other place and time, if they see fit. Meeting may adjourn.

(2.) The License Commissioners may be called together at any time by the Chief Inspector and they may meet at any time of their own motion. Other meetings may be called.

(3.) If from any cause a majority of the License Commissioners fail to be present on the day fixed for the meeting, or at any adjournment of a meeting, the said meeting or adjourned meeting shall stand adjourned from day to day until a majority shall be present to hold such meeting. No. 8 of 1902, s. 7. If quorum not present meeting may adjourn.

#### LICENSE INSPECTORS.

**8.** The Commissioner may appoint, prescribe the duties and fix the salary of a Chief Inspector for the Territory, who shall hold office during pleasure, and shall give such security for the due performance of his duties as is prescribed by the Commissioner. No. 8 of 1902, s. 8. Commissioner to fix salaries.

**9.** The Commissioner may appoint one or more inspectors for any license district or for the Territory, and fix their Commissioner may appoint inspectors.

salaries or fees and prescribe their duties. No. 8 of 1902, s. 9.

Duties of  
chief  
inspector.  
To keep  
register.

**10.** The Chief Inspector shall :

1. Keep a register to be called "The Register of Licenses," containing the particulars of all licenses granted in the district, and the premises in respect of which they are granted. There shall also be entered on the register all forfeitures of licenses, disqualifications of licensees, records of convictions and other matters relating to the licenses then on the register.

To keep a  
record of  
applications.

2. Keep a record of all applications made to him showing the names of the applicants, the nature of the applications, the premises in respect of which the applications are made, the date on which the applications were heard and the manner in which same were disposed of, including in cases of refusal the cause or causes thereof.

To transmit  
extracts to  
clerk of  
court.

3. On request, forthwith transmit extracts from any such register, of licenses or record of applications to the clerk of the Territorial Court.

To report  
monthly to  
commissioner.

4. Report monthly on the last day of each month to the Commissioner of the Yukon Territory, and this report shall contain :

(a.) A statement of the number and description of licenses and the names of applicants to whom licenses were granted during the year.

(b.) The names of the applicants to whom licenses were not granted.

(c.) Any other statement required to be entered in the register of licenses.

(d.) The prosecutions for infraction of this Ordinance and the result of the same.

(e.) General remarks as to the working of the law within the Territory; and also,

(f.) Any other remarks asked for by the Commissioner. No. 8 of 1902, s. 10.

Inspectors to  
prosecute  
infractions  
of law.

**11.** It shall be the duty of every Inspector when directed by the Chief Inspector to visit and inspect every licensed place within the district and to report forthwith to him every case of infraction of the provisions of this Ordinance; and every Inspector shall at once and in conformity with the provisions herein contained prosecute any person so offending and shall suffer no unnecessary delay to intervene between his obtaining the information and the prosecution. No. 8 of 1902, s. 11.

Inspector  
to lay  
information in  
his own name.

**12.** In case any person gives to the Inspector information justifying the prosecution of any person for offenses against this Ordinance, it shall be the duty of the Inspector to lay the information in his own name and prosecute. No. 8 of 1902, s. 12.

LICENSES.

**13.** Licenses shall be either :

Kinds of license.

1. Wholesale,
2. Hotel,
3. Saloon, or
4. Steamboat (permitting the sale of liquor while under way). No. 8 of 1902, s. 13.

**14.** Under a wholesale license the licensee may sell and dispose of liquors in the warehouse, store, shop or place defined in the license in quantities of not less than one half-gallon in each cask or vessel and in case of such selling by wholesale as in respect to bottled ale, beer, porter, wine or other fermented or spirituous liquors, each such sale shall be in quantities not less than one reputed quart bottle or two reputed pint bottles, and liquors thus sold shall not be consumed within or upon the warehouse and premises in respect of which the license is granted :

Wholesale license.

Not to sell less than certain quantities.

Provided, that in case of any conviction against a whole-sale licensee for allowing liquors to be consumed in or upon such warehouse or premises, such licensee shall absolutely forfeit his license or licenses and no new license shall thereafter be granted to such licensee in the license district in which such licensed premises are situate. No. 8 of 1902, s. 14.

Proviso.

**15.** Under any other license the licensee may sell and dispose of liquor by retail on the licensed premises, and said liquors so sold may be consumed thereon. No. 8 of 1902, s. 15.

All other licenses may sell at retail.

**16.** No saloon license shall be granted except in the City of Dawson. No. 8 of 1902, s. 16.

No saloon licenses excepting in Dawson.

**17.** Every license shall be issued under the authority of the License Commissioners and shall be signed by the Chief Inspector and shall be in form C in the schedule to this Ordinance. No. 8 of 1902, s. 17.

Licenses to be issued under authority of license commissioners

**18.** Licenses may be issued in the name of a copartnership when two or more persons are carrying on business in the same place, but a separate license shall be required in every separate place of business of such firm.

Licenses may be issued in name of copartnership.

(2) A license granted to any firm or partnership shall without any formality enure to the benefit of the remaining partner or partners in the event of the withdrawal or removal of any of them by dissolution or any other determination of the partnership. No. 8 of 1902, s. 18.

Partnership license to enure for benefit of remaining partner.

**19.** Any incorporated company may become a licensee or licensees in any district under the provisions of this Ordin-

Company may be licensee.

ance and in such cases all acts required under the provisions of this Ordinance to be done by any person as licensee whether prior to or after the granting of a license may be done in the name of the company by the officer or agent of the said company in charge of the particular premises for which the license is to be or shall have been granted. No. 8 of 1902, s. 19.

Chief inspector may issue special licenses.

**20.** The Chief Inspector may by the direction of the Commissioner issue special licenses authorizing the sale of wine, beer and ale, but not spirits, at special places, under special circumstances, and for any period not exceeding six days, to any society, incorporated or unincorporated, turf club or racing association, and on a payment of a fee of not less than \$10.00 per day, and under such terms as the Commissioner orders; provided that in all other respects, the persons so obtaining such special licenses shall be subject to the provisions of this Ordinance. No. 8 of 1902, s. 20.

Fees.

**21.** Every person to whom a license to sell intoxicating liquor is hereafter granted, shall, before receiving such license, be required to pay as a fee for such license the following amounts, that is to say :

*A.—Per Annum.*

For wholesale license .....	\$1,000.00
For hotel in Dawson.....	700.00
For hotel in Klondike City, White Horse or Bonanza.....	500.00
For hotel at any other point in the Yukon Territory.....	250.00
For saloon in Dawson .....	1,000.00

*B.—For Season.*

For steamboats.....	250.00
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Such fee shall in every case be in addition to the fee of \$50.00 payable with every application as hereinafter mentioned.

(2.) Provided always that the Commissioner may at any time at any point or locality in the Yukon Territory where the public interest may require further or better hotel accommodation increase or reduce the amount payable for licenses set forth in this section. No. 8 of 1902, s. 21.

Licenses to expire 14th July.

**22.** Every license shall expire on the 14th day of July at midnight succeeding the date of the issue of same. No. 8 of 1902, s. 22.



## ACCOMMODATIONS.

**23.** Every hotel authorized to be licensed under the provisions of this Ordinance shall contain, and during the continuance of the license shall continue to contain, in addition to what may be needed for the use of the family and servant or servants of the hotel keeper, in cities and towns not less than ten separate bedrooms, with suitable partitions, and in other places not less than five separate bedrooms, together with, in every case a suitable complement of bedding and furniture, and (except in cities and towns) there shall also be attached to the said hotel, a proper log or frame stable for at least six horses, besides the hotel keeper's own. Hotel accom-  
modation.

(2.) Every licensed hotel shall have a public sitting room and a dining room separate and distinct from the bar room. To leave  
separate  
sitting and  
dining rooms.

(3.) Every licensed hotel shall be shown to the satisfaction of the inspector to be well appointed with sufficient appliances for serving meals daily to travellers. To serve  
meals.

(4.) Every licensed hotel shall be provided with a suitable privy, which shall at all times be kept properly cleaned and ventilated. No. 8 of 1902, s. 23. To have privy.

**24.** Every hotel keeper whose license is granted in respect of the premises to be provided with stabling, shall at all times keep upon his licensed premises a sufficient supply of hay, oats and other provender. No. 8 of 1902, s. 24. To supply  
stabling.

**25.** A saloon must be a good, substantial building, with well appointed bar and ample furniture for the comfort of the customers, with a suitable privy and urinal, which shall at all times be clean, and there shall be no opening between the premises described in the license and any other premises. No. 8 of 1902, s. 25. Saloon accom-  
modation.

## APPLICATION FOR LICENSES.

**26.** Every application for a license shall be by petition in form A in the schedule hereto, accompanied by an affidavit in form B in the said schedule, and shall be sent to the Chief Inspector along with the sum of \$50.00, so that it may reach him on or before the first day of June, and he shall give to the applicant a receipt for said sum. No. 8 of 1902, s. 26. Application to  
be made to  
chief inspector

**27.** On every application for a license the Chief Inspector or an inspector shall report in writing to the License Commissioners, and such report shall contain : Chief  
inspector to  
make report  
giving

1. A description of the furniture and premises ;

How house  
has been  
previously  
conducted.

2. If the application be by a person who holds a license for the same premises during the preceding year, a statement as to the manner in which the same has been conducted during the existence of the previous license ;

Distance from  
other licensed  
premises.

3. A statement of the number, position and distance from the premises in respect of which a license is applied for of the licensed premises in the neighborhood ;

Character of  
applicant.

4. A statement whether the applicant is a fit and proper person to have a license and is known to be of good character and repute ;

Whether  
premises  
required for  
public  
purpose.  
Whether  
applicant  
owner of  
business.

5. A statement whether the premises sought to be licensed are or are not, in his opinion, required for public convenience ;

6. A statement whether the applicant is or is not the true owner of the business proposed to be licensed. No. 8 of 1902, s. 27.

Com-  
missioners to  
exercise their  
own discretion  
in granting  
licenses.

**28.** The report of the Chief Inspector or an inspector shall be for the information of the License Commissioners, who shall, nevertheless, exercise their own discretion on each application. No. 8 of 1902, s. 28.

Application  
and papers to  
be produced to  
commissioners

**29.** The Chief Inspector shall attach all the papers relating to each application together, and produce them at the next meeting of the License Commissioners, or transmit them together with a statement showing all convictions under this Ordinance against any applicant to the inspector of the district, who shall produce them at the meeting of the License Commissioners ;

Papers to be  
open to  
public.

(2) All papers connected with applications while in the hands either of the Chief Inspector or inspector shall be open to the inspection of the public. No. 8 of 1902, s. 29

Com-  
missioners  
to send  
certificate  
to inspector.

**30.** After the meeting of the License Commissioners the inspector shall return the said papers to the Chief Inspector with a certificate signed by at least a majority of the License Commissioners, showing whether the license is recommended or not, and if not recommended, stating the reasons. No 8 of 1902, s 30.

Inspector to  
notify  
successful  
applicant to  
pay fee.

**31.** Upon receipt of the papers and certificate the Chief Inspector shall notify each successful applicant that he is required to send to the Territorial Treasurer on or before the 30th day of June the amount of the license fee ;

(2.) Upon receipt of the said moneys and certificate the Treasurer shall sign a receipt in duplicate for the same, one of which he shall transmit to the applicant and the other to the Chief Inspector, who shall thereupon send to such applicant a license in form C in the schedule hereto. No. 8 of 1902, s. 31.

**32.** Any person desiring to obtain a license at any other time than as above provided may send to the Chief Inspector his application and \$50.00 as above provided. The Chief Inspector shall calculate the amount of the license fee and the expense of calling the License Commissioners together, and shall notify the applicant that his application will not be considered until the amount so estimated has been received by him; upon receipt of such amount the Chief Inspector shall arrange for the inspection of the premises and the calling together of the License Commissioners at as early a date as possible to deal with the application.

Procedure on application for license at any other time.

Provided, that in case more than one application is made at the same time to the same License Commissioners, the expense shall be divided pro rata among the applicants, but no license shall be granted to any person under the provisions of this section whose application for a license under section 26 of this Ordinance has been rejected. No. 8 of 1901, s. 32.

**33.** All application fees shall on receipt be paid into the general revenue fund.

Fees to go to general revenue fund.

(2.) The amount estimated by the Chief Inspector for calling the License Commissioners together shall be retained by him until the actual expenses incurred are ascertained, when the amount of such actual expenses shall be paid into the general revenue fund, and the balance, if any, shall be refunded to the applicant. No. 8 of 1902, s. 33.

DUTIES OF LICENSE COMMISSIONERS.

**34.** Every application for a license shall be heard and determined by the License Commissioners in a summary manner.

Applications how to be heard.

(2.) Every such hearing of an application shall be open to the public, and every applicant for a license shall attend personally at such hearing unless excused from attendance by the License Commissioners, and the License Commissioners may summon and examine on oath such witnesses as they think necessary, and as nearly as may be in the manner directed by any Act now or hereafter in force relating to the duties of Justices of the Peace in relation to summary convictions and orders, and any License Commissioner may administer such oath.

Hearing to be open to public.

(3.) Every such hearing may, at the discretion of the License Commissioners, be adjourned from time to time.

Adjournment.

(4.) At all hearings under this Ordinance the License Commissioners shall have the same powers as justices of the peace.

Commissioners to have powers of J. P.'s

(5.) No objection from the Chief Inspector or inspector shall be entertained unless the nature of the objection shall have been stated in the report furnished to the License Commissioners.

Inspectors objections to be stated in report.

Com-  
missioners  
may take  
notice of any  
objections.

(6) Notwithstanding anything in this Ordinance contained, the License Commissioners may of their own motion, take notice of any matter or thing which, in their opinion, would be an objection to the granting of a license. In any such case the License Commissioners shall notify the applicant and shall adjourn the hearing of the application, if requested by him, for a period not exceeding fourteen days and not less than seven days, or any time with the consent of the applicant, in order that any person affected by the objection may have an opportunity of answering the same.

Certain  
applications  
may be  
granted  
without report

(7) Where the applicant for a hotel license resides in a remote part of the district, or when, for any other reasons, the License Commissioners see fit, they may dispense with the report of the inspector and act upon such information as satisfy them in the premises. No. 8 of 1902, s. 34.

Decision to  
be final.

**35.** The decision of the License Commissioners when once announced by the chairman shall be final. No. 8 of 1902, s. 35.

If application  
refused not to  
apply within  
one year.

**36.** If any applicant for a license has at any time been refused a license on the ground that he is not a fit person to hold a license, no application by such applicant shall be entertained by the License Commissioners within a period of one year from such refusal. No. 8 of 1902, s. 36.

#### TRANSFER OF LICENSE.

License not  
to be void by  
death, etc.

**37.** A license under the provisions of this Ordinance shall not become void by :

1. The death of the licensee ;
2. Or a transfer of the licensee's business to some other person by operation of law. Unless in case of the licensee's death his legal representatives, or their assigns, or in the case of the licensee's transfer as above stated, his assignees fail within two months from such death or transfer to obtain the written consent of the Chief Inspector for the continuance of the business or the transfer of the license in the house or place in which the same issued, and subject to the duties and obligations of the licensee named in the said license for the residue of the term named therein, otherwise the same shall become void. No. 8 of 1902, s. 37.

Report to be  
made in case  
of transfer.

**38.** In every case of a transfer of an hotel or saloon license, the person in whose favour any such transfer is to be made shall send to the License Commissioners a report of an inspector similar to that mentioned in section 27 of this Ordinance. No. 8 of 1902, s. 38.

If licensee  
ejected  
transfer may

**39.** When a licensee has been legally ejected from any licensed premises, the License Commissioners may, not-

withstanding the non-production of the license, on the application in writing of the owner of the premises and the proposed new tenant, if they cannot produce the license, grant a special license to such new tenant in such form as they think applicable. Provided always, that the License Commissioners shall be satisfied that actual value has been received from the said owner by the said licensee. No. 8 of 1902, s. 39.

be made without production of license.

**40.** The License Commissioners may by order, authorize any person they think fit, entitled to the benefit of any license, to carry on the business in the licensed premises for the remainder of the term for which the license was granted, in the same manner as if such license had been formally transferred to such person; provided, proof of value received be given as provided in the next preceding section, in the following cases:

Commissioners may authorize any person to carry on business.

1. Whenever any person to whom a license has been granted deserts the licensed premises or refuses or neglects to transfer the license when justly required to do so; or,

2. If, during the currency of any such license, the holder thereof ceases to occupy the premises in respect whereof the license is held, or his tenancy of such premises is determined by effluxion of time, or by notice to quit or by any other process whatsoever. No. 8 of 1902, s. 40.

**41.** Where any licensed person is convicted of any offence and in consequence either becomes personally disqualified or has his license forfeited, the License Commissioners, upon application by or on behalf of the owner of the premises or his lessee, other than the licensee, in respect of which the license was granted (where the owner is not the occupier), and upon being satisfied that such owner or his lessee, as above stated, was not privy to nor a consenting party to the act of the tenant and that he has legal power to eject the tenant of such premises, may by order authorize an agent to carry on the business specified in the license relating to such premises until the end of the period for which such license was granted, in the same manner as if such license had been formally transferred to such agent.

If licensee convicted of offence commissioners may transfer license.

Provided always, such owner or his lessee, as aforesaid, shall pay as fee for the balance of the term of the license unexpired a proportionate amount of the amount required for one year. No. 8 of 1902, s. 41.

**42.** In case of the marriage of any woman being a licensee, the license held by her shall confer on her husband the same privileges, and shall impose on him the same duties, obligations and liabilities as if such license had been granted to him originally.

In case of marriage of licensee husband to have same privileges.

Provided, that the Chief Inspector on application of the husband of any such licensee, if satisfied that no objection

can be made to the character of the husband, and that he has not forfeited a license within the next preceding three years, may confirm to him his wife's license for the remainder of the term of the duration thereof, of which confirmation a certificate signed by the Chief Inspector shall be conclusive evidence. No. 8 of 1902, s. 42.

#### REMOVAL OF LICENSES.

Permission may be given to remove license.

**43.** The Chief Inspector after order allowing the same by the License Commissioners, may indorse on any hotel or saloon license permission to the holder thereof to remove from the house in which his said license applies to another house, to be described in the indorsement to be made by the said Chief Inspector on the said license.

Provided always, that the house to which the licensee proposes to remove has all the accommodations required by law, and subject to the requirements in the case of an original application for the same kind of license. No. 8 of 1902, s. 43.

Permission to be endorsed on license.

**44.** Such permission, when the approval of the said Chief Inspector is indorsed on said license, shall authorize the holder of the said license to sell liquors in the house mentioned in the indorsement during the unexpired portion of the term for which the said license was granted, in the same manner and upon the same terms and conditions as he might do in the premises to which the license originally applied; but such permission shall not entitle him to sell at any other than such one place. No. 8 of 1902, s. 44.

Applications for transfer, etc. of licenses to be made in same way as original application.

**45.** In all cases providing for a transfer, removal or change in a license, application shall be made in the same manner as an original application for a license. The amount of money to be sent with the application shall be the sum of \$50.00. The Chief Inspector upon receiving the application shall proceed as in cases when persons apply at other than the regular times for licenses, and the same additional fee must be paid.

Provided, nevertheless, that it shall not be necessary to call a meeting of the License Commissioners to transfer a license upon a sale thereof if the Chief Inspector is satisfied that the transferee is a fit and proper person to have a license, and is known to be of good character and repute, and notice thereof has been posted in the licensed premises for ten days prior to such transfer being made, in which case the application may be granted upon the authority of the Chief Inspector alone. No. 8 of 1902, s. 45.

#### NUMBER OF LICENSES.

Number of saloon licenses

**46.** The number of saloon licenses to be granted in the City of Dawson in each year shall not exceed ten.

Provided, however, that this provision shall not affect existing saloon licenses in said city, but no new saloon licenses shall be granted therein until the number of saloon licenses are less than ten. No. 8 of 1902, s. 46.

**47.** The Commissioner of the Yukon Territory may limit the number of wholesale licenses to be granted. No. 8 of 1902, s. 47. Wholesale licenses may be limited.

#### LICENSES IMPROPERLY OBTAINED.

**48.** If within sixty days from the granting of a license, or a transfer of a license, any person deposits with the Clerk of the Territorial Court \$100.00 as security for costs, together with a complaint (verified by affidavit) that the said license or transfer has been obtained by fraud, or in violation of any of the provisions respecting licenses, on application the Judge may, by means of an originating summons, investigate and summarily hear and dispose of the complaint, and direct the cancellation of the license or dismiss the complaint, and award costs in the same way as costs are awarded in proceedings in the Territorial Court. No. 8 of 1902, s. 48. Court may investigate manner of granting license.

#### REGULATIONS AND PROHIBITIONS.

**49.** All licenses shall be constantly and conspicuously exposed in bar rooms of hotels and saloons and in shops or warehouses or other places to which the licenses respectively relate, under a penalty of \$50.00 and costs for every day's wilful or negligent omission so to expose them, and in default of payment, one week's imprisonment for every day of such omission. No. 8 of 1902, s. 49. Licenses to be constantly exposed.

**50.** Every person keeping a licensed wholesale liquor store, hotel or saloon shall, during the continuance in force of such license, exhibit and keep exhibited on the outside and over a front door of the licensed premises, in large letters the words "Licensed to Sell Spirituous or Fermented Liquors," under penalty as in the next preceding section mentioned. No. 8 of 1902, s. 50. Licenses to have sign over door.

**51.** A synopsis of this Ordinance and the penalties thereunder shall be posted in a conspicuous place where liquor is sold under this Ordinance, and every licensee failing to post the same on being requested to do so by the Chief Inspector, shall be guilty of an offence, and on summary conviction thereof, be liable to a penalty of \$25.00 and costs. Such synopsis shall be drawn up and printed in such form as the Chief Inspector directs. No. 8 of 1902, s. 51. Synopsis of Ordinance to be posted.

Only one bar  
to be kept.

**52.** No more than one bar shall be kept in any house or premises under this Ordinance. No. 8 of 1902, s. 52.

Hours during  
which liquors  
to be sold.

**53.** In all places where intoxicating liquors are sold by retail, no sale or other disposal of liquors shall take place therein or on the premises thereof, or out of or from the same, to any person or persons whomsoever (save as herein-after provided) from the hour of twelve of the clock on Saturday night till six of the clock on Monday morning thereafter. No sale or other disposal of liquors shall take place on any wholesale premises, or from or out of the same, to any person or persons whomsoever, nor shall the premises in respect of which the license is issued be kept open from or after the hour of seven o'clock on Saturday night until six o'clock on Monday morning thereafter, save and except as to both wholesale and retail places in cases where a requisition for medical purposes, signed by a licensed medical practitioner or by a licensed druggist, or by a justice of the peace is furnished the licensee or his agent; nor shall any liquor whether sold or not, be permitted or allowed to be drunk in any such places during the time prohibited by this Ordinance for the sale of same. Provided always, that in hotels compelled by law to give meals liquors may be sold during meals on Sundays to the guests bona fide residing or boarding in such houses between the hours of one and three and five and seven in the afternoon, respectively, to be drunk at their meals at the table; but this provision shall not permit the furnishing of liquor at the bar or place where liquor is usually sold in such houses. No. 8 of 1902, s. 53.

No sale on  
election days.

**54.** No sale or other disposal of liquor shall take place in any licensed premises within the limits of a polling district on any polling day for or at any parliamentary election, or election of a member for the Yukon Council or any municipal election, from the hour of six o'clock in the morning of such day until after the close of the poll. No. 8 of 1902, s. 54.

No sale  
without a  
license.

**55.** No person shall sell or shall keep or have in any house, or in any other place whatsoever, any liquor for the purpose of selling, bartering or trading therein, without having first obtained a license authorizing him to do so. Any sale or other disposal of liquor by any association, body of persons or club not incorporated by special Ordinance of the Territory, or by the servant or agent thereof to the members thereof or to any other person without such license shall be a violation of this section. No. 8 of 1902, s. 55.

Offences.

**56.** Any person on summary conviction of any of the following offences shall be liable to the penalties prescribed in the next succeeding section.



1. Any person who sells liquor to any person who he knows or has reason to believe is selling liquor without a license, and,

2. Any licensee licensed to sell liquors not to be consumed on the premises who takes or carries, or employs or suffers any other person to take or carry any liquor out of or from the premises of such licensee for the purpose of being sold on his account or for his benefit or profit, and of being consumed in any other house, or in any tent, shed or other building of any kind whatever, belonging to such licensee or hired, used or occupied by him.

(2.) In any proceeding under this section, it shall not be necessary to prove that the premises or place or places to which such liquor is taken to be drunk belonged to, were hired, used or occupied by the seller, if proof is given to the satisfaction of the court hearing the case that such liquor was taken to be consumed thereon with intent to evade the conditions of his license. No. 8 of 1902, s. 56.

**57.** Violation of any of the provisions of the four next preceding sections shall be an offence for which the person violating shall be liable to on summary conviction: Penalties.

For the first offence a penalty of not less than \$50.00 and costs nor more than \$100.00 and costs, and in default of payment not less than two months nor more than four months imprisonment.

For the second offence a fine of \$100.00 and costs, and in default of payment forthwith after conviction to not less than three months' nor more than six months' imprisonment.

For the third offence a fine of \$200.00 and costs with absolute forfeiture of license, and in default of payment forthwith after conviction to not exceeding six months' imprisonment. No. 8 of 1902, s. 57.

**58.** No public dancing shall be permitted on any licensed premises. No. 8 of 1902, s. 58. No public dancing.

**59.** There shall be no connection between any licensed premises and any dance hall or room in which public dancing is allowed, by means of doors, windows, wickets, elevators, chutes or openings of any kind. No. 8 of 1902, s. 59. To be no connection with dance halls.

**60.** If the Chief Inspector is satisfied from his own knowledge or the report of any Inspector that any licensee allows any infringement of either of the two next preceding sections, he shall forthwith cancel his license. No license shall be granted to any one who does not comply with the provisions of said sections. No. 8 of 1902, s. 60. Chief inspector may cancel licenses in certain cases.

Prostitutes not to be allowed on licensed premises.

**61.** No hotel or saloon licensee shall permit any person to occupy any room or other part of his licensed premises if he suspects or has reason to believe that such person intends to use the same for any improper or immoral purpose, nor allow any female suspected of being a prostitute to occupy any room therein; and the Chief Inspector, if he is satisfied that any part of any licensed hotel or saloon is being used for any improper or immoral purpose, or that any female suspected of being a prostitute occupies any part thereof, with the consent or knowledge of the licensee, he shall forthwith cancel his license. No. 8 of 1902, s. 61.

No percentage allowed to females.

**62.** No licensee shall pay or permit to be paid or give or permit to be given to any female any percentage for any liquors sold or delivered to any person on his premises, and no female shall be allowed in any licensed premises for the purpose of soliciting or inducing others to drink or buy liquor, under a penalty of \$100 and costs and absolute forfeiture of his license, and in default of payment forthwith after conviction, to imprisonment for a term not exceeding three months, and absolute forfeiture of license. No. 24 of 1902, s. 61a.

Penalty.

Licensee convicted of keeping gambling house to forfeit license.

**63.** Any licensee who after the passing of this Ordinance is convicted of keeping a common gaming house shall forthwith forfeit his license, and the Chief Inspector upon receiving notice of such conviction, shall cancel said license, and no license shall be granted to such licensee or to the premises to which said license applied for twelve months after the date of such conviction. No. 8 of 1902, s. 62.

License may be cancelled if conditions not complied with.

**64.** The Chief Inspector may at any time cancel any license upon proof that the conditions necessary to the granting of such license do not exist, and also in case it is shown that the licensee is not keeping his premises in accordance with the provisions of this Ordinance. No. 8 of 1902, s. 63.

License may be cancelled on application of licensee.

**65.** The Chief Inspector may at any time, upon application by a licensee, cancel a license and allow a rebate to such licensee of a portion of the moneys paid for the license. The license may be cancelled under this section on account of the destruction of the premises, or for any reason satisfactory to the Chief Inspector. In case such rebate is allowed it shall be the duty of the Territorial Treasurer to refund to such licensee such amount so allowed. No. 8 of 1902, s. 64.

License to be to person named only.

**66.** Subject to the provisions of this Ordinance as to removals and transfer of licenses every license for the sale of liquor shall be held to be a license only to the person

named therein, and for the premises therein mentioned, and shall remain valid only so long as such person continues to be the owner of the said business there carried on. No. 8 of 1902, s. 65.

#### PENALTIES.

**67.** Any licensee who permits drunkenness or any quarrelsome, riotous or disorderly conduct to take place on his premises, or sells or delivers any intoxicating liquor to any drunken person to be consumed on his premises, or permits or suffers persons of notoriously bad character to assemble or meet on his premises for improper or unlawful purposes, shall, in addition to any other punishment provided by law be guilty of an offence and on summary conviction thereof be liable to a penalty of not less than \$50.00 and costs, and not more than \$100.00 and costs, and in default of payment forthwith after conviction, to not less than one nor more than two months' imprisonment. No. 8 of 1902, s. 66.

Disorderly conduct not to be allowed.

**68.** Every licensed hotel keeper or saloon keeper who habitually dispenses meals, who either personally or through anyone acting on his behalf, except for some valid reason, refuses to supply lodging, meals or accommodation to travellers at a reasonable rate, shall be guilty of an offence, and on summary conviction thereof liable to a penalty of \$50.00 and costs, and in default of payment, one month's imprisonment. No. 8 of 1902, s. 67.

Licensee not to refuse lodging.

**69.** Any licensee may refuse to admit to the premises in respect of which his license is granted any person who is intoxicated, and may refuse to admit, and may turn out of the premises, any person who is violent, quarrelsome or disorderly, and any person whose presence on his premises would subject the licensee to a penalty under this Ordinance; and any such person who, upon being requested in pursuance of this section by such licensee his agent, servant, or any constable, to quit such premises, refuses or fails to do so, shall be guilty of an offence, and upon summary conviction thereof be liable to a penalty of not more than \$50.00 and costs, and in default of payment forthwith after conviction, to one week's imprisonment; and all constables are required, on demand of such licensee, his agent or servant, to expel, or assist in expelling, every such person from such premises, and may use such force as is necessary for that purpose. No. 8 of 1902, s. 68.

Licensee to refuse to admit intoxicated person.

**70.** Any licensee who knowingly allows to be supplied in his licensed premises, by purchase or otherwise any description whatever of liquor to any person under the age

Not to supply liquor to persons under 18.

of eighteen years, of either sex, or who permits children under the age of sixteen years to be in rooms, or places on his premises where intoxicating liquor is served, shall, as well as the person who actually gives or supplies the liquor or permits children to be present when such liquor is served, whether he or she is a guest of the house or not, be guilty of an offence, and on summary conviction thereof be liable to a penalty of \$25.00 and costs for a first offence, and in default of payment forthwith after conviction, to one month's imprisonment, and for a second like offence a penalty of \$50.00 and costs with absolute forfeiture of the license, and in default of payment forthwith after conviction, to two months' imprisonment and absolute forfeiture of license. No. 8 of 1902, s. 69.

Males under  
18 and  
females not  
to sell liquor.

**71.** Any hotel licensee who knowingly allows any male under the age of eighteen years, or any female to dispose of any form of intoxicating liquor on the premises for which such license is granted shall be liable to all the penalties provided in the next preceding section. Provided that this shall not apply to female licensees or the wife of a licensee. No. 8 of 1902, s. 70.

Officials not to  
take money.

**72.** Neither the License Commissioners, Chief Inspector, Inspector or other officer of any license district shall, either directly or indirectly, receive, take or have any money whatsoever for any license, report matter or thing connected with or relating to any grant of any license, nor receive, take or have any note, security or promise for the payment of any such money or any part thereof from any person or persons whatsoever, and any person or persons guilty of, or concerned in, or party to any act, matter or thing contrary to the provisions of this section shall be guilty of an offence, and on summary conviction thereof be liable to a penalty of not exceeding \$100.00 and costs, and in default of payment forthwith after conviction, to imprisonment for a period not exceeding three months. No. 8 of 1902, s. 71.

Not to issue  
licenses  
contrary to  
Ordinance.

**73.** Any License Commissioner, Chief Inspector, Inspector or other officer or person who, contrary to the provisions of this Ordinance, knowingly issues, or causes or procures to be issued any liquor license, or a certificate therefor shall be guilty of an offence, and on summary conviction thereof be liable to a penalty of not exceeding \$100.00 and costs, and in default of payment forthwith after conviction, to imprisonment for a period not exceeding six months. No. 8 of 1902, s. 72.

Not to  
compound  
offences.

**74.** Any person who having or being charged with having violated any of the provisions of this Ordinance, compromises, compounds or settles, or offers or attempts to

compromise, compound or settle the offence with any person or persons with the view of preventing any complaint being made in respect thereof, or if a complaint has been made with the view of getting rid of such complaint or of stopping or having the same dismissed for want of prosecution or otherwise, shall be guilty of an offence, and on summary conviction thereof be liable to a penalty of not exceeding \$100 and costs, and in default of payment forthwith after conviction, to imprisonment for a period not exceeding two months. No. 8 of 1902, s. 73.

**75.** Every person who is concerned or is party to the compromise, composition or settlement mentioned in the next preceding section shall be guilty of an offence, and on summary conviction thereof be liable to a penalty of \$50.00 and costs, and in default of payment forthwith after conviction to one months' imprisonment. No. 8 of 1902, s. 74.

Penalty for compromising offences.

**76.** Anyone knowing or having reason to believe that an order to commit to jail has been issued against any person, under this Ordinance, who prevents the arrest of such person, or procures or facilitates by any act or council or in any manner whatsoever, his avoidance of arrest, or who provides such person with the means of avoiding arrest, shall be guilty of an offence, and on summary conviction thereof be liable to a penalty of \$50.00 and costs, and in default of payment forthwith after conviction, to imprisonment for a period not exceeding two months, in addition to any other penalty provided by law. No. 8 of 1902, s. 75.

Assisting person to escape.

Penalty.

**77.** Any person who violates any of the provisions of this Ordinance, for which violation no penalty is herein specially provided, shall be guilty of an offence, and on summary conviction shall be liable to a penalty of not less than \$50 00 and costs, and not more than \$100.00 and costs, and in default of payment forthwith after conviction, to imprisonment for not less than one month nor more than four months. No. 8 of 1902, s. 76.

Penalty for offences where no other penalty provided.

**78.** Any contravention of the provisions of this Ordinance by any servant, agent or employee of a licensee shall be presumed to be the act of such licensee, but except in the case of prosecution under section 55 such presumption may be rebutted by proof of explicit instructions to the contrary by such licensee. Any such servant, agent or employee contravening any of the provisions of this Ordinance, and disobeying any such explicit instructions, shall be liable, on summary conviction to imprisonment for not less than ten days nor more than three months without the option of a fine. No. 8 of 1902, s. 77.

Contravention by employee.

Third conviction to forfeit license.

**79.** Every third conviction for an offence against the provisions of this Ordinance or any of them, shall operate as a forfeiture of the license of the offender when not otherwise provided, and disqualify the person convicted from obtaining a license for two years thereafter. No. 8 of 1902, s. 78.

Same penalty to follow if conviction for different offences.

**80.** When by any section of this Ordinance it is provided that a licensee upon a third conviction for an offence against such section, shall forfeit his license, he shall also upon any conviction for an offence against such section forfeit his license if he has been previously convicted of two offences against any other sections in respect to which the like provision is made. No. 8 of 1902, s. 79,

Magistrate not to remit penalty.

**81.** No Magistrate, Inspector or License Commissioner shall have any power or authority to remit or compromise any penalty or punishment inflicted under this Ordinance. No. 8 of 1902, s. 80.

Fines to be paid to Treasurer.

**82.** Any money, penalty or portion thereof recovered under this Ordinance shall be paid to the convicting magistrate and be by him paid to the Territorial Treasurer No. 8 of 1902, s. 81.

#### POWERS OF INSPECTORS AND THEIR OFFICERS.

Powers of officers.

**83.** The Chief Inspector, any Inspector of Licenses, and any Police officer, Policeman, or Constable, shall, for the purpose of preventing or detecting the violation of any of the provisions of this Ordinance which it is his duty to enforce, at any time have the right to enter into any and every part of the hotel or other place wherein refreshments or liquors are sold, or reputed to be sold, whether under license or not, and to make searches in every part thereof and of the premises connected therewith, as he thinks necessary for the purpose aforesaid. No. 8 of 1902, s. 82.

Penalty for refusing to admit officers.

**84.** Every person being therein or having charge thereof who refuses or fails to admit such Chief Inspector, Inspector, Police officer, Policeman or Constable, demanding to enter in pursuance of this Ordinance in the execution of his duty, or who obstructs or attempts to obstruct the entry of such Chief Inspector, Inspector, Police officer, Policeman or Constable, or any such searches as aforesaid shall be guilty of an offence, and on summary conviction thereof be liable to a fine of \$50.00 and costs, and in default of payment forthwith after conviction to one month's imprisonment, in addition to any other punishment in such cases provided. No. 8 of 1902, s. 83.

**85.** Any Magistrate if satisfied by the information on the oath of any Police officer, Policeman, Chief Inspector or Inspector that there is reasonable ground for the belief that any spirituous or fermented liquor is being kept for sale or disposal contrary to the provisions of this Ordinance, in any unlicensed house or place within his jurisdiction may, in his discretion, grant a warrant under his hand by virtue whereof it shall be lawful for the person named in such warrant, at any time or times within two months from the date thereof to enter, if need be by force, the place named in the warrant and every part thereof and of the premises connected therewith, and to examine the same and search for liquor therein, and for such purpose such person may, if necessary, with such assistance as he deems expedient, break open any door, lock or fastening of such premises, or any part thereof, or of any closet, cupboard, box or other article likely to contain any such liquor; and in the event of any liquor being so found and unlawfully kept on the said premises the occupant thereof shall, until the contrary is proved, be deemed to have kept such liquor for the purpose of sale, contrary to the provisions of this Ordinance, and may be arrested by such officer or person having the warrant for search as aforesaid, and any person so arrested shall upon conviction be liable to a fine of not exceeding one hundred dollars and costs, or in default of payment thereof forthwith to imprisonment for a period not exceeding three months. No. 8 of 1902, s. 84.

Magistrate may issue search warrant.

**86.** When any Chief Inspector or Inspector, Policeman, or Constable or other officer in making or attempting to make any search under or in pursuance of the authority conferred by the next preceding section of this Ordinance or under the warrant mentioned, or under any other section of this Ordinance finds in an unlicensed house or place any liquor which, in his opinion, is unlawfully kept for sale or disposal contrary to this Ordinance, he may forthwith seize and remove the same and the vessels in which the same is kept, and upon the conviction of the occupant of such house or place, or any other person for keeping liquor for sale in such house or place without a license, the Magistrate making such conviction may in and by the said conviction, or by a separate and subsequent order, declare the said liquor and vessels or any part thereof, to be forfeited to His Majesty to be sold or otherwise disposed of as the Commissioner of the Yukon Territory directs, and the proceeds of any such sale shall be forthwith transmitted to the Territorial Treasurer to form part of the general revenue fund. No. 8 of 1902, s. 85.

Officer making search may seize liquor on unlicensed premises.

#### PROSECUTIONS.

**87.** Any person may be a prosecutor or complainant under this Ordinance. No. 8 of 1902, s. 86.

Any person may prosecute

Prosecutions to be instituted within six months.

**88.** Prosecutions for offences created by this Ordinance shall be had and taken under part LVIII of the Criminal Code of 1892, which is incorporated herewith, and shall be instituted within six months after the commission of the alleged offence. No. 8 of 1902, s. 87.

Description of offences.

**89.** The description of any offence under this Ordinance in the words of the Ordinance, or in words of like effect, shall be sufficient in law and any exception, exemption, provision, excuse or qualification whether it does or does not accompany the description of the offence in this Ordinance, may be proved by the defendant, but need not be specified or negatived in the information; but if it be so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant. No. 8 of 1902, s. 88.

Several charges may be made in one complaint.

**90.** Several charges of contravention of this Ordinance committed by the same person may be included in one and the same information or complaint. Provided that such information and complaint and the summons issued thereon contains specifically the time and place of each contravention. No. 8 of 1902, s. 89.

What information to contain.

**91.** In describing the offences respecting the sale or other disposal of liquor or the keeping or the consumption of liquor in any information, summons or conviction, warrant or proceedings under this Ordinance, it shall be sufficient to state the sale, disposal, keeping or consumption of liquor simply, without stating the name or kind of such liquor or the price thereof, or the name of any person to whom it was sold or disposed, or by whom it was consumed, and it shall not be necessary to state the quantity of liquor so sold or disposed of or consumed except in the case of offences where the quantity is essential, and then it shall be sufficient to allege the sale or disposal of more or less than such quantity, as the case requires. No. 8 of 1902, s. 90.

Defendant to prove license.

**92.** In any prosecution under this Ordinance whenever it appears that the defendant has done any act, or been guilty of any omission in respect to which, if he was not duly licensed he would be liable to some penalty under this Ordinance, it shall be incumbent upon the defendant to prove that he is duly licensed and that he did the said act lawfully. No. 8 of 1902, s. 91.

Licensee to produce license on trial

**93.** When any licensee is charged with any offence against this Ordinance the Magistrate before whom the charge is laid shall require such licensee to produce and deliver to him the license under which he carries on business, and the summons shall state that such production will be required. No. 8 of 1902, s. 92.



**94.** If such licensee is convicted, the following provisions shall have effect : Procedure on conviction of licensee.

1. The Magistrate shall cause short particulars of such conviction and the penalty imposed to be indorsed on the license before it is returned to the licensee.

2. Where the conviction has the effect of causing the forfeiture of the license, or of disqualifying the licensee, for the purposes of this Ordinance, the license shall be retained by the Magistrate and notice of such forfeiture or disqualification shall be sent to the Chief Inspector ;

3. The Magistrate shall send forthwith to the Chief Inspector a certificate of such conviction ;

4. The Chief Inspector shall enter the particulars respecting such conviction, or such of them as the case requires, in the register of licenses kept by him under this Ordinance. No. 8 of 1902, s. 93.

**95.** In all cases of prosecution for any offence against any of the provisions of this Ordinance for which any penalty or punishment is prescribed, the conviction or order of the Magistrate shall, except as is in this Ordinance otherwise provided, be final and conclusive, and except as is in this Ordinance otherwise provided, there shall be no appeal against such conviction or order to any court. No. 8 of 1902, s. 94. No appeal except where provided.

**96.** For the additional duties imposed by section 93 of this Ordinance the Magistrate shall be entitled to charge as costs in the proceedings the following sums : Fees to magistrate.

1. For making up and forwarding certificate of conviction to the Chief Inspector, the sum of \$2.50.

2. For recording the forfeiture of license, the sum of \$2.50. No. 8 of 1902, s. 95.

**97.** In any prosecution or proceeding under this Ordinance no costs shall be allowed against any License Inspector unless the Court or Judge before whom the proceedings are taken by appeal or otherwise, is of the opinion and certifies that there was no reasonable or probable cause for instituting the original proceedings. No. 8 of 1902, s. 96. No costs to be allowed against License Inspectors.

**98.** The forms set forth in the schedule of forms to this Ordinance, or any form to the like effect, shall be sufficient in the cases thereby respectively provided for, and when no forms are provided by the said Schedule they may be framed in accordance with part LVIII of the Criminal Code, 1892. No. 8 of 1902, s. 97. Forms.

#### PROCEDURE IN CASES WHERE PREVIOUS CONVICTION IS CHARGED.

**99.** The proceedings upon information for an offence against any of the provisions of this Ordinance, in the case where a previous conviction is charged, shall be as follows : Procedure where previous conviction.

1. The Magistrate shall in the first instance inquire concerning such subsequent offence, and if the accused is found guilty thereof, he shall then, and not before, be asked whether he was so previously convicted as alleged in the information, and if he answers that he was so previously convicted, he shall be sentenced accordingly; but if he denies that he was so previously convicted, or does not answer such question, the Magistrate shall then inquire concerning such previous conviction or convictions;

2. Such previous conviction may be proved *prima facie* by the production, of the license with such conviction indorsed thereon, or of a certificate purporting to be under the hand of the convicting Magistrate or the Clerk of the Court to whose office the conviction has been returned, without proof of signature or official character;

3. In the event of any conviction for any second or subsequent offence becoming void or defective after the making thereof, by reason of any previous conviction being set aside, quashed or otherwise rendered void, the Magistrate by whom such second or subsequent conviction was made shall summons the person convicted to appear at a time and place to be named, and shall thereupon, upon proof of due service of summons, if such person fails to appear, or on his appearance, amend such second or subsequent conviction and adjudge such penalty or punishment as might have been adjudged had such previous conviction never existed, and such amended conviction shall thereupon be held valid to all intents and purposes as if it had been made in the first instance. No. 8 of 1902, s. 98.

Convictions for several offences on same day.

**100.** Convictions for several offences may be made under this Ordinance, although such offences may have been committed on the same day; but the increased penalty or punishment hereinbefore imposed shall only be incurred or awarded in the case of offences committed on different days and after the information laid for a first offence. No. 8 of 1902, s. 99.

#### EVIDENCE.

Inspectors certificate to be proof of license.

**101.** In any prosecution or proceeding under this Ordinance, in which proof is required respecting any license, a certificate purporting to be under the hand of the Chief Inspector shall be *prima facie* proof of the existence of such license and of the identity of the person to whom the license was granted or transferred, or against whom the order was made; and the production of such certificate shall be *prima facie* evidence of the facts therein stated and of the authority of the Chief Inspector, without any proof of his appointment or signature. No. 8 of 1902, s. 100.

**102.** Any regulation made by the Board of Licence Commissioners or Chief Inspector shall be sufficiently authenticated by being signed by them or him, and a copy of such regulation written or printed, and certified to be a true copy, shall be deemed authentic, and be received as *prima facie* evidence in any court of justice without proof of the signature or signatures, unless it is specially pleaded or alleged that the signature or signatures to any such original resolution have been forged, and evidence of such forgery has been adduced by the person accused, sufficient, in the opinion of the Court, to make the proving of the signature or signatures advisable. No. 8 of 1902, s. 101.

Regulations to be signed by license commissioners

**103.** Any house, shop, room or other place in which it is proved that there exists a bar, counter, beer pumps, kegs, jars, decanters, tumblers, glasses or other appliances or preparations similar to those usually found in hotels and saloons where liquors are accustomed to be sold or trafficked in, shall be deemed to be a place in which liquors are kept or had for the purpose of being sold, bartered or traded in, in contravention of section 55 of this Ordinance, unless the contrary is proved by the defendant in any prosecution; and the occupant of such house, shop, room or other place shall be taken to be the person who has or keeps therein such liquors for sale, traffic or barter. No. 8 of 1902, s. 102.

Bar, etc., to be evidence of sale of liquor.

**104.** In proving the sale of liquor for the purpose of any proceeding relative to any offence under this Ordinance, it shall not be necessary to show that any money actually passed, or any liquor was actually consumed, if the Magistrate hearing the case is satisfied that a transaction in the nature of a sale actually took place, or that consumption of liquor was about to take place and proof of consumption or intended consumption of liquor on the premises, in respect to which a license is required under this Ordinance by some person other than the occupier of the premises, shall be evidence that such liquor was sold to the person consuming or being about to consume, or carrying away the same, as against the occupant of the said premises. No. 8 of 1902, s. 103.

To prove sale not necessary to show that money paid.

**105.** The occupant of any house, shop, room or other place in which any sale, barter or traffic of liquors or any matter, act or thing, in contravention of any of the provisions of this Ordinance, has taken place, shall be personally liable to the penalty prescribed in section 57 of this Ordinance, notwithstanding such sale, barter or traffic be made by some other person, who cannot be proved to have so acted under or by the directions of such occupant; and proof of the fact of such sale, barter or traffic, or any act, matter or thing, by such person in the employ of such

Occupant of house where sale takes place liable.

occupant, or who is suffered to remain in or upon the premises of such occupant, or to act in any way for such occupant, shall be conclusive evidence that such sale, barter or traffic or other act, matter or thing took place with the authority and by the directions of the occupant. No. 8 of 1902, s. 104.

Kind of liquor need not be proved.

**106.** In any prosecution under this Ordinance for the sale or other disposal of liquor without the license required by law, it shall not be necessary that any witnesses shall depose directly to the precise description of the liquor sold or bartered, or the precise consideration therefor. No. 8 of 1902, s. 105.

Sign to be evidence of sale of liquor.

**107.** The fact of the person not being a licensee keeping up a sign, writing, painting or other mark, in or near to his house or premises, or having such house fitted up with a bar or other place containing bottles or casks displayed so as to induce a reasonable belief that such house or premises is or are licensed for the sale of any liquor, or that liquor is sold or served therein, or that there is on such premises more liquor than is reasonably required for the persons residing therein, shall be deemed *prima facie* evidence of the unlawful sale of liquor by such person. No. 8 of 1902, s. 106.

#### WITNESSES.

Magistrate may compel attendance of witnesses.

**108.** In any prosecution under this Ordinance the Magistrate trying the case may summon any person he deems to be a material witness in relation thereto;

(2.) If any person so summoned refuses or neglects to attend pursuant to such summons the Magistrate, at any time within six months after such refusal or neglect, and notwithstanding the said case has been determined, may issue a warrant for the arrest of such person for such refusal or neglect, or may instead of a warrant issue a summons to such person to attend at a time and place named in such summons to answer for such refusal or neglect, and when such person is brought before such Magistrate, or appears on said summons, the Magistrate may then and there inquire into the reasons for such refusal or neglect to so attend, and if the same do not, in his opinion, afford a good and sufficient excuse therefor, may impose on such person a penalty not exceeding fifty dollars and costs; and in default of payment forthwith to imprisonment for a period not exceeding one month.

(3.) If any person upon being required by the Magistrate refuses to be sworn, or to affirm, or to answer to any question touching the case, he may be committed to the common jail, or to a lockup, there to remain until he consents

to be sworn, or to affirm, or to answer, and this, notwithstanding a penalty has been imposed upon him, as in this section previously provided, for refusal or neglect to attend as a witness in the same case. No. 8 of 1902, s. 107.

**109.** Any person summoned as a party to, or as a witness in, any proceeding under this Ordinance, may by the summons be required to produce at the time and place appointed for his attendance, all books and papers, accounts, deeds and other documents in his possession, custody or control, relating to any other matter connected with the said proceeding, saving all just exceptions to such production; and shall be liable to the same penalties for non-production of such books, papers, or documents, as he would incur by refusal or neglect to attend pursuant to such summons, or to be sworn or to answer any question touching the case, No. 8 of 1902, s. 108.

Witness may be required to produce documents, etc.

**110.** Every person, other than the defendant, summoned or examined as a witness in any prosecution brought under this Ordinance shall be bound to answer all questions put to him which are pertinent to the issues, notwithstanding that his answers may disclose facts tending to subject him to any penalty imposed by this Ordinance; but such evidence shall not be used against him in any prosecution. No. 8 of 1902, s. 109.

Witnesses bound to answer all questions.

**111.** In any prosecution under this Ordinance, if any Chief Inspector, Inspector or other officer attends Court as prosecutor, it shall be lawful for the Magistrate trying the case to order the defendant, in case of a conviction, to pay the Chief Inspector, Inspector or other officer his actual travelling expenses.

License inspectors expenses.

The foregoing expenses shall be verified by the oath of the Chief Inspector, Inspector or other officer.

In case the person convicted does not pay such expenses but is committed to jail in default of payment, the Chief Inspector, Inspector or other officer shall be entitled to be paid the amount out of the general revenue fund.

In case of the prosecution by the Chief Inspector, Inspector or other officer when no conviction is procured, upon the written certificate of the Magistrate trying a case that there was reasonable grounds for the prosecution, the Chief Inspector, Inspector, or other officer shall be entitled to be paid the said expenses out of the general revenue fund. No. 8 of 1902, s. 110.

#### INTERDICTION OF INTEMPERATE PEOPLE.

**112.** When complaint has been made to a Magistrate that any person by excessive drinking of liquor misspends,

Magistrate may interdict

habitual  
drinker.

wastes or lessens his estate, or greatly injures his health or endangers or interrupts the peace and happiness of his family, the said Magistrate shall institute proceedings under part LVIII of the Criminal Code of 1892 against such person, and on finding the complaint well founded shall by order in form D appended hereto forbid every licensed person in the Territory to sell him liquor for the space of one year. No. 8 of 1902, s. 111.

Order to be  
sent to  
licensees.

**113.** Immediately after granting the order provided for in the next preceding section, the Magistrate making the same shall transmit it, together with the complaint and any evidence taken thereon before him, to the Chief Inspector, who thereupon shall transmit by registered post or deliver a notice in the form E appended hereto, to all licensees whose premises are in the locality where such interdicted person lives :

(2.) Whenever the sale of liquor to any such drunkard shall have been so prohibited, any person with a knowledge of such prohibition who gives, sells, purchases or procures any liquor to, for or on behalf of such prohibited person or for his or her use, shall be guilty of an offence and upon summary conviction thereof shall be liable for every such offence to a penalty of not more than \$100.00 and costs, and in default of payment forthwith after conviction to imprisonment for a period not exceeding three months, and if a licensee his license shall be forfeited. No. 8 of 1902, s. 112.

Who may  
apply for  
interdiction,

**114.** The following persons, viz. :—

1. Any husband or wife, whose wife or husband has contracted the habit of drinking intoxicating liquors to excess ;

2. The person himself or the father, mother, brother, sister, curator, guardian or employer of any person who has contracted the habit of drinking intoxicating liquors to excess.

3. The manager or person in charge of an asylum or hospital or other charitable institution in which any person who has contracted the habit of drinking intoxicating liquors to excess resides or is kept ;

4. The guardian of any lunatic, or,

5. The father, mother, brother or sister of the husband or wife of any person who has contracted the habit of drinking intoxicating liquors to excess ; may require the Inspector for the district to give notice in writing in form F appended hereto, signed by him, to every licensee in the license district and in any other license district adjacent thereto that he is not to sell or deliver any liquor to the person named. No. 8 of 1902, s. 113.

**115.** In any prosecution or proceedings under this and the next preceding sections no interdicted person required to be examined as a witness shall be excused from being so examined or from answering any question put to him touching the sale or delivery to him of any liquor, on the ground that his evidence will tend to incriminate himself; and any such person so required to be examined as a witness who refuses to make oath accordingly, or to answer any such question shall be subject to be dealt with in all respects as any person appearing as a witness before any Magistrate or court and refusing without lawful cause or excuse to give evidence may by law be dealt with; and every person so required to be examined as a witness who upon such examination makes true disclosures to the best of his knowledge of all things as to which he is examined shall receive from the Magistrate before whom such proceedings is had a certificate in writing to that effect, and shall be freed from all prosecutions and from all penalties and punishments to which he has become liable for anything done before that time, under the provisions of section 116 of this Ordinance in respect of the matters regarding which he has been examined; and any prosecution or proceeding pending or brought against such witnesses under the provisions of section 116 hereof in respect of any matter regarding which he has been so examined shall be stayed upon the production and proof of such certificate if the said certificate states that such witness made a true disclosure in respect to all things as to which he was examined. No. 8 of 1902, s. 114.

Interdicted person compelled to answer questions.

**116.** Any person to whom the sale of liquor has been prohibited under this Ordinance, who either directly or indirectly in any way procures or permits the sale, disposal, gift or delivery to him by any person of any intoxicating liquor shall be liable upon summary conviction thereof to a fine of not more than \$50.00, and in default of payment forthwith after conviction to imprisonment for not more than one month; in any prosecution under this section if intoxication on the part of the defendant is proved, he shall be held to have been guilty of an offence, and in any such case it shall not be necessary in any proceedings to state the name of the person from whom the liquor has been procured or by whom the sale, disposal, gift or delivery of liquor has been made. No. 8 of 1902, s. 115.

Penalty for selling liquor to interdicted person.

**PRICE OF LIQUOR NOT RECOVERABLE IN CERTAIN ACTIONS.**

**117.** No licensee who sells liquor to any person not being a licensee, shall, if such liquor or any part thereof was to the knowledge of the licensee purchased for the purpose of re-selling, be entitled to recover the price thereof in any court of justice. No. 8 of 1902, s. 116.

Price of liquor not to be recovered.

Not to be recovered on sales less than one gallon.

**118.** No person shall recover or be allowed to set-off or counter-claim for any charge for liquor in any quantity less than one gallon delivered at one and the same time, and all specialties, bills, notes, agreements or accounts stated, given or made, shall be void. It shall not be necessary for any person wishing to take advantage of this section to raise the defence by his pleadings, but advantage may be taken thereof at any stage of the proceedings by way of defence to the action, counter-claim or set-off. No. 8 of 1902, s. 117.

Liability for death of person drinking to excess.

**119.** Whenever in any hotel or saloon or house where intoxicating liquors are sold, whether legally or illegally, any person has drunk to excess of intoxicating liquor of any kind therein furnished to him and while in a state of intoxication from such drinking has come to his death by suicide or drowning, or mischance from cold or other accident occasioned by such intoxication, the person, whether the keeper or employee of such hotel, house or other place who delivered to such person the liquor whereby such intoxication was caused, shall be liable to an action as for personal wrong at the suit of the legal representatives of the deceased person, if such action is brought within three months after such decease, but not otherwise, and in such action may recover such sums, not less than \$100.00 nor more than \$1,000.00 as may therein be assessed by the court or jury as damages. The keeper of such hotel or other house or place and also any other person or persons who for him, or in his employ, delivered to such person the liquor whereby such intoxication was caused shall be jointly and severally liable to an action as for personal wrong at the suit of the legal representatives of the deceased person, if such action be brought within three months after such decease, but not otherwise, and such legal representatives may bring either a joint and several action against them, or a several action against any or either of them, and by such action or actions may recover such sum, not less than \$100.00 nor more than \$1,000.00, in the aggregate of any such actions, as may therein be assessed as damages; and in the event of final judgment being recovered against any licensee in any action under this section, the license of such licensee shall thereupon be forfeited and thereafter be null and void. No. 8 of 1902, s. 118.

#### GENERAL.

Until commissioners appointed License Inspector to act.

**120.** Until the Commissioner appoints a Board of License Commissioners as provided by section 5 of this Ordinance, the Chief Inspector shall have all the powers and perform all the duties of said License Commissioners. No. 8 of 1902, s. 119.



## SCHEDULE 1.

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### FORM A.—Sec. 26.

To the Chief License Inspector :

The petition of the undersigned humbly showeth : That your petitioner makes application for (2) license to sell intoxicating liquors in the building occupied by your petitioner at in the Yukon Territory and described (3) Your petitioner hath deposited with the proper officer the sum of fifty dollars (\$50), the fee payable for such application, and produces herewith receipt for same.

And your petitioner prays that a license may be granted accordingly.

(2) (Insert description of license, as hotel, wholesale or saloon.)

(3) (Here give full description of premises.)

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### FORM B.—Sec. 26.

I, applicant for a license to sell intoxicating liquors, make oath and say :

That I am of the full age of twenty-one years.

That I have never been convicted of any criminal offence subject to imprisonment for five years or upwards.

Sworn before me at , in the Yukon Territory, this day of , 190 .

A Justice of the peace or a Commissioner, etc.

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### FORM C.—Sec. 31.

Whereas, of , in the Yukon Territory, has made application for a license to sell intoxicating liquors , and it having been made appear to

that the said has complied with the provisions of the Liquor Licence Ordinance in that behalf, this is to certify that the said hereby licensed as provided by law, to sell intoxicating liquors in manner aforesaid, at said place of business, from the

day of 190 , to midnight on the 14th day of July, 190 .

Dated at this day of , 190 .

Chief License Inspector.

## FORM D.—Sec. 112.

Canada, Yukon Territory:

Be it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 190\_\_\_\_, complaint was made before the undersigned, a Justice of the Peace in and for the said Yukon Territory,

That \_\_\_\_\_ (here set out the facts stated in the complaint) and now having duly heard the matter of the said complaint, I do order that during the period of one year from the date hereof no licensee shall sell any liquor to the said A. B.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ at the \_\_\_\_\_ of \_\_\_\_\_ in said Territory.

J.P.

## FORM E.—Sec. 113.

Dawson, Yukon Territory.

A. B., of \_\_\_\_\_ in the Yukon Territory.

Sir: In pursuance of the provisions of Liquor License Ordinance, respecting the interdiction of intemperate persons you are hereby notified that C. D., of \_\_\_\_\_, in the Yukon Territory, labourer (or as the case may be) is interdicted from the use of intoxicating liquors, on order made by G. H., a Justice of the Peace in and for the Yukon Territory, bearing date the \_\_\_\_\_ day of \_\_\_\_\_, and you are required to govern yourself accordingly.

You are liable if you give, sell, purchase or procure to, for or on behalf of such prohibited person, or for his (or her) use, any liquor, upon conviction, to a penalty of not more than \$100.00 and in default of payment to not more than three months' imprisonment, and if you are a licensee, forfeiture of license.

Your obedient servant,

E. F.,

Chief Inspector.

## FORM F.—Sec. 114.

## NOTICE OF INTERDICTION.

Take notice that under the provisions of the Liquor License Ordinance respecting the interdiction of intemperate persons, I have been required by (here state the name and authority of person who has requested notice to be given) to notify you that you are not to directly or indirectly sell, give or deliver, or suffer to be sold, given or delivered to (here insert name and description of person) any intoxicating

liquor, under a penalty of \$100 and absolute forfeiture of your license.

Dated at                      this                      day of                      , A.D. 190 .

Chief Inspector.

FORM G.

1. Neglecting to keep license exposed.

That X. Y., having a license for sale by wholesale (or an hotel license) on                      unlawfully, or wilfully (or negligently) omitted to expose the said license in his warehouse (or in the bar-room of his hotel, as the case may be).

2. Sale without a license.

That X. Y., on the                      day of                      , in the year of our Lord one thousand nine hundred and                      at                      in the Yukon Territory, unlawfully did sell liquor without the license therefor by law required.

3. Keeping liquor without license.

That X. Y., on                      at                      unlawfully did keep liquor for the purpose of sale, barter and traffic therein, without the license therefor by law required

4. Sale of liquor on licensed premises during prohibited hours.

That X. Y., on                      at                      in his premises (or on, or out of, or from his premises) being a place where liquor may be sold, unlawfully did sell (or dispose of) liquor during the time prohibited by the Liquor License Ordinance for the sale of the same, without any requisition for medical purposes as required by the said Ordinance being produced by the vendee or his agent.

5. Allowing liquor to be drunk on licensed premises during prohibition hours.

That X. Y., on                      at                      in his premises, being a place where liquor may be sold, by retail, unlawfully did allow liquor to be drunk in such place during the time prohibited by the Liquor License Ordinance for the sale of the same.

6. Sale of less than one quart under wholesale license.

That X. Y., having a wholesale license, on                      at                      unlawfully did sell liquor in less quantity than one-half gallon (or one reputed quart bottle, or two reputed pint bottles, as the case may be).

7. Allowing liquor to be consumed on wholesale premises.

That X. Y., having a wholesale license, on                      at                      unlawfully did allow liquor sold by him (or in his possession) and for the sale of which a license is required, to be consumed within his premises (or within

the building of which his premises form part, or within a building which communicates by an entrance with his premises) by a purchaser of such liquor.

8. Keeping a disorderly house.

That X. Y., being the keeper of an hotel situate in the town of \_\_\_\_\_ in the Yukon Territory, on \_\_\_\_\_, in his said hotel unlawfully did sanction (or allow) riotous or disorderly conduct in his said hotel.

9. Compromising or compounding a prosecution.

That X. Y., having violated a provision of the Liquor License Ordinance, on \_\_\_\_\_ at \_\_\_\_\_ unlawfully did compromise (or compound or settle, or offer, or attempt to compromise, compound or settle) the offence with A. B., with a view of preventing any complaint being made in respect thereof (or with the view of getting rid of, or of stopping, or of having the complaint made in respect thereof dismissed, as the case may be).

10. Being concerned in compromising a prosecution.

That X. Y., on \_\_\_\_\_ at \_\_\_\_\_ was unlawfully concerned in (or a party to) a compromise (or a composition, or a settlement) of an offence committed by O. P., against a provision of the Liquor License Ordinance.

11. Refusing to admit a policeman.

That X. Y., on \_\_\_\_\_ at \_\_\_\_\_ being in (or having charge of) the premises of O. P., being a place where liquor is sold (or reputed to be sold) unlawfully did refuse (or fail) to admit (or did obstruct or attempt to obstruct) E. F., an officer demanding to enter in the execution of his duty, or did obstruct or attempt to obstruct E. F., an officer making searches in the said premises, and in the premises connected with such place.

12. Refusing or failing to supply lodging, meals or accommodation to travellers.

That X. Y., being the keeper of an hotel, in respect of which an hotel license was duly issued and is in force, on \_\_\_\_\_ at \_\_\_\_\_ unlawfully failed or refused personally (or through some one acting on his behalf) to supply lodgings, meals and accommodation to a traveller, as required by the Liquor License Ordinance.

13. Selling liquor to any one under eighteen years of age.

That X. Y., at \_\_\_\_\_ on \_\_\_\_\_ unlawfully did sanction (or allow) to be supplied in his licensed premises, by purchase (or otherwise) liquor to a person under the age of eighteen years, not being a resident on the premises, or a bona fide guest, lodger or traveller.

## FORM H.

FORM OF INFORMATION LAID (OR COMPLAINT MADE, AS  
THE CASE MAY BE).

Canada, Yukon Territory. To wit :

The information of A. B., of the \_\_\_\_\_ of \_\_\_\_\_ in  
the \_\_\_\_\_ of \_\_\_\_\_ laid (or complaint made, as  
the case may be) upon oath or affirmation before me, C. D.,  
one of His Majesty's Justices of the Peace in and for the  
Yukon Territory, the \_\_\_\_\_ day of \_\_\_\_\_ A. D.  
one thousand nine hundred and \_\_\_\_\_

The informant says he is informed and believes that X. Y.,  
on the \_\_\_\_\_ day of \_\_\_\_\_ A. D. one thousand nine  
hundred and \_\_\_\_\_ at the \_\_\_\_\_ in the  
of \_\_\_\_\_ unlawfully did sell liquor without a license  
therefor by law required (or as the case may be). A. B.

Laid, sworn (or affirmed) and signed before me  
the day and year and at the place first above mentioned.  
C. D., J.P.

## FORM I.

## FORM OF INFORMATION FOR SECOND, OR THIRD OFFENCE.

Canada, Yukon Territory. To wit :

The information of A. B., of \_\_\_\_\_ &c., laid upon oath (or  
affirmation before me, C. D., one of His Majesty's Justices of  
the Peace in and for the Yukon Territory the  
day of \_\_\_\_\_ A. D., one thousand nine hundred and \_\_\_\_\_

The informant says he is informed and believes that X. Y.,  
on \_\_\_\_\_ at \_\_\_\_\_ (describe last offence.)

And further that the said X. Y., was previously, to wit,  
on the \_\_\_\_\_ day of \_\_\_\_\_ A. D., 19 \_\_\_\_\_, at the  
\_\_\_\_\_ of \_\_\_\_\_ before E. F., one of His Majesty's  
Justices of the Peace in and for the Yukon Territory duly  
convicted of having on the \_\_\_\_\_ day of  
19 \_\_\_\_\_, at the \_\_\_\_\_ of \_\_\_\_\_ in the  
of \_\_\_\_\_ unlawfully sold liquor without a license there-  
for required by law (or as the case may be).

And further that the said X. Y., was previously, to wit :  
on the \_\_\_\_\_ day of \_\_\_\_\_ A. D., 19 \_\_\_\_\_, at  
the \_\_\_\_\_ of \_\_\_\_\_ in the \_\_\_\_\_ before, &c., (as  
in the preceding paragraph) again duly convicted of having  
on the \_\_\_\_\_ day of \_\_\_\_\_ A. D., 19 \_\_\_\_\_,  
at the \_\_\_\_\_ of \_\_\_\_\_ in the \_\_\_\_\_ of \_\_\_\_\_  
in the \_\_\_\_\_ of \_\_\_\_\_ having a wholesale license,  
unlawfully allowed liquor to be consumed within a build-  
ing which communicates with an entrance within his pre-  
mises, by a person not usually a resident within the building  
of which such premises form a part (or as the case may be).

## FORM J.

## FORM OF CONVICTION OF FIRST OFFENCE.

Canada, Yukon Territory. To wit:

Be it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_  
 A.D. one thousand nine hundred and \_\_\_\_\_ at \_\_\_\_\_  
 in the Yukon Territory, X. Y. is convicted before me, E. F.,  
 one of His Majesty's Justices of the Peace in and for the  
 Yukon Territory, that he, the said X. Y., on the  
 day of \_\_\_\_\_ A. D. one thousand nine hundred and \_\_\_\_\_  
 \_\_\_\_\_, at \_\_\_\_\_ in the Yukon Territory, in his  
 premises, being a place where liquor may be sold, unlaw-  
 fully did sell liquor during the time prohibited by the  
 Liquor License Ordinance for the sale of the same, without  
 any requisition, for medical purposes, as required by the  
 said Ordinance, being produced by the vendee or his agent  
 (or as the case may be), A. B. being informant, and I  
 adjudge said X. Y., for his said offence, to forfeit and pay  
 the sum of \_\_\_\_\_ dollars, to be paid and applied accord-  
 ing to law, and also to pay to the said A. B. the sum of \_\_\_\_\_

\_\_\_\_\_ dollars for his costs in his behalf, and if the said  
 several sums be not paid forthwith, then \* I order the said  
 sums to be levied by distress and sale of the goods and  
 chattels of the said X. Y., and in default of sufficient distress  
 in that behalf \* (or where the issuing of a distress warrant  
 would be ruinous to the defendant and his family, or it  
 appears that he has no goods whereon to levy a distress,  
 then instead of the words between the asterisks\* say, inas-  
 much as it has now been made to appear to me that the  
 issuing of a warrant of distress in this behalf would be  
 ruinous to the said X. Y. and his family, or that the said  
 X. Y. has no goods or chattels whereon to levy the said  
 several sums by distress) I adjudge the said X. Y. to be  
 imprisoned in the common jail, at \_\_\_\_\_ in the said  
 Yukon Territory, and there to be kept for the space of \_\_\_\_\_  
 unless the said sums and the costs and charges of  
 conveying the said X. Y. to the common jail shall be sooner  
 paid.

Given under my hand and seal the day and year first  
 above mentioned, at \_\_\_\_\_ in the aforesaid Territory.

[L.S.] C. D., J.P.

## FORM K.

## FORM OF CONVICTION FOR A THIRD OFFENCE.

Canada, Yukon Territory. To wit:

Be it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_, in  
 the year of our Lord one thousand nine hundred and \_\_\_\_\_

, in \_\_\_\_\_ in the Yukon Territory, X. Y. is convicted before the undersigned C. D., one of His Majesty's Justices of the Peace in and for the said Territory, for that he, the said X. Y., on the \_\_\_\_\_ day of \_\_\_\_\_ A. D. one thousand nine hundred and \_\_\_\_\_ at \_\_\_\_\_ in the said Territory (as the case may be) of having violated a provision of the Liquor License Ordinance, unlawfully did attempt to settle the offence with A. B., with the view of having the complaint made in respect thereof dismissed (or as the case may be).

And it appearing to me that the said X. Z. was previously, to wit: on the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 19\_\_\_\_, at \_\_\_\_\_ before, &c., duly convicted of having on the \_\_\_\_\_ day of \_\_\_\_\_ A. D. 19\_\_\_\_, at \_\_\_\_\_ unlawfully sold liquor without the license therefor by law required (or as the case may be),

And it also previously appearing to us that the said X.Y. was previously, to wit: on the \_\_\_\_\_ day of \_\_\_\_\_ A.D 19\_\_\_\_, at \_\_\_\_\_ before, &c., (see above) again duly convicted of having on the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 19\_\_\_\_, at \_\_\_\_\_ being the keeper of licensed premises situate in the said \_\_\_\_\_ unlawfully allowed \_\_\_\_\_ in his said licensed premises (or as the case may be).

I adjudge the offence of the said X. Y., herein before firstly mentioned, to be his third offence against the Liquor License Ordinance (A. B. being the informant) and I adjudge the said X. Y. for the third offence to be imprisoned in the common jail at \_\_\_\_\_ in the said \_\_\_\_\_ of \_\_\_\_\_ there to be kept for the space of three calendar months (or as the case may be), and that his license be cancelled.

Given under my hand and seal the day and year first above mentioned, at \_\_\_\_\_ in the Yukon Territory.  
[L.S.] \_\_\_\_\_ C. D., J.P.

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FORM L.

WARRANT OF COMMITMENT FOR FIRST OFFENCE WHERE  
A PENALTY IS IMPOSED.

Canada, Yukon Territory. To wit:

To all and any of the constables and other peace officers in the \_\_\_\_\_ and the keeper of the common jail at \_\_\_\_\_ in the Yukon Territory.

Whereas X. Y., late of \_\_\_\_\_ in the said Yukon Territory was on this day convicted before the undersigned C. D., one of His Majesty's Justices of the Peace in and for the Yukon Territory or \_\_\_\_\_ of \_\_\_\_\_ (as the case may be) for that he the said X. Y., on \_\_\_\_\_ at \_\_\_\_\_ unlawfully did sell liquor without the license therefor by law

required (state offence as in the conviction) A, B. being the informant—and it was thereby adjudged that the said X Y., for his                    said offence should forfeit and pay the sum of                    (as in conviction) and should pay to the said A. B. the sum of                    for his costs in that behalf;

And it was thereby further adjudged that if the said several sums should not be paid forthwith, the said X. Y. should be imprisoned in the common jail at                    in the said Territory, there to be kept at hard labour for the space of                    unless the said several sums and the costs and charges of conveying the said X. Y. to the said common jail should be sooner paid.

And whereas the said X. Y. has not paid the several sums, or any part thereof, although the time for payment thereof has elapsed.

If a distress warrant issued and was returned no goods, say :

And whereas afterwards, on the                    day of A. D. 19                   , I, the said Justice, issued a warrant to the said constable or peace officer or any of them, to levy the said several sums of                    of                    and by distress                    and the sale of goods and chattels of the said X. Y.

And whereas it appears to me, as well by the return of the said warrant of distress by the constable who had the execution of the same or otherwise, that the said constable has made diligent search for the goods and chattels of the said X. Y. but that no sufficient distress whereon to levy the said sums could be found.

Or where the issuing of a distress warrant would be ruinous to the defendant and his family, or if it appears that he has no goods whereupon to levy a distress, then instead of the foregoing recitals or the issue and return of the distress warrant, say :

And whereas it has been made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said X. Y. and his family, or that the said X. Y. has no goods or chattels whereon to levy the said sum by distress, as the case may be.

These are therefore to command you the said constables or peace officers, or any of you, to take said X. Y., and him safely convey to the common jail aforesaid at                    in the                    and there deliver him to the said keeper thereof together with this precept.

And I do hereby command you, the said keeper of the said common jail, to receive the said X. Y. into your custody in the said common jail there to imprison him and keep him for the space of                    unless the said several sums and all the costs and charges of the said distress amounting to the sum of                    and of the commitment and conveying of the said X. Y. to the said common jail,





These are to require you to be and appear on the day of A.D. 19 , at o'clock in the noon, at , in the Yukon Territory, before me or such justice or justices of the peace as may then be there, to testify what you know concerning the said charges so made against the said as aforesaid, (and also to bring with you and there and then to produce all and every invoices, day books, cash books or ledgers, and receipts, promissory notes or other security relating to the purchase or sale, or sale of liquor by the said X. Y., and all other books and papers, accounts, deeds and other documents in your possession, custody or control, relating to any matter connected with the said prosecution.) Herein fail not.

Given under my hand and seal this day of  
A. D. 19 , at

[L. S ]

C. D., J.P.



## TITLE XII.

### MISCELLANEOUS.

#### CHAPTER 77.

##### An Ordinance respecting Insane Persons.

**1.** When an information is laid before a justice of the peace that any person is or is suspected and believed to be insane such justice may issue his warrant in form A in the schedule hereto to apprehend such person and cause him to be brought before him or some other justice of the peace. Issue of warrant on information before J. P.  
N.W.T., c. 90, s. 1.

**2.** Upon the person charged as aforesaid being brought before such justice the said justice shall proceed to hear such evidence under oath as may be adduced with reference— Evidence to be taken.

- (a.) To the alleged insanity of the person so brought before him, adjourning the inquiry from time to time as may be necessary for the purpose and remanding him meanwhile to jail or other safe custody ;
- (b.) To his residence for at least the six months previous to the inquiry ;
- (c.) To his calling or profession ;
- (d.) To his means of support ;
- (e.) To the fact of his being married or unmarried ; also
- (f.) As to whether or not the said person if committed under the provisions of this Ordinance will be sent back to his former residence and at whose cost. N. W.T., c. 90, s. 2.

**3.** If after hearing the evidence adduced the justice of the peace is satisfied that the person so brought before him is insane such justice shall commit him by warrant in form B in the schedule hereto to a jail there to remain until the pleasure of the Commissioner of the Yukon Territory is known or until the said person is discharged by law, and shall forthwith make a report of the case accompanied with a true copy of the information and evidence taken, to the Public Administrator, who shall have power if he sees fit to order further inquiries to be made. N.W.T., c. 90, s. 3. Committal if found insane.

**4.** In case it appears to such justice that such person is not insane the justice shall discharge him. N.W.T., c. 90, s. 4. Otherwise discharged.

**5.** The justice of the peace acting under the provisions of this Ordinance shall have the like authority for compelling the attendance of witnesses as such justice would have Power to summon witnesses.

under any law or statute in force respecting summary convictions and shall be entitled to the same fees. N.W.T., c. 90, s. 5.

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SCHEDULE.

FORM A.—Sec. 1.

Canada: } To all or any of the constables or other  
Yukon Territory, } peace officers of the said Territory :

Whereas information upon oath hath this day been laid before the undersigned, a justice of the peace in and for the said Territory, that *A. B.* (or a certain male or female person whose name is unknown) is insane;

These are therefore to command you to apprehend the said and bring him (or her) before me or some other justice of the peace in and for the said Territory in order that inquiry may be made respecting the sanity of the said and that he (or she) may be further dealt with according to law.

Given under my hand and seal this day of  
A.D. 19 , at in the said Territory.

*A. B.*,

J.P. [L.S.]

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FORM B.—Sec. 3.

Canada: } To all or any of the constables or other  
Yukon Territory. } peace officers in the said Territory  
and to the North-West Mounted Police force at  
(or the keeper of the common jail at ):

Whereas information was laid before me (or as the case may be) a justice of the peace in and for the said Territory, on the oath of , that *A. B.* (or as in the information) was insane;

And whereas inquiry has been made by me respecting the sanity of the said ;

And whereas I have found and adjudged the said to be insane;

These are therefore to command you the said constables or other peace officers or any of you to take the said and safely convey to the North-West Mounted Police (or to the keeper of the common jail) at and to deliver to the police aforesaid (or to the said keeper) together with this precept; and I do hereby command the said police force (or the keeper of the said jail) to receive the said into custody and safely keep until the pleasure of the Commissioner be known or until the said shall be discharged by law.

Given under my hand and seal this day of  
A.D. 19 , at in the Yukon Territory.

*A. B.*,

J.P. [L.S.]

## CHAPTER 78.

### An Ordinance to Prevent the Profanation of the Lord's Day.

**1.** No merchant, tradesman, artificer, mechanic, workman, labourer or other person whatsoever shall on the Lord's day sell or publicly show forth or expose or offer for sale or purchase any goods, chattels or other personal property or any real estate whatsoever, or do or exercise any worldly labour, business or trade of his ordinary calling; travelling or conveying travellers or His Majesty's mails, selling drugs and medicines and other works of necessity and works of charity only excepted. N.W.T., c. 91, s. 1.

Prohibition of business and labour on Sunday.

Exceptions.

**2.** No person on that day shall play at billiards or pool in any public room or run races on horseback or in vehicles of any sort or discharge firearms or engage in any game or games in any public place or engage in hunting or in the pursuit of game; except that any traveller, family or other person in a state of actual want may engage in hunting or kill game to satisfy his or their immediate wants. N.W.T., c. 91, s. 2.

Games and amusements prohibited.

**3.** All sales and purchases and all contracts and agreements for sale or purchase of any real or personal property whatsoever made by any person or persons on the Lord's day shall be utterly null and void. N.W.T., c. 91, s. 3.

Contracts made on Sunday to be void.

**4.** Any person violating any of the provisions of this Ordinance shall be guilty of an offence and upon summary conviction thereof be liable to a fine not exceeding \$100 and costs. N.W.T., c. 91, s. 4.

Penalty.

### CHAPTER 79.

#### An Ordinance respecting the Licensing of Billiard and other Tables.

Not to carry on certain calling without license.

1. No person shall carry on in the Territory any of the callings hereinafter mentioned without having first obtained a license for the purpose, which license shall be issued by the officer authorized by law to issue licenses for the sale of intoxicating liquors, and in every case, the license shall expire on the thirty-first day of December next following the date thereof and may be assigned.

Fee.

2. To obtain a license the applicant shall, if he applied on or before the thirtieth day of June, pay to the issuer as follows:

(a.) If the license be for a single billiard or pool table, one hundred dollars; and for every such additional table, seventy-five dollars

(b.) For every bagatelle, Mississipi, pigeon-hole or other gaming table or board with balls, one hundred dollars.

(c.) For every bowling alley, one hundred dollars. But one-half of the said fees only shall be payable when the application is made after the thirtieth day of June in any year.

Monthly returns.

3. The issuer of licenses shall make monthly returns of all licenses issued by him under this Ordinance to the Commissioner, and shall pay to the Territorial Treasurer all moneys received therefrom to form part of the general revenue fund.

Penalty.

4. Any person who shall, without having first obtained a license, keep set up in any public room or hall, any of the tables or boards or a bowling alley hereinbefore named shall be liable, on conviction in a summary before a Justice of the Peace, to a fine for every such offence of not less than one year's license fee, not exceeding five hundred dollars with costs of prosecution, and on non-payment thereof, to be imprisoned for any term not exceeding three months.

Not to apply to municipality.

5. Nothing in this chapter shall apply to any portion of the Territory incorporated as a municipality.

SCHEDULE I.

SHOWING the Ordinances of the North-West Territories prior to the Consolidated Ordinances of the Territories, 1898, the portions of the Consolidated Ordinances of the North-West Territories, 1898, and the Ordinances of the Yukon Territory which have been repealed prior to the consolidation, and Ordinances disallowed.

ORDINANCES REPEALED.	REPEALING ORDINANCE.
The Ordinances of the North-West Territories in force in the Yukon Territory under the provisions of the Yukon Act prior to the Consolidated Ordinances of the North-West Territories, 1898.	No. 48 of 1899.
Consolidated Ordinances of the North-West Territories, 1898.	
Cap. 1, sec. 8, ss. 22.	" 51 of 1899.
" 4 " 2 " 1 and 2.	" 26 " 1902.
" 5, 6, 7, 8, 9, 10, 11, 12 and 13.	" 26 " 1902.
" 14, sec. 2, ss. 1 and 2.	" 26 " 1902.
" 15, 16, 18 and 19.	" 26 " 1902.
" 21, sec. 4, ss. 1.	" 26 " 1902.
" " 7 " 1.	" 21 " 1901.
" " 14, 15, 16, 17, 18 and 19.	" 26 " 1902.
" " rule 4 and 375.	" 26 " 1902.
" " 543, 549 and 550.	" 21 " 1901.
" " 587.	" 26 " 1902.
" " 588, ss. 2.	" 50 " 1899.
" " 607, ss. 1 and 2.	" 1 " 1902.
" 22, secs. 1, 2, ss. 1 of sec. 3.	" 26 " 1902.
" " 12, 17, 18 and 19.	" 26 " 1902.
" 23, secs. 27, 28, 29 and 31.	" 26 " 1902.
" 24 and 25.	" 26 " 1902.
" 27, sec. 2, ss. 4, 5, 8 and 9.	" 26 " 1902.
" 28, 32 and 38.	" 26 " 1902.
" 43 sec. ss. 1 to 10 inc.	" 26 " 1902.
" " 15 " 15.	" 26 " 1902.
" 44, sec. 10.	" 26 " 1902.
" 45 " 13.	" 26 " 1902.
" 51.	" 33 " 1901.
" 52, 53, 54, 55, 58 and 60.	" 26 " 1902.
" 61, sec. 109.	" 10 " 1900.
" 65.	" 26 " 1902.
" 68, secs. 2 and 6.	" 26 " 1902.
" 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82,	" 26 " 1902.
" 83, 84 and 85.	" 26 " 1902.
" 87, secs. 7 and 12.	" 26 " 1902.
" 88, 89, 92 and 93.	" 26 " 1902.
Ordinances of the Yukon Council—	
1898, No. 2.	" 48 " 1899.
" " 4.	" 21 " 1901.
" " 5.	Disallowed, 14 April, 1899.
" " 7.	No. 22 of 1901.
" " 8.	" 22 " 1901.
" " 9.	" 48 " 1899.
" " 10.	" 25 " 1900.
" " 11.	Disallowed, 14 April, 1899.
" " 12.	No. 22 of 1901.
" " 13.	" 25 " 1900.

SCHEDULE I—*Concluded.*

ORDINANCES REPEALED.	REPEALING ORDINANCE.
<i>Ordinances of the Yukon Council—Continued.</i>	
1899, No. 2, sec. 2. . . . .	Disallowed, 14 April, 1899.
" " 4. . . . .	No. 48 of 1899.
" " 5. . . . .	" 20 " 1902.
" " 9. . . . .	" 25 " 1900.
" " 11. . . . .	" 25 " 1900.
" " 13. . . . .	" 33 " 1901.
" " 14. . . . .	" 33 " 1901.
" " 15. . . . .	" 18 " 1901.
" " 17. . . . .	Disallowed, 14 April, 1899.
" " 19. . . . .	No. 48 of 1899.
" " 21. . . . .	" 5 " 1902.
" " 22. . . . .	Disallowed, 14 April, 1899.
" " 23. . . . .	No. 23 of 1901.
" " 29. . . . .	" 8 " 1902.
" " 30. . . . .	" 48 " 1902.
" " 31. . . . .	" 5 " 1902.
" " 34. . . . .	" 5 " 1902.
" " 36. . . . .	" 5 " 1902.
" " 37. . . . .	" 33 " 1901.
" " 40. . . . .	" 5 " 1902.
" " 44. . . . .	" 8 " 1902.
" " 45. . . . .	" 8 " 1902.
" " 52. . . . .	" 8 " 1902.
1900, No. 3. . . . .	" 28 " 1902.
" " 9. . . . .	" 8 " 1902.
" " 11. . . . .	" 5 " 1902.
" " 13. . . . .	" 5 " 1902.
" " 15. . . . .	" 5 " 1902.
" " 16. . . . .	" 5 " 1902.
" " 17. . . . .	" 5 " 1902.
" " 18. . . . .	" 5 " 1902.
" " 20. . . . .	" 8 " 1902.
" " 21. . . . .	" 5 " 1902.
" " 22. . . . .	" 5 " 1902.
" " 24. . . . .	" 26 " 1902.
" " 25. . . . .	" 5 " 1902.
" " 27. . . . .	" 5 " 1902.
" " 32. . . . .	" 5 " 1902.
" " 34. . . . .	" 8 " 1902.
" " 36. . . . .	" 20 " 1902.
" " 39. . . . .	" 20 " 1902.
1901, No. 1. . . . .	" 5 " 1902.
" " 5. . . . .	" 22 " 1901.
" " 11. . . . .	" 27 " 1902.
" " 15. . . . .	" 8 " 1902.
" " 18. . . . .	" 28 " 1902.
" " 20. . . . .	" 8 " 1902.
" " 25. . . . .	" 28 " 1902.
" " 26. . . . .	Disallowed, 25 January, 1902.
" " 30. . . . .	No. 31 of 1902.
" " 35. . . . .	" 5 " 1902.
" " 40. . . . .	" 5 " 1902.



SCHEDULE II.

ORDINANCES and parts of Ordinances repealed from the date of the coming into force of "The Consolidated Ordinances of the Yukon Territory, 1898."

Chapter.	Title of Ordinance.	Extent of Repeal.
<b>CONSOLIDATED ORDINANCES OF THE NORTH-WEST TERRITORIES, 1898.</b>		
1	An Ordinance respecting the form and interpretation of Ordinances .....	The whole.
2	An Ordinance respecting the Legislative Assembly of the Territories .....	"
3	An Ordinance respecting Elections .....	"
4	An Ordinance respecting Controverted Elections.....	"
14	An Ordinance respecting the Registration of Births, Marriages and Deaths.....	"
17	An Ordinance respecting the Inspection of Steam Boilers and the Examination of Engineers operating the same.....	"
20	An Ordinance to regulate Public Aid to Hospitals.....	"
21	An Ordinance respecting the Administration of Civil Justice .....	"
22	An Ordinance respecting Clerks and Deputy Clerks. ....	"
23	An Ordinance respecting Sheriffs and Deputy Sheriffs ....	"
26	An Ordinance to abolish Priority among Execution Creditors .....	"
27	An Ordinance exempting Certain Property from Seizure and Sale under Execution....	"
29	An Ordinance respecting Alimony.....	"
30	An Ordinance to amend the Law relating to Slander.....	"
31	An Ordinance respecting Limitation of Actions in certain cases .....	"
33	An Ordinance respecting Constables .....	"
34	An Ordinance respecting Distress for Rent and Ultra-judicial Seizure.....	"
35	An Ordinance respecting Arbitration.....	"
36	An Ordinance respecting the Investigation of Accident by Fire.....	"
37	An Ordinance respecting Land held by two or more Persons .....	"
39	An Ordinance respecting the Sale of Goods .....	"
40	An Ordinance respecting Factors and Agents.....	"
41	An Ordinance respecting Choses in Action.....	"
42	An Ordinance respecting Preferential Assignments.....	"

SCHEDULE II—*Continued.*ORDINANCES and parts of Ordinances repealed, &c.—*Continued.*

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