

LEGISLATIVE ASSEMBLY OF THE  
NORTHWEST TERRITORIES  
10<sup>TH</sup> ASSEMBLY, 5<sup>TH</sup> SESSION

TABLED DOCUMENT NO. 20-85(2)

TABLED ON JUNE 13, 1985



BILL 9 - 85(2)

AN ACT TO AMEND AND REPEAL  
CERTAIN ACTS HAVING REGARD TO THE  
CANADIAN CHARTER OF RIGHTS AND FREEDOMS

The Commissioner of the Northwest Territories,  
by and with the advice and consent of the  
Legislative Assembly, enacts as follows:

1. This Act may be cited as the Statute Law  
(Canadian Charter of Rights and Freedoms) Amendment  
Act. 5

BUSINESS LICENCE ACT

2. The Business Licence Act is amended by repeal-  
ing paragraph 4(f) and substituting the following:

"(f) prescribing the proof to be submitted 10  
with the application as to the  
character of an applicant for  
registration or for a licence;"

CHANGE OF NAME ACT

3. The Change of Name Act is amended by repealing 15  
subsection 3(2) and substituting the following:

"Exception

(2) This Act does not apply to a change of  
name effected under Part IV of the Child  
Welfare Act."

4. The Act is further amended by repealing sub- 20  
section 4(1) and substituting the following:

"Who may  
apply

4.(1) Subject to subsections (2) and (3), any  
person who

(a) is at least nineteen years of age, or 25  
less than nineteen years of age and  
married, and

(b) has resided in the Territories for at  
least one year prior to the date of  
his application,

may apply to the Court for a change of name." 30

Clause 1

Short Title

Clause 2

Paragraph 4(f) now reads:

Regulations

4. The Commissioner may make regulations

(f) prescribing the proof to be submitted along with the application as to the character or physical condition of an applicant for registration or for a licence;

Clause 3

Subsection 3(2) now reads:

(2) This ~~Ordinance~~ <sup>Act</sup> does not apply to a change of surname to that of her husband by a woman upon marriage, the adoption of her maiden name by a woman upon dissolution of her marriage or to a change of name effected under Part IV of the Child Welfare Ordinance Act. <sup>Certain exceptions</sup>

Clause 4

Subsection 4(1) now reads:

Who may apply

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

5. The Act is further amended by repealing sub-section 4(3) and substituting the following:

"Exceptions to application procedure

(3) A person may change his surname without making an application to the Court under this Act, where the change is

(a) a change of surname by a spouse who assumes the surname of the other spouse or a hyphenation or combination of their surnames upon marriage; or

(b) a change of surname, upon dissolution of marriage, by a person who reverts to the surname he had prior to first being married."

5

10

6. The Act is further amended by adding immediately after section 5 the following section:

15

"Notice

5.1. The Court may dispense with notice under paragraph 7(b), where the person to whom notice is required to be given cannot be found or where, for any other reason, it is satisfied that notice may be dispensed with."

20

7. The Act is further amended by repealing section 7 and substituting the following:

"Application by a married person

7. A married person who applies for a change of surname shall

(a) obtain the consent of the other spouse, or

(b) give notice of the application to the other spouse,

unless the spouses have been living separate and apart for more than one year prior to the date of the application."

25

30

8. The Act is further amended by repealing section 8 and substituting the following:

"Application for a child

8.(1) Subject to this section, a person may apply for a change of name for his child in his lawful custody.

35

Clause 5

Subsection 4(3) now reads:

Married women  
cannot apply to  
change

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

Clause 6

Section 5.1 is new.

Clause 7

Section 7 now reads:

Married man

7. A married man who applies for a change of name

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

Clause 8

Section 8 now reads:

Widower or  
widow

8. A widower or a widow who applies for a change of name

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

Consent of  
child, other  
parent and  
spouse

(2) A person who applies for a change of name for his child shall obtain the consent of

- (a) the child;
- (b) the other parent of the child, unless the other parent does not have or share lawful custody of the child and
  - (i) is not contributing to the support of the child, or
  - (ii) has severed his relationship with the child; and
- (c) his spouse, where the spouse is not a parent of the child and the change is an assumption of the surname of the spouse or a hyphenation or combination of the surname of the spouse."

5

10

15

9. The Act is further amended by repealing section 9 and substituting the following:

"Saving  
provision

9. Every change of name made on or after the 17th day of April, 1985 and before the date of assent to the Statute Law (Canadian Charter of Rights and Freedoms) Amendment Act that was authorized by this Act as it read immediately prior to the 17th day of April, 1985 is deemed to have been authorized by this Act."

20

10. The Act is further amended by repealing section 10.

25

#### CHILD WELFARE ACT

11. The Child Welfare Act is amended by repealing the heading "NOTIFICATION AND INVESTIGATION" which immediately follows section 69 and substituting the heading "NOTIFICATION".

30

12. The Act is further amended by repealing section 71.

13. The Act is further amended by repealing section 72.

35

#### CONTRIBUTORY NEGLIGENCE ACT

14. The Contributory Negligence Act is amended by adding immediately after section 9 the following section:

"Limitation  
to inter-  
spousal  
immunity

9.1. Section 9 does not apply where the cause of action arises on or after the 17th day of April, 1985."

40

Clause 9

Section 9 now reads:

9. (1) Subject to subsection (3), a person whose marriage has been dissolved may apply for a change of name and may, with the consent of the other parent, if living, and with the consent of the children affected, apply for a like change in the surname or a change in the given names of any or all of his or her children that are in his or her lawful custody, Divorced person

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

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

Clause 10

Section 10 now reads:

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

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

Clause 11

The heading now reads:

NOTIFICATION AND INVESTIGATION

Clause 12

Section 71 now reads:

Notification by institution. 71. (1) Every person in charge of a hospital or other institution that has received for care during pregnancy a woman who appears to be an unmarried woman shall within three days after her admittance report her admittance to the Superintendent.

Penalty

(2) Every person who fails to comply with subsection (1) is guilty of an offence and liable, on summary conviction, to a fine of not less than ten dollars and not more than one hundred dollars.  
1961(2<sup>nd</sup>), c.3, s.75.



Clause 13

Section 72 now reads:

- Duty of Superintendent 72. (1) Upon an application to him by an unmarried woman, or upon receiving notice that an unmarried woman is pregnant or is the mother of a child, the Superintendent may
- (a) cause a full investigation to be made in respect of the child; and
  - (b) institute any proceedings and do all things that he is permitted to do under this Ordinance as seem to him advisable in the interests of the child or the unmarried woman.
- Limitation (2) Nothing in subsection (1) requires the Superintendent to interfere with the care and maintenance of a child where the child
- (a) has been adopted in accordance with Part IV;
  - (b) is being cared for voluntarily by a person whom the Superintendent considers suitable to have charge of the child.
- 1961(2\*\*),c.3,s.76.

Clause 14

Section 9.1 is new.

Section 9 now reads:

- Contribution where plaintiff is spouse of negligent person 9. In an action founded upon negligence and brought for damage or loss resulting from bodily injury to or the death of the married person, where one of the persons found to be negligent is the spouse of the married person, no damages or contribution or indemnity are recoverable for the portion of damage or loss caused by the negligence of the spouse, and the portion of the loss or damage so caused shall be determined although the spouse is not a party to the action.
- R.O.,c.16,s.9.

CRIMINAL INJURIES COMPENSATION ACT

15. The Criminal Injuries Compensation Act is amended by repealing subparagraph 2(b)(iv) and substituting the following:

"(iv) a person who cohabited with the victim for one year or more immediately preceding the occurrence,". 5

16. The Act is further amended by repealing subparagraph 2(b)(v) and substituting the following: 10

"(v) a person who at the time of the occurrence was cohabiting with the victim and between whom one or more children were born, and". 15

17. The Act is further amended by repealing subparagraph 2(b)(vi) and substituting the following:

"(vi) a person who at the time of the occurrence was acting as a foster parent of the children of a victim in the victim's household for one year or more immediately preceding the occurrence;". 20

DENTAL PROFESSION ACT 25

18. The Dental Profession Act is amended by repealing subsection 5(1) and substituting the following:

"Persons entitled to be registered 5. (1) Subject to subsection (2), any person who, upon application, satisfies the Commissioner that he 30  
(a) is registered as a dentist in a province or the Yukon Territory or holds a certificate of qualification as a practising dentist issued by the National Dental Examining Board of Canada or its predecessor, the Dominion Dental Council of Canada, and 35  
(b) has not been removed from the register of dentists in any province or territory or had his privileges as a practising dentist suspended for disciplinary reasons, 40  
is, upon payment of the fee prescribed by the regulations, entitled to be registered in the Dental Register." 45

Clause 15

Subparagraph 2(b) (iv) now reads:

2. In this Ordinance Act

Definitions

(b) "dependent" means any of the following persons who, at the time of an occurrence, were wholly or partially dependent on the victim for support:

(iv) a woman who cohabited with the victim for one year or more immediately preceding the occurrence.

Clause 16

Subparagraph 2(b) (v) now reads:

2. In this Ordinance Act

Definitions

(b) "dependent" means any of the following persons who, at the time of an occurrence, were wholly or partially dependent on the victim for support:

(v) a woman who at the time of the occurrence was cohabiting with the victim and by whom the victim had one or more children, and

Clause 17

Subparagraph 2(b) (vi) now reads:

2. In this Ordinance Act

Definitions

(b) "dependent" means any of the following persons who, at the time of an occurrence, were wholly or partially dependent on the victim for support:

(vi) a woman who at the time of the occurrence was acting as a foster mother of the children of a victim in his household for one year or more immediately preceding the occurrence;

Clause 18

Section 5(1) now reads:

Persons entitled to be registered

5. (1) Subject to subsection (2), any person who upon application satisfies the Commissioner that he is a suitable person in good standing and

(a) is a graduate of a school or college of dentistry of recognized standing in Canada or the United States, and also holds a certificate of qualification as a practising dentist issued by a dental school, college, society or organization in any province of Canada, or by a state dental licensing board in the United States,

(b) is a graduate of any school or college of dentistry of recognized standing and holds a certificate of qualification as a practising dentist issued by the National Dental Examining Board of Canada or its predecessor the Dominion Dental Council of Canada, or

(c) has successfully completed at least four years of professional education in dentistry at a recognized university in the United Kingdom, Australia, New Zealand, Denmark, Eire, or Norway so that such person is the holder of one of the following degrees or its equivalent:

- (i) Bachelor of Dental Surgery (B.D.S.),
- (ii) Doctor of Dental Surgery (D.D.S.),
- (iii) Fellow of Dental Surgery (F.D.S.), or
- (iv) Doctor of Dental Medicine (D.M.D.),

and also holds a certificate of qualification as a practising dentist issued by a dental school, college, society or a state dental licensing board in the United Kingdom, Australia, New Zealand, Denmark, Eire or Norway.

19. The Act is further amended by adding immediately after subsection 5(2) the following subsections:

"Saving provision

(3) Subsection (1) does not affect the registration of any person who is registered in the Dental Register at the coming into force of subsection (1).

5

Exception

(4) The Commissioner may allow a person who does not qualify under paragraph 5(1)(a) to be registered in the Dental Register for a single period of three years, for the purpose of giving the person an opportunity to obtain the necessary qualifications under paragraph 5(1)(a), where

10

(a) the person satisfies the Commissioner that he is professionally qualified and proficient to practise dentistry; and

15

(b) the Commissioner is satisfied that special circumstances exist that necessitate registering such a person."

20

20. The Act is further amended by adding immediately after section 5 the following section:

"Determining professional ability and proficiency and evaluating qualifications

5.1. For the purpose of determining professional ability and proficiency and evaluating academic and professional qualifications under this Act, the Commissioner may obtain the advice and assistance of professional and academic bodies and individuals in the field of dentistry."

25

30

21. The Act is further amended by repealing that portion of section 8 following paragraph 8(b) and substituting the following:

"if, in the opinion of the Commissioner, such person is professionally qualified and proficient to practise dentistry."

35

Clause 19

Subsections 5(3) and (4) are new.

Clause 20

Subsection 5.1 is new.

Clause 21

The portion following paragraph 8(b) now reads:

8. The Commissioner may issue a permit to practise dentistry in such parts of the Territories, for such periods of time, upon such terms and conditions and upon payment of such fees as the Commissioner may prescribe, to any person who <sup>Permits in other cases</sup>

(b) has received a diploma or certificate of qualification from any such college or school,

if, in the opinion of the Commissioner, such person is of good character and is qualified from the standpoint of his professional proficiency to practise dentistry. R.O., c.22, s.8.

22. The Act is further amended by repealing subsection 12(2) and substituting the following:

"Reinstatement and renewal

(2) A person whose name has been struck off the Dental Register or whose licence or permit to practise has been suspended or cancelled may be reinstated on the register and his licence or permit renewed and his rights and privileges under that licence or permit restored by the Commissioner, upon such terms and conditions as the Board of Inquiry may recommend and notwithstanding that the person may not then be entitled to be registered pursuant to section 5, where the Board is of the opinion that the reinstatement or renewal is justified having regard to the present circumstances of the person." 5  
10  
15

23. The Act is further amended by repealing subsection 19(1) and substituting the following:

"Eligibility

19.(1) Subject to this section, any person who is 20  
(a) a graduate of a college, school or university in a program of dental hygiene accredited by the Canadian Dental Association, or  
(b) registered as a dental hygienist in a province or the Yukon Territory, 25  
is, upon payment of the fee prescribed by the regulations, entitled to be registered in the Dental Hygienist Register."

24. The Act is further amended by repealing subsection 24(1) and substituting the following: 30

"Persons entitled to be registered

24.(1) Subject to subsection (2), any person who is a graduate of and holds a certificate of qualification in good standing from a school or college offering a course in dental therapy approved by the Commissioner is, upon payment of the fee prescribed by the regulations, entitled to be registered in the Dental Therapist Register." 35

Clause 22

Subsection 12(2) now reads:

(2) A dentist whose name has been struck off the Register or whose licence or permit to practise has been suspended or cancelled <sup>Reinstatement</sup> may be reinstated on the Register and his licence or permit renewed and his rights and privileges thereunder restored, in such manner and upon such conditions as the Commissioner in his discretion may decide. R.O.c.22.s.12. ; 1984(S), c.7, s.23.

Clause 23

Subsection 19(1) now reads:

"19. (1) Subject to this section, any person who <sup>Eligibility</sup>

(a) is a graduate in dental hygiene of a college, school or university of recognized standing in Canada or one elsewhere at which the standards required for graduation in that discipline are approved by the Commissioner, and

(b) satisfies the Commissioner that he is of good character, and either

(i) holds a certificate of registration or licence to practise as a dental hygienist from a registering or licensing body in a province, or

(ii) satisfies the Commissioner that he is either eligible to hold such a certificate or licence from any province or that he would be so eligible but only for his failure to reside in the province and to pay any prescribed fees therefor.

<sup>prescribed by the regulations</sup>  
is, upon payment of the fees <sup>required by subsection 20(1),</sup> entitled to be registered in the Dental Hygienist Register.

Clause 24

Subsection 24(1) now reads:

24. (1) Subject to subsection (2), any person who is a graduate <sup>Persons entitled to be registered</sup> and holds a certificate of qualification: in good standing from

(a) a recognized school of dental nursing in New Zealand or Australia,

(b) an accredited college affiliated with a university in the United Kingdom in a dental auxiliary training program, or

(c) a school or college offering a course in dental therapy approved by the Commissioner,

<sup>the regulations</sup>  
is, upon payment of the fee prescribed by <sup>subsection 25(1),</sup> entitled to be registered in the Dental Therapist Register.



25. The Act is further amended by repealing subsection 30(2) and substituting the following:

"Reinstatement  
and renewal

(2) The Commissioner may, upon hearing an application under subsection (1), reinstate the person on the appropriate register and renew the licence of the person upon such terms and conditions as the Commissioner considers reasonable and notwithstanding that the person may not then be entitled to be registered in the appropriate register, where he is of the opinion that the reinstatement and renewal is justified having regard to the present circumstances of the person."

5

10

#### DEPENDANTS RELIEF ACT

26. The Dependants Relief Act is amended by repealing subparagraph 2(c)(iv) and substituting the following:

15

"(iv) a person who cohabited with the deceased for one year immediately preceding the time of the deceased's death and was dependant on the deceased for maintenance and support,".

20

27. The Act is further amended by repealing subparagraph 2(c)(v) and substituting the following:

25

"(v) a person who at the time of the deceased's death was cohabiting with the deceased and between whom one or more children were born, or".

30

28. The Act is further amended by repealing subparagraph 2(c)(vi) and substituting the following:

"(vi) a person who at the time of the deceased's death was acting as a foster parent of the children of the deceased in the same household and who was dependant upon the deceased for maintenance and support;".

35

Clause 25

Subsection 30(2) now reads:

(2) The Commissioner may, upon hearing an application under subsection (1), order reinstatement on the appropriate Register and renew the applicant's licence upon such conditions as the Commissioner may decide. 1971(2<sup>nd</sup>),c.4,s.5. Order of  
reinstatement  
and renewal

Clause 26

Subparagraph 2(c) (iv) now reads:

2. In this Ordinance Act

Definitions

(c) "dependant" means

"dependant"

(iv) a woman who cohabited with the deceased for one year immediately preceding his death and was dependent upon him for her maintenance and support,

Clause 27

Subparagraph 2(c) (v) now reads:

2. In this Ordinance Act

Definitions

(c) "dependant" means

"dependant"

(v) a woman who at the time of the death of the deceased was cohabiting with him and by whom the deceased had one or more children, or

Clause 28

Subparagraph 2(c) (vi) now reads:

2. In this Ordinance Act

Definitions

(c) "dependant" means

"dependant"

(vi) a woman who at the time of the death of the deceased was acting as a foster mother of the children of the deceased in his household and who was dependent upon him for her maintenance and support;

DEVOLUTION OF REAL PROPERTY ACT

29. The Devolution of Real Property Act is amended by repealing section 2 and substituting the following:

"2. In this Act

"mentally incompetent person"

"mentally incompetent person" means a mentally incompetent person as defined in the Public Trustee Act or a person who is not mentally competent within the meaning of the Mental Health Act;

5

"personal representative"

"personal representative" means the executor, original or by representation, or administrator for the time being of a deceased person;

10

"Public Trustee"

"Public Trustee" means the person appointed as Public Trustee pursuant to the Public Trustee Act."

15

30. The Act is further amended by repealing section 12 and substituting the following:

"Sale where infant or mentally incompetent person interested"

12. No sale, where an infant or a mentally incompetent person is interested, is valid, without the written consent or approval of the Public Trustee or, in the absence of such consent or approval, without an order of the Court."

20

31. The Act is further amended by repealing section 13 and substituting the following:

"Distribution or division"

13. The personal representative may, with the concurrence of the adult persons beneficially interested and with the approval of the Public Trustee on behalf of infants or mentally incompetent persons if any infants or mentally incompetent persons are so interested, divide or partition and convey the real property of the deceased person, or any part of the real property of the deceased person, to or among the persons beneficially interested."

30

35

32. The Act is further amended by repealing subsection 14(2) and substituting the following:

"Mortgage where infant or mentally incompetent person interested"

(2) Where infants or mentally incompetent persons are interested, the approvals or order required by sections 12 and 13 in case of a sale shall be required in the case of a mortgage made pursuant to paragraph (1)(c) for payment of debts or payment of taxes on the real property to be mortgaged."

40

45

Clause 29

Section 2 now reads:

2. In this Ordinance, <sup>Act</sup>
- |  |   |
|--|---|
| (a) "lunatic" includes an idiot and a person of unsound mind;  | Definitions                             |
| (b) "personal representative" means the executor, original or by representation, or administrator for the time being of a deceased person. | "lunatic":<br>"personal representative" |

Clause 30

Section 12 now reads:

<sup>Where an infant or lunatic interested</sup> 12. No sale, where an infant or a lunatic is interested, is valid, without the written consent or approval of the public administrator or, in the absence of such consent or approval, without an order of the Court.

Clause 31

Section 13 now reads:

<sup>Distribution or division</sup> 13. The personal representative may, with the concurrence of the adult persons beneficially interested and with the approval of the public administrator on behalf of infants or lunatics if any infants or lunatics, are so interested, divide or partition and convey the real property of the deceased person, or any part thereof, to or among the persons beneficially interested.

Clause 32

Subsection 14(2) now reads:

(2) Where infants or lunatics are interested, the approvals or order required by sections 12 and 13 in case of a sale shall be required in the case of a mortgage made pursuant to paragraph (1)(c) of this section for payment of debts or payment of taxes on the real property to be mortgaged.

DOMESTIC RELATIONS ACT

33. The Domestic Relations Act is amended by repealing section 3 and substituting the following:
- "No action for restitution of conjugal rights
3. No action shall be brought for restitution of conjugal rights." 5
34. The Act is further amended by repealing section 4.
35. The Act is further amended by repealing section 5. 10
36. The Act is further amended by repealing paragraph 7(c) and substituting the following:
- "(c) desertion for two years or upwards without reasonable cause; or".
37. The Act is further amended by repealing the opening words immediately preceding paragraph 8(a) and substituting the following: 15
- "Jurisdiction of Court to hear actions
8. The Court has jurisdiction to hear an action for judicial separation or an application for alimony when both the parties to the action or application". 20
38. The Act is further amended by repealing section 11 and substituting the following:
- "Effect of judgment of judicial separation
11. After a judgment of judicial separation has been granted, neither the husband nor wife is under any duty of cohabitation." 25
39. The Act is further amended by repealing section 12 and substituting the following:
- "Necessaries
12. Where in or after a judgment of judicial separation, alimony has been decreed or ordered to be paid to a spouse, and it is not duly paid by the spouse who has been decreed or ordered to pay alimony, that spouse is liable for necessaries supplied for the use of the spouse to whom alimony has been decreed or ordered to be paid." 30 35

Clause 33

Section 3 now reads:

3. If one party to a marriage refuses to cohabit with the other party, the Court may give a judgment for restitution of conjugal rights. 1969(2<sup>nd</sup>),c.10,s.3. Judgment for restitution of conjugal rights

Clause 34

Section 4 now reads:

4. No judgment for restitution of conjugal rights shall be enforced by attachment. 1969(2<sup>nd</sup>),c.10,s.4. Judgment not enforced by attachment

Clause 35

Section 5 now reads:

5. Where a defendant fails to comply with a judgment for restitution of conjugal rights, the defendant shall thereupon be deemed to be guilty of desertion without reasonable cause; and an action for judicial separation may be forthwith instituted and a judgment of judicial separation may be pronounced although the period of two years mentioned in section 7 has not elapsed since the failure to comply with the judgment for restitution of conjugal rights. 1969(2<sup>nd</sup>),c.10,s.5. Action for judicial separation

Clause 36

Paragraph 7(c) now reads:

Grounds for judgment of judicial separation

7. A judgment of judicial separation may be obtained from the Court either by a husband or by a wife, if his wife or her husband, as the case may be, has, since the celebration of marriage, been guilty of

(c) desertion

- (i) for two years or upwards without reasonable cause, or
- (ii) constituted by the fact that the wife or husband, as the case may be, has failed to comply with a judgment for restitution of conjugal rights: or

Clause 37

The opening words immediately preceding paragraph 8(a) now read:

Jurisdiction of Court to hear actions

8. The Court has jurisdiction to hear an action for judicial separation or restitution of conjugal rights, or an application for alimony, when both the parties thereto

Clause 38

Section 11 now reads:

11. After a judgment of judicial separation has been granted
- (a) neither the husband nor wife is under any duty of cohabitation, and
- (b) the wife shall, during the continuance of the separation, be considered as a *ferme sole* for purposes of contracts and wrongs and injuries and suing and being sued in a civil proceeding and for all other purposes, and shall be reckoned as *sui juris* and as an independent person for all purposes, including the acquisition of a new domicile distinct from that of her husband. 1969(2<sup>nd</sup>),c.10,s.11.
- Effect of judgment of judicial separation

Clause 39

Section 12 now reads:

12. (1) After a judgment of judicial separation and during the continuance of the separation, the husband is not liable in respect of any engagement or contract his wife has entered or enters into, or for a wrongful act or omission by her, or for any costs she incurs in any action.

Liability of husband

(2) Notwithstanding subsection (1), where in or after a judgment of judicial separation, alimony has been decreed or ordered to be paid to the wife, and it is not duly paid by the husband, he is liable for necessities supplied for her use. 1969(2<sup>nd</sup>),c.10,s.12.

Necessaries

40. The Act is further amended by repealing section 13 and substituting the following:

"Damages for adultery

13. No action shall be brought for damages resulting from adultery."

41. The Act is further amended by repealing section 14. 5

42. The Act is further amended by repealing section 15 and substituting the following:

"Alimony

15. The Court has jurisdiction to grant alimony to a spouse in an action limited to that object only in a case where the spouse would be entitled to a judgment of judicial separation." 10

43. The Act is further amended by repealing subsection 16(1) and substituting the following: 15

"Interim order for alimony

16.(1) When an application is made in an action for

(a) alimony, or

(b) a declaration of nullity or judicial separation,

an interim order for the payment of alimony to a spouse pendente lite may be made, and in the event of an appeal the alimony may be continued by a further interim order until the determination of the appeal." 20

44. The Act is further amended by repealing subsection 16(2) and substituting the following: 25

"No interim order for alimony

(2) No interim order shall be made where a spouse has, from any source, sufficient means of support." 30

45. The Act is further amended by repealing subsection 16(4) and substituting the following:

"Necessary disbursements

(4) When an application is made in an action referred to in subsection (1), the Court may order the payment by a spouse of such sums as the Court deems reasonable and proper on account of the necessary disbursements of the other spouse and incidental to the action at such times, in such manner and to such persons as the Court deems proper." 35

40



Clause 40

Section 13 now reads:

13. A husband either by an action for judicial separation or by an action limited to the recovery of damages only, may recover damages from a person who has committed adultery with his wife, and the Court may direct in what manner such damages shall be paid or applied, and may direct that the whole or a part thereof shall be settled for the benefit of the children of the marriage, or as a provision for the maintenance of the wife. 1969(2<sup>nd</sup>), c.10, s.13.

Damages from  
adultery

Clause 41

Section 14 now reads:

14. (1) The Court shall not award damages in an action pursuant to section 13 if it finds that

Grounds for  
dismissal of  
action

- (a) the plaintiff during the marriage has been accessory to or has connived at the adultery of his wife,
- (b) the plaintiff has condoned the adultery complained of, or
- (c) the action has been presented or prosecuted in collusion with the wife.

(2) The Court may award damages in an action pursuant to *idem* section 13 if it finds that the plaintiff has been guilty of

- (a) adultery during marriage;
- (b) unreasonable delay in presenting or prosecuting the action;
- (c) cruelty towards his wife;
- (d) desertion or wilful separation from his wife before the adultery complained of and without reasonable excuse, or
- (e) wilful neglect or misconduct that has conducted to the adultery. 1969(2<sup>nd</sup>), c.10, s.14.

Clause 42

Section 15 now reads:

Alimony

15. The Court has jurisdiction to grant alimony to a wife in an action limited to that object only in a case where the wife would be entitled to a judgment of judicial separation or a judgment for restitution of conjugal rights. 1969(2<sup>nd</sup>), c.10, s.15.

Clause 43

Subsection 16(1) now reads:

Interim order for  
alimony

16. (1) When an application is made in an action for

- (a) alimony, or
- (b) a declaration of nullity, judicial separation or restitution of conjugal rights,

an interim order for the payment of alimony to the wife *pendente lite* may be made, and in the event of an appeal the alimony may be continued by a further interim order until the determination thereof.

Clause 44

Subsection 16(2) now reads:

None where  
sufficient support (2) No interim order shall be made where the wife has from any source whatever sufficient means of support independent of her husband.

Clause 45

Subsection 16(4) now reads:

Necessary  
disbursements (4) When an application is made in an action referred to in subsection (1), the Court may order the payment by the husband of such sums as the Court deems reasonable and proper on account of the necessary disbursements of the wife of and incidental to the action at such times, in such manner and to such persons as the Court deems proper. 1969(2<sup>nd</sup>),c.10,s.16.

	46. The Act is further amended by repealing section 17 and substituting the following:	
"Order for payment of alimony after judicial separation	17. When a judgment for judicial separation has been given, and in an action for alimony, the judge may order that a spouse pay to the other spouse until further order, or during their joint lives or during a shorter period, a periodical sum as alimony."	5
	47. The Act is further amended by repealing section 18 and substituting the following:	10
"Liability for necessities	18. Where an interim or other order for alimony is subsisting and the payment of alimony is not in arrears under that order, a spouse who has been ordered to pay is not liable for necessities supplied to the other spouse."	15
	48. The Act is further amended by repealing section 21 and substituting the following:	
"Settlement of property	21. Where a spouse has obtained a judgment of judicial separation, the Court may order such settlement as it thinks reasonable of any property to which the other spouse is entitled in possession or reversion for the benefit of the innocent party and of the children of the marriage, or either or any of them."	20
	49. The Act is further amended by repealing section 22 and substituting the following:	25
"Payments to spouse after judgment of nullity	22.(1) Where a judgment of nullity of marriage has been obtained, the Court may order that a spouse, to the satisfaction of the Court, secure to the other spouse such annual sum of money for any term not exceeding the lifetime of the other spouse as the Court deems reasonable having regard to the fortune of the other spouse, the ability of the spouse to pay and the conduct of the parties.	30 35
Periodic payments	(2) The Court may in addition or, as an alternative to an order made under subsection (1), order that a spouse pay to the other spouse during their joint lives such monthly or weekly sum for the maintenance and support of the other spouse as the Court thinks reasonable."	40

Clause 46

Section 17 now reads:

Order for  
payment of  
alimony after  
judicial  
separation

17. (1) When a judgment for judicial separation has been given, and in an action for alimony, the judge may order that the husband pay to the wife until further order, or during their joint lives or during a shorter period, a periodical sum as alimony.

Similar order of  
conjugal rights

(2) When a decree for restitution of conjugal rights has been granted, the judge may make a similar order to take effect in the event that the decree is not complied with. 1969(2<sup>nd</sup>),c.10,s.17.

Clause 47

Section 18 now reads:

18. Where an interim or other order for alimony is subsisting and the payment of alimony is not in arrears under that order the husband is not liable for necessaries supplied to his wife. Liability for necessaries  
1969(2<sup>nd</sup>),c.10,s.18.

Clause 48

Section 21 now reads:

21. Where a husband has obtained a judgment of judicial separation, the Court may order such settlement as it thinks reasonable of any property to which the wife is entitled in possession or reversion for the benefit of the innocent party and of the children of the marriage, or either or any of them. Settlement of property  
1969(2<sup>nd</sup>),c.10,s.21.

Clause 49

Section 22 now reads:

22. (1) Where a judgment of nullity of marriage has been obtained, the Court may order that the husband to the satisfaction of the Court secure to the wife such annual sum of money for any term not exceeding the lifetime of the wife as the Court deems reasonable having regard to the fortune of the wife, the ability of the husband to pay and the conduct of the parties. Payments to wife after divorce or nullity

(2) The Court may in addition or, as an alternative to an order made under subsection 22(1), order that the husband pay to the wife during their joint lives such monthly or weekly sum for her maintenance and support as the Court thinks reasonable. Periodic payments  
1969(2<sup>nd</sup>),c.10,s.22.

50. The Act is further amended by repealing section 24.

51. The Act is further amended by repealing section 25 and substituting the following:

"Variation of order for alimony or maintenance

25. Where an order has been made for the payment of alimony or for the payment of maintenance in an action for alimony, judicial separation or a declaration of nullity and it is made to appear that

5

(a) the means of either spouse have increased or decreased, or

10

(b) a spouse who receives the alimony, being divorced, has married again,

the Court may vary or modify the order either by altering the times of payment or by increasing or decreasing the amount, or may temporarily suspend the order as to the whole or any part of the money so ordered to be paid and may again revive the order in whole or in part, as the Court thinks fit."

15

20

52. The Act is further amended by repealing paragraph 34(2)(c) and substituting the following:

"(c) the wishes of the mother and the father."

53. The Act is further amended by repealing subsection 34(4).

25

#### EVIDENCE ACT

54. The Evidence Act is amended by repealing subsection 8(3) and substituting the following:

"Evidence not to be used

(3) A witness who gives evidence in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence."

30

35

clause 50

Section 24 now reads:

24. Where a judgment for restitution of conjugal rights is obtained by the husband and the wife is entitled to property or is in receipt of any profits of trade or earnings, the Court may order

Restitution of  
conjugal rights

- (a) that a settlement be made of the property for the benefit of the husband and the children of the marriage, or either or any of them, or
- (b) that part of the profit of trade or earnings be periodically paid to the husband for his own benefit, or to the husband or another person for the benefit of the children of the marriage, or either or any of them. 1969(2<sup>nd</sup>),c.10,s.24.

Clause 51

Section 25 now reads:

Variation of  
order for  
alimony or  
maintenance

25. Where an order has been made for the payment of alimony or for the payment of maintenance in an action for alimony, judicial separation, a declaration of nullity or restitution of conjugal rights, and it is made to appear

- (a) that the means of either the husband or the wife have increased or decreased, or
- (b) that the wife has been guilty of misconduct or, being divorced, has married again,

the Court may vary or modify the order either by altering the times of payment or by increasing or decreasing the amount, or may temporarily suspend the order as to the whole or any part of the money so ordered to be paid and may again revive the order in whole or in part, as the Court thinks fit. 1969(2<sup>nd</sup>),c.10,s.25.

Clause 52

Paragraph 34(2)(c) now reads:

(2) In making an order under subsection (1), the Court shall have regard to

Court  
considerations

- (c) the wishes of the mother as well as of the father.

Clause 53

Subsection 34(4) now reads:

Costs

(4) The Court may, in each case referred to in subsection (1), make such order respecting the costs of the mother and the liability of the father for the costs, or otherwise, as the Court deems just.

Clause 54

Subsection 8(3) now reads:

(3) Where, with respect to a question, or the production of a document, a witness objects to answer or to produce upon any of the grounds mentioned in subsection (2) and, but for this section or any Act of the Parliament of Canada, he would have been excused from answering the question, or from producing the document then, although the witness is by reason of this section or by reason of any Act of the Parliament of Canada compelled to answer or produce, the answer so given or the document so produced shall not be used or receivable in evidence in any legal proceeding thereafter taking place against him. R.O.,c.31,s.8. <sup>Evidence not to be used</sup>

55. The Act is further amended by repealing section 16 and substituting the following:

"Action by or against a person who is mentally disordered

16. In an action by or against a person who
- (a) has been found to be suffering from a mental disorder pursuant to any law in force in the Territories, 5
  - (b) is suffering from a mental disorder and has been admitted to a hospital, or
  - (c) suffers from unsoundness of mind and is incapable of giving evidence, 10
- an opposite or interested party shall not obtain a verdict, judgment or decision on the evidence of a person referred to in paragraph (a), (b) or (c), unless such evidence is corroborated by some other material evidence." 15

56. The Act is further amended by repealing subsection 21(1) and substituting the following:

"Form of affirmation

- 21.(1) Where a person called or desiring to give evidence chooses to affirm or is objected to as incompetent to take an oath, the person may make the following affirmation: 20

"I solemnly affirm that the evidence to be given by me shall be the truth, the whole truth, and nothing but the truth." 25

57. The Act is further amended by repealing subsection 21(3) and substituting the following:

"Affirmations instead of affidavits

- (3) Where a person required or desiring to make an affidavit or deposition in an action or on an occasion where or touching a matter respecting which an oath is required or is lawful, whether on the taking of office or otherwise, chooses to affirm the Court, or other officer or person qualified to take affidavits or depositions, shall permit the person, instead of being sworn, to make his affirmation in the words "I solemnly affirm" and the expression "So help me God." shall be deemed to be deleted from the oath, and the affirmation is of the same force and effect as if the person had taken an oath in the usual form." 30  
35  
40



Clause 55

Section 16 now reads:

16. In an action by or against a lunatic so found or an inmate of a lunatic asylum, or a person who from unsoundness of mind is incapable of giving evidence, an opposite or interested party shall not obtain a verdict, judgment, or decision on his own evidence, unless such evidence is corroborated by some other material evidence.  
R.O.,c.31,s.16.

Action by or  
against a lunatic,  
etc.

Clause 56

Subsection 21(1) now reads:

21. (1) Where a person called or desiring to give evidence objects on grounds of conscientious scruples to take an oath, or is objected to as incompetent to take an oath, the person may make the following affirmation:

Form of  
affirmation

"I solemnly affirm that the evidence to be given by me shall be the truth, the whole truth, and nothing but the truth."

Clause 57

Subsection 21(3) now reads:

Affirmations  
instead of  
affidavits

(3) Where a person required or desiring to make an affidavit or deposition in an action or on an occasion where or touching a matter respecting which an oath is required or is lawful, whether on the taking of office or otherwise, refuses or is unwilling on grounds of conscientious scruples to be sworn, the Court, or other officer or person qualified to take affidavits or depositions shall permit the person, instead of being sworn, to make his affirmation in the words "I solemnly affirm" which affirmation is of the same force and effect as if the person had taken an oath in the usual form.  
R.O.,c.31,s.21.

58. The Act is further amended by repealing paragraph 70(a) and substituting the following:

"(a) he is a Canadian citizen or a permanent resident of Canada,".

59. The Act is further amended by repealing paragraph 70(b) and substituting the following:

"(b) he resides within the Territories,".

#### EXEMPTIONS ACT

60. The Exemptions Act is amended by repealing section 7 and substituting the following:

"Deceased debtor

7. The chattels of a debtor that are exempt from seizure are exempt from the claims of his creditors after his death, and the debtor's surviving spouse is entitled to retain them for the benefit of himself and his family, or, if there is no surviving spouse, the family is entitled to retain them for its benefit."

61. The Act is further amended by repealing section 8 and substituting the following:

"Right of selection

8. The debtor, the surviving spouse or family of the debtor, or, in the case of an infant, the guardian may select out of any larger number the chattels exempt from seizure."

62. The Act is further amended by repealing paragraph 9(a) and substituting the following:

"(a) to cases where a debtor has absconded or is about to abscond from the Territories leaving no spouse or family behind; or".

Clause 58

Paragraph 70(a) now reads:

Appointment of  
notary public 70. The Commissioner may in his discretion, by one or more commissions, appoint notaries public for the Territories, but no person may be so appointed unless

(a) he is a Canadian citizen or other British subject,

Clause 59

Paragraph 70(b) now reads:

Appointment of  
notary public 70. The Commissioner may in his discretion, by one or more commissions, appoint notaries public for the Territories, but no person may be so appointed unless

(b) he resides within the Territories or is an officer, servant or employee of the Government of Canada,

Clause 60

Section 7 now reads:

Deceased debtor 7. Chattels of a debtor exempt from seizure are exempt from the claims of his creditors after his death, and his widow is entitled to retain them for the benefit of herself and his family, or, if there is no widow, the family of the debtor is entitled to them.

Clause 61

Section 8 now reads:

Right of  
selection 8. The debtor, his widow or family, or, in the case of infants, their guardian, may select out of any larger number the chattels exempt from seizure.

Clause 62

Paragraph 9(a) now reads:

Application 9. Section 3 does not apply  
(a) to cases where a debtor has absconded or is about to abscond from the Territories leaving no wife or family behind; or

INSURANCE ACT

63. The Insurance Act is amended by adding immediately after section 144 the following section:

"Limitation  
to exception  
from liability

144.1. Subparagraph 144(b)(i) does not apply where the cause of action arises on or after the 17th day of April, 1985."

5

INTERPRETATION ACT

64. The Interpretation Act is amended by repealing section 31.

JUDICATURE ACT

65. The Judicature Act is amended by adding immediately after section 19 the following heading and sections:

10

"AMENDMENTS TO THE COMMON LAW

Independent  
spousal  
personality

19.1.(1) For all purposes of the law of the Territories, a married man has a legal personality that is independent, separate and distinct from that of his wife and a married woman has a legal personality that is independent, separate and distinct from that of her husband.

15

Capacity  
of married  
person

(2) A married person has and shall be accorded legal capacity for all purposes and in all respects as if the person were unmarried.

20

Idem

(3) Without limiting the generality of subsections (1) and (2),

25

(a) each of the parties to a marriage has the like right of action in tort against the other as if they were not married;

30

(b) a married woman is capable of acting as guardian ad litem or next friend as if she were an unmarried woman; and

(c) a married woman is capable of acquiring a domicile independent from that of her husband and the same rules shall be applied to determine the domicile of a married woman as for a married man.

35

Clause 63

Section 144 is new.

Subparagraph 144(b)(1) now reads:

Exemptions from  
liability

144. The insurer is not liable under a contract evidenced by a motor vehicle liability policy for any liability,

(b) resulting from bodily injury to or the death of,

- (i) the daughter, son, wife or husband of any person insured by the contract while being carried in or upon or entering or getting on to or alighting from the automobile, or

Clause 64

Section 31 now reads:

Power to award  
both fine and  
imprisonment

31. Where under any enactment now in force or under any future enactment a court or person is empowered or required to award imprisonment, the court or such person may in its discretion, unless such future enactment otherwise provides, award imprisonment with or without hard labour.

Clause 65

The heading, "Amendments to the Common Law" and section 19.1, 19.2 and 19.3 are new.

Limitation	(4) Paragraph (3)(a) does not apply where the cause of action arose before the 17th day of April, 1985.	
Purpose of subsections (1) and (2)	(5) The purpose of subsections (1) and (2) is to make the same law apply, and apply equally, to married men and married women and to remove any difference resulting from any common law rule or doctrine.	5
Construction	(6) Subsections (1) and (2) shall be construed in a way that furthers their purpose.	10
Domicile of minors	19.2.(1) Subject to subsection (2), a child who is a minor,	
	(a) takes the domicile of the child's parents, where both parents have a common domicile;	15
	(b) takes the domicile of the parent with whom the child habitually resides, where the child resides with one parent only;	
	(c) takes the domicile of the father, where the domicile of the child cannot be determined under paragraph (a) or (b); or	20
	(d) takes the domicile of the mother, where the domicile of the child cannot be determined under paragraph (c).	25
Idem	(2) The domicile of a minor who is or has been a spouse shall be determined in the same manner as if the minor were an adult.	
Abolition of action for seduction	19.3. No action shall be brought for seduction."	30

#### JURY ACT

66. The Jury Act is amended by repealing paragraph 5(b) and substituting the following:

"(b) is a Canadian citizen or permanent resident of Canada, and".

35

67. The Act is further amended by repealing paragraph 6(b) and substituting the following:

"(b) possesses any physical or mental disability that is incompatible with the discharge of the duties of a juror."

40

Clause 66

Paragraph 5(b) now reads:

- Persons qualified      5. Subject to this <sup>Act</sup> Ordinance, every person who
- (b) is a Canadian citizen or British subject, and

Clause 67

Paragraph 6(b) now reads:

- Persons not qualified      6. No person is qualified to serve as a juror who
- (b) is afflicted with blindness or deafness, or is a lunatic, idiot or imbecile, or possesses any other physical or mental infirmity incompatible with the discharge of the duties of a juror.

LANDLORD AND TENANT ACT

68. The Landlord and Tenant Act is amended by repealing paragraph 65(6)(a) and substituting the following:

"(a) the tenants are a married couple or cohabiting as husband and wife and because of the deterioration of health and physical condition of the spouse who pays the rent, the tenants are unable to pay their rent,". 5  
10

69. The Act is further amended by repealing paragraph 65(6)(b) and substituting the following:

"(b) the tenant is unmarried or is not cohabiting as husband or wife or is a widow or a widower and because of the deterioration of health and physical condition of the tenant, he or she is unable to pay the rent,". 15

70. The Act is further amended by repealing paragraph 65(6)(c) and substituting the following:

"(c) the tenants are a married couple or cohabiting as husband and wife and one of the spouses dies and the income of the surviving spouse is insufficient to pay the rent, or". 20  
25

71. The Act is further amended by repealing paragraph 65(6)(d) and substituting the following:

"(d) the tenant is unmarried or is not cohabiting as husband or wife or is a widow or a widower who dies during the term of the tenancy agreement,". 30

LIMITATION OF ACTIONS ACT

72. The Limitation of Actions Act is amended by repealing paragraph 3(1)(d) and substituting the following:

"Trespass to person

(d) actions for trespass to the person, assault, battery, wounding or other injury to the person, whether arising from an unlawful act or from negligence, or for false imprisonment or malicious prosecution within two years after the cause of action arose;" 35  
40



Clause 68

Paragraph 65(6) (a) now reads:

Inability to pay rent (6) Notwithstanding any other provision of this <sup>Act</sup> Ordinance, where

- (a) the tenants are a married couple and because of the deterioration of health and physical condition of the spouse who pays the rent, the tenants are unable to pay their rent,

Clause 69

Paragraph 65(6) (b) now reads:

Inability to pay rent (6) Notwithstanding any other provision of this <sup>Act</sup> Ordinance, where

- (b) the tenant is unmarried or a widow or widower and because of the deterioration of health and physical condition of the tenant he or she is unable to pay the rent,

Clause 70

Paragraph 65(6) (c) now reads:

Inability to pay rent (6) Notwithstanding any other provision of this <sup>Act</sup> Ordinance, where

- (c) the tenants are married couple and one of the spouses dies and the income of the surviving spouse is insufficient to pay the rent, or

Clause 71

Paragraph 65(6) (d) now reads:

Inability to pay rent (6) Notwithstanding any other provision of this <sup>Act</sup> Ordinance, where

- (d) the tenant is unmarried or a widow or a widower who dies during the term of the tenancy agreement,

Clause 72

Paragraph 3(1) (d) now reads:

Periods of limitations

Trespass to person

3. (1) The following actions shall be commenced within and not after the times respectively hereinafter mentioned:

- (d) actions for trespass to the person, assault, battery, wounding or other injury to the person, whether arising from an unlawful act or from negligence, or for false imprisonment, or for malicious prosecution or for seduction within two years after the cause of action arose;

LIQUOR ACT

73. The Liquor Act is amended by adding immediately after section 10 the following section:

"Special audit	10.1.(1) Subject to subsection (2) it is a condition of every licence issued pursuant to this Act that the Board may authorize and appoint a representative of the Board	5
	(a) to enter at any reasonable time the premises where books, accounts or records of or pertaining to the sale of liquor in any licensed premises are kept, and	10
	(b) inspect, study, audit, or take extracts from such books, accounts or records referred to in paragraph (a).	15
Warrant required to enter residence	(2) Where a premises referred to in paragraph (1)(a) is a residence, a representative of the Board may not enter that residence without the consent of the occupant except under the authority of a warrant issued pursuant to subsection (3).	20
Authority to issue warrant	(3) Where on an <u>ex parte</u> application, a justice of the peace is satisfied by information on oath that there are reasonable grounds to believe that	25
	(a) entry to a residence is necessary for the purpose set out in subsection (1), and	30
	(b) entry to the residence has been refused or that entry to the residence will be refused,	35
	he may issue a warrant under his hand authorizing the representative named in the warrant to enter that residence subject to such conditions as may be specified in the warrant.	35
Use of force	(4) In executing a warrant issued pursuant to subsection (3), the representative named in the warrant shall not use force unless he is accompanied by a peace officer and the use of force has been specifically authorized in the warrant.	40
Seizure	(5) A representative of the Board who is exercising the powers referred to in subsection (1) may, where he has reasonable grounds to believe that an offence under this Act or the regulations has been committed, seize any books, accounts or records.	45

Clause 73

Section 10.1 is new.

Offence (6) Every person having any book, account or record in his possession or under his control pertaining to the sale of liquor, who refuses or fails to produce it or to comply with a request made pursuant to this section, is guilty of an offence." 5

74. The Act is further amended by repealing subsection 17(2) and substituting the following:

"Powers of inspector (2) For the purposes of an investigation under this section, the Board may, by order, 10  
(a) subject to subsections (3) and (5), authorize an inspector to enter and search any premises in which the inspector believes on reasonable grounds there may be evidence relevant to the matters being investigated and seize any documents, records, liquor or any other property belonging to, in the possession or under the control of, any person that the Board considers relevant to the investigation; and 15  
(b) appoint an accountant or other expert to examine documents, records or other property or any matters that the Board considers may be relevant to the investigation." 20  
25

75. The Act is further amended by adding immediately after subsection 17(2) the following subsections:

"Warrant necessary (3) An inspector referred to in paragraph 2(a) shall, prior to exercising his powers under paragraph (2)(a), obtain a warrant issued under subsection (4). 30

Authority to issue warrant (4) Where on an ex parte application a justice of the peace is satisfied by information on oath that there are reasonable grounds to believe that there is in the premises referred to in paragraph (2)(a) 35  
(a) anything on or in respect of which any offence against this Act or the regulations has been or is suspected to have been committed, or 40

Clause 74

Subsection 17(2) now reads:

Idem

(2) Where an investigation is or is about to be undertaken under this section, the Board may, by order,

- (a) authorize an inspector to seize and take possession of any documents, records or other property belonging to, in the possession or under the control of, any person that the Board considers may be relevant to the investigation; and
- (b) appoint an accountant or other expert to examine documents, records or other property or any matters that the Board considers may be relevant to the investigation.

Clause 75

Subsections 17(3), (4), (5) and (6) are new.

- (b) anything that there are reasonable grounds to believe will afford evidence with respect to the commission of an offence under this Act or the regulations, 5
- he may issue a warrant under his hand authorizing the inspector named in the warrant to enter and search the premises subject to such conditions as may be specified in the warrant and to seize any documents, records, liquor or any other property belonging to, in the possession or under the control of any person that the Board considers relevant to the investigation. 10
- Where warrant not necessary (5) Notwithstanding subsection (3), an inspector may exercise any of the powers referred to in paragraph (2)(a) without a warrant if the conditions for obtaining the warrant under subsection (4) exist but by reason of exigent circumstances it would not be practicable to obtain the warrant. 15 20
- Exigent circumstances (6) For the purposes of subsection (5), exigent circumstances include circumstances in which the delay resulting from obtaining a warrant would result in danger to human life or safety or the loss or destruction of evidence." 25
76. The Act is further amended by repealing section 18.
77. The Act is further amended by repealing paragraph 21(1)(a) and substituting the following: 30
- "(a) in the opinion of the Board, is not the true owner of the business carried on at the premises for which the licence is sought;"
78. The Act is further amended by repealing paragraph 91(2)(a) and substituting the following: 35
- "(a) any gambling, drunkenness, or any riotous, quarrelsome, violent or disorderly conduct to take place, or"
79. The Act is further amended by repealing paragraph 91(2)(b). 40

Clause 76

Section 18 now reads:

Special audit

18.(1) It is a condition of every licence issued pursuant to this Ordinance that the Board may at any time authorize and appoint a representative of the Board to enter upon the premises where books, accounts or records of or pertaining to the sale of liquor in any licensed premises are kept and inspect, study, audit, or take extracts from such books, accounts or records.

Seize books

(2) Where the Board has reasonable grounds to suspect that an offence under this Ordinance has been committed, it may seize any books, accounts or records from such premises.

Offence

(3) Every person having any book, account or record in his possession or under his control pertaining to the sale of liquor who refuses or fails to produce it or to comply with a request made pursuant to an authorization of the Board given under subsections (1) or (2) is guilty of an offence.

Clause 77

Paragraph 21(1) (a) now reads:

Persons not  
entitled  
to licences

21.(1) No licence may be granted, renewed or transferred under this Ordinance to or in respect of any person who,

- (a) in the opinion of the Board, is not a fit and proper person or is not the true owner of the business carried on at the premises for which the licence is sought;

Clause 78

Paragraph 91(2) (a) now reads:

Prohibitions

(2) No licensee shall allow in the premises for which the licence is issued

- (a) any gambling, drunkenness or any riotous, quarrelsome, violent or disorderly conduct to take place,

Clause 79

Paragraph 91(2) (b) now reads:

Prohibitions

(2) No licensee shall allow in the premises for which the licence is issued

- (b) any person of notoriously bad character to remain, or



30. The Act is further amended by repealing subsection 97(3) and substituting the following:

"Powers of justice

(3) A justice acting under subsection (1), has the power

- (a) to compel the attendance of witnesses, other than the person who is the subject of the hearing,
- (b) to order the production of documentary or other evidence, and
- (c) to take such other steps as are necessary for a full and proper hearing."

5

10

81. The Act is further amended by repealing subsection 116(3) and substituting the following:

"Search warrant

(3) Where on an ex parte application a justice who is satisfied by information on oath that there are reasonable grounds to believe that liquor is unlawfully kept or had, or kept or had for unlawful purposes, in any residence, building or place, he may issue a warrant under his hand authorizing a peace officer named in the warrant at any time, including Sunday or other holiday, and by day or by night, to enter the residence, building or place and search for liquor, and, for the purpose of exercising his authority under this subsection, a peace officer may, with such assistance as he deems necessary, break open any door, window, lock, fastener, floor, wall, ceiling, compartment, plumbing fixture, box, container or any other thing."

15

20

25

30

82. The Act is further amended by repealing subsection 122(1) and substituting the following:

"Officer may demand name and address

122.(1) Any peace officer who, pursuant to this Act, enters any licensed premises or any residence, building or place and seizes any liquor may

- (a) demand the name and address of any person found in the licensed premises, residence, building or place, whom he has reasonable grounds to believe has committed or is suspected to have committed an offence under this Act or the regulations; and
- (b) arrest that person without warrant, if the peace officer has reasonable and probable grounds to believe that the name or address given is false."

35

40

45

Clause 80

Subsection 97(3) now reads:

Powers of  
justice

(3) A justice acting under subsection (1), has the power to compel the attendance of witnesses, the production of documentary or other evidence and to take such other steps as are necessary for a full and proper hearing.

Clause 81

Subsection 116(3) now reads:

Search  
warrant

(3) A justice who is satisfied by information upon oath that there are reasonable grounds for believing that liquor is unlawfully kept or had, or kept or had for unlawful purposes, in any residence, building or place may issue a warrant under his hand authorizing a peace officer named therein at any time, including Sunday or other holiday, and by day or by night, to enter the residence, building or place and search for liquor, and, for the purpose of exercising his authority under this subsection, a peace officer may, with such assistance as he deems necessary, break open any door, window, lock, fastener, floor, wall, ceiling, compartment, plumbing fixture, box, container or any other thing.

Clause 82

Subsection 122(1) now reads:

Officer may  
demand name  
and address

Act 122.(1) Any peace officer who, pursuant to this Ordinance, enters any licensed premises or any residence, building or place and seizes any liquor may demand the name and address of any person found therein and, if the peace officer has reasonable and probable grounds to believe that the name or address given is false, the peace officer may arrest that person without warrant.

LORD'S DAY ACT

83. The Lord's Day Act is repealed.

MAINTENANCE ACT

84. The Maintenance Act is amended by repealing subsection 3(1) and substituting the following: 5

"Duty to provide maintenance

3.(1) The spouse, father, mother and child of any person who is  
(a) poor, and  
(b) unable to work because of age, mental or physical disability or other cause beyond the control of the person, shall provide maintenance, including adequate food, clothing, medical aid and lodging, for that person." 10

85. The Act is further amended by repealing subsection 4(2) and substituting the following: 15

"Liability

(2) Subject to this Act, liability under this Act does not arise for  
(a) a parent, unless that parent is able to maintain the person in respect of whom the order is sought; 20  
(b) a grandparent, unless that grandparent is able and no parent is able to maintain the person in respect of whom the order is sought; or  
(c) a grandchild, unless that grandchild is able and no child is able to maintain the person in respect of whom the order is sought."

86. The Act is further amended by adding immediately after section 4 the following section: 30

"Pledging credit for necessaries

4.1.(1) During cohabitation, a spouse has authority to render himself or herself and his or her spouse jointly and severally liable to a third party for necessaries of life, unless the spouse has notified the third party that he or she has withdrawn the authority. 35

Common law supplanted

(2) The provisions of this section apply in place of the rules of common law by which a wife may pledge the credit of her husband." 40

Clause 83

The Lord's Day Act was reads:

**ACT**  
AN ORDINANCE RESPECTING THE LORD'S DAY

SHORT TITLE

**Act** **Act**  
1. This Ordinance may be cited as the Lord's Day <sup>Act</sup> Ordinance. Short title  
1964(1<sup>st</sup>), c. 8, s. 1.

INTERPRETATION

2. In this Ordinance Act Definitions
- (a) "council" means the council of a municipality. "council"  
(b) "elector" means any person eligible to vote at an election in "elector"  
a municipality.  
(c) "municipality" means a municipality as defined in the "municipality"  
Municipal Ordinance.  
(d) "settlement" means any area, of not more than ~~seventy-five~~ <sup>sixty-five</sup> "settlement"  
~~square miles~~ having a resident population in excess of two  
hundred persons and not forming part of a municipality.  
1964(1<sup>st</sup>), c. 8, s. 2; 1969(2<sup>nd</sup>), c. 18, s. 1; 1977 (3<sup>rd</sup>), c. 2, s. 12.

SUNDAY SPORTS AND OTHER PERFORMANCES

3. (1) Subject to the provisions of a by-law passed under this Sunday sports  
may be made  
lawful  
section, and while that by-law is in force, it is lawful in the municipal-  
ity or in such part or parts thereof as are specified in the by-law for  
any person, after 1:30 o'clock in the afternoon of the Lord's Day or  
during such period or periods of time after 1:30 o'clock in the after-  
noon of the Lord's Day as are specified in the by-law, to provide,  
engage in, or be present at, any public game or sport that is specified  
in the by-law and that but for this Ordinance would be unlawful under  
section 6 of the Lord's Day Act (Canada) or to do or engage any other  
person to do any work, business or labour in connection with any such  
public game or sport that but for this Ordinance would be unlawful  
under section 4 of the Lord's Day Act. **Act**
- (2) Subject to subsection (5), a council may pass a by-law, In planning  
by-law  
authorized
- (a) providing that subsection (1) applies in the municipality or  
specifying a part or parts of the municipality in which sub-  
section (1) applies.

- (b) providing that subsection (1) applies after 1.30 o'clock in the afternoon of the Lord's Day or specifying the period or periods of time after 1.30 o'clock in the afternoon of the Lord's Day during which subsection (1) applies, and
- (c) specifying the public games or sports to which subsection (1) applies

Variation in  
by law  
authorized

(3) Any provision of a by-law under this section may differ in different parts of the municipality and in respect to different public games or sports

Municipal

(4) A by-law under this section shall not specify horse-racing as a public game or sport

Vote before  
passing of by-law

(5) No by-law under this section shall be passed until the following question has been submitted to and has received the affirmative vote of a majority of the electors who vote on the question

Are you in favour of public games and sports for gain after 1.30 o'clock in the afternoon of the Lord's Day to be regulated by municipal by-law under the authority of the Lord's Day Ordinance?

Vote before  
repeal of by-law

(6) No by-law passed under this section shall be repealed until the following question has been submitted to and has received the affirmative vote of a majority of the electors who vote on the question

Are you in favour of the repeal of the by-law, passed under the authority of the Lord's Day Ordinance, that regulates public games and sports for gain after 1.30 o'clock in the afternoon of the Lord's Day? 1964(14), c. 8, s. 3.

Sunday movies  
etc. may be  
made lawful

4. (1) Subject to the provisions of a by-law passed under this section, and while that by-law is in force, it is lawful in the municipality or in such part or parts thereof as are specified in the by-law for any person, after 1.30 o'clock in the afternoon of the Lord's Day or during such period or periods of time after 1.30 o'clock in the afternoon of the Lord's Day as are specified in the by-law, to provide, engage in, or to be present at, any exhibition of moving pictures or any theatrical performance, any concert or any lecture or such of them as are specified in the by-law and that but for this Ordinance would be unlawful under section 6 of the Lord's Day Act, or to do so or engage any other person to do any work, business or labour in connection with any such exhibition of moving pictures, theatrical performance, concert or lecture, as the case may be, that but for this Ordinance would be unlawful under section 4 of the Lord's Day Act.

Implementing  
by-law  
authorized

(2) Subject to subsection (4), a council may pass a by-law,

- (a) providing that subsection (1) applies in the municipality or specifying a part or parts of the municipality in which subsection (1) applies;

(b) providing that subsection (1) applies after 1.30 o'clock in the afternoon of the Lord's Day or specifying the period or periods of time after 1.30 o'clock in the afternoon of the Lord's Day during which subsection (1) applies, and

(c) specifying that subsection (1) applies to the exhibition of moving pictures, theatrical performances, concerts and lectures or any one or more of them.

(3) Any provision of a by-law under this section may differ in different parts of the municipality and in respect of the exhibition of moving pictures, theatrical performances, concerts or lectures. Variation in by-law authorized

(4) No by-law under this section shall be passed until the following question has been submitted to and has received the affirmative vote of a majority of the electors who vote on the question: Vote before passing of by-law

Are you in favour of moving pictures, theatrical performances, concerts and lectures (or, as the case may be) for gain after 1.30 o'clock in the afternoon of the Lord's Day to be regulated by municipal by-law, under the authority of the Lord's Day ~~and~~ Act?

(5) The question set out in subsection (4) may be varied by deleting therefrom any one or more of the expressions "moving pictures", "theatrical performances", "concerts" or "lectures" as the council by resolution determines. Variation of question

(6) No by-law under this section shall be repealed until the following question has been submitted to and has received the affirmative vote of a majority of the electors who vote on the question: Vote before repeal of by-law

Are you in favour of the repeal of the by-law, passed under the authority of the Lord's Day ~~and~~ Act, that regulates moving pictures, theatrical performances, concerts and lectures (or, as the case may be) for gain after 1.30 o'clock in the afternoon of the Lord's Day?

(7) The expression "concert" in this section does not include a concert of an artistic and cultural nature that is governed by section 7.1964(1), c. 8, s. 4. "concert" defined

5. (1) The council may submit any question set out in this ~~Ordinance~~ <sup>Act</sup> to the electors at any time. When question may be submitted

(2) Upon the presentation of a petition requesting that a question under this ~~Ordinance~~ <sup>Act</sup> be submitted to the electors, signed by at least ten per cent of the electors in the municipality, the council shall, before or at the next municipal election, submit the question to the electors, but, if a petition is presented in the month of November or December in any year, it shall be deemed to be presented in the month of February next following. Petition

idem

(3) A petition mentioned in subsection (2) shall be deemed to be presented when it is lodged with the secretary-treasurer of the municipality and the sufficiency of the petition shall be determined by him and his certificate as to its sufficiency is conclusive for all purposes 1964(11), c. 8, s. 5

Regulation and control

6. Every by-law under this <sup>Act</sup> Ordinance shall provide for the regulation and control of the activities specified therein, and may provide for the regulation and control of any matter or thing in connection therewith. 1964(11), c. 8, s. 6

Sunday musical concerts lawful

7. It is lawful for any person after 1:30 o'clock in the afternoon of the Lord's Day to provide, engage in, or be present at any concert, recital or other musical performance of an artistic and cultural nature produced by a non-profit organization at which an admission fee is charged and that but for this Ordinance would be unlawful under section 6 of the Lord's Day Act, or to do or engage any other person to do any work, business or labour in connection with any such concert, recital or other musical performance that but for this ~~Order~~ <sup>Act</sup> would be unlawful under section 8 of the Lord's Day Act. 1964(11), c. 8, s. 7.

Permitter for Sunday sports meetings in settlement

8. (1) Where a majority of the persons in a settlement who are nineteen years of age or over, and who have been ordinarily resident in the settlement for three months or more, present to the Commissioner satisfactory evidence of their desire to permit in the settlement the same activities that, in the case of a municipality, may be made the subject of a by-law under the provisions of this ~~Ordinance~~, the Commissioner may permit such activities within the settlement upon terms that shall conform as far as possible to the terms that would govern similar activities in a municipality.

Revoking or limiting permission

(2) The Commissioner may, in his discretion, revoke or limit the permission given under subsection (1). 1964(11), c. 8, s. 8.

Repeal of s. 20 of the Motion Pictures Ordinance Act  
Orders made under repealed section

9. (1) Section 20 of the Motion Pictures <sup>Act</sup> Ordinance is repealed.

(2) Notwithstanding subsection (1), each of the orders made under section 20 of the Motion Pictures ~~Ordinance~~ before the twelfth day of June 1964 and more particularly described in the Schedule continues in force and subject to the limitations contained therein in the municipality or settlement to which the order applies as if the order had been made pursuant to section 4 for the municipality or section 8 for the settlement, as the case may be.

Revocation of orders

(3) Subject to subsection (4), an order referred to in subsection (2) may be revoked

(a) in the case of an order applying in a settlement, by the Commissioner in his discretion, and

(b) in the case of an order applying in a municipality, only after the revocation is approved by the affirmative vote of a majority of the electors who vote on the question:

Are you in favour of the revocation of the order referred to in section 9 of the Lord's Day ~~Ordinance~~ that regulates moving pictures after 1:30 o'clock in the afternoon of the Lord's Day?

which vote shall be held in the same manner and under the same rules as a vote upon a by-law under section 4.

(4) When a by-law, passed under subsection (1), comes into force in a municipality in which an order referred to in subsection (2) of this section applies, the order is revoked by the by-law.

Schedule

1. That order (no. 110-49) applying to the settlement of Inuvik, dated the 26<sup>th</sup> day of May 1959, and made at Ottawa by the Deputy Commissioner.
2. That order (no. 100-197) applying to the settlement of Fort Simpson, dated the 2<sup>nd</sup> day of January 1959, and made at Ottawa by the Deputy Commissioner.
3. That order (no. 199-58) applying to the settlement of Akleivik, dated the 3<sup>rd</sup> day of December 1958, and made at Ottawa by the Deputy Commissioner.
4. That order applying to the municipal district of Has River, dated the 16<sup>th</sup> day of December 1957, and made at Ottawa by the Commissioner.
5. That order applying to the local improvement district of Fort Smith, dated the 1<sup>st</sup> day of April 1957, and made at Ottawa by the Commissioner.
6. That order applying to the local administrative district of Yellowknife, dated the 3<sup>rd</sup> day of June 1959, and made at Ottawa by the Deputy Commissioner.

1964(1<sup>st</sup>), c. 8, Sched

Clause 84

Subsection 3(1) now reads:

3. (1) The spouse, father, mother and children of every old, blind, lame, mentally deficient or impotent person or any other poor person who is not able to work shall provide maintenance, including adequate food, clothing, medical aid and lodging, for such person.

Duty to provide maintenance

Clause 85

Subsection 4(2) now reads:

Liability of mother, grandparent and grandchild

(2) Subject to this Ordinance, liability under this Ordinance <sup>Act</sup> does not arise

- (a) in the case of a mother, unless the father is unable and the mother is able to maintain the person in respect of whom the order is sought,
- (b) in the case of a grandfather, unless both the father and mother are unable and the grandfather is able to provide such maintenance,
- (c) in the case of a grandmother, unless the father, mother and grandfather are all unable and the grandmother is able to provide such maintenance, and
- (d) in the case of a grandchild, where the child of the person in respect of whom the order is sought is able to maintain such person.

Clause 86

Section 4.1 is new.



MAINTENANCE ORDERS  
(FACILITIES FOR ENFORCEMENT) ACT

87. The Maintenance Orders (Facilities for Enforcement) Act is amended by repealing paragraph 2(d) and substituting the following:

"maintenance order"

(d) "maintenance order" means an order, other than an order of affiliation, for the periodical payment of sums of money towards the maintenance of a spouse or other dependants of the person against whom the order is made."

5

10

MARRIAGE ACT

88. The Marriage Act is amended by repealing section 19 and substituting the following:

"Consent

19.(1) No person shall perform a marriage ceremony where he knows or has reason to believe that either of the contracting parties is incapable of giving a valid consent.

15

Application to Court

(2) Where a person has refused to perform a marriage ceremony pursuant to subsection (1), either of the contracting parties may apply, by originating notice, to the Court for a review of the decision and the Court may

20

(a) confirm the decision, or

(b) quash the decision and order that a marriage ceremony may be performed between the parties."

25

MARRIED WOMEN'S PROPERTY ACT

89. The Married Women's Property Act is amended by repealing section 3.

30

90. The Act is further amended by repealing subsection 4(1).

91. The Act is further amended by repealing subsection 4(2) and substituting the following:

"Saving provision

(2) Nothing in section 19.1 of the Judicature Act interferes with or renders inoperative a restriction upon anticipation or alienation attached to the enjoyment of any property and contained in an instrument executed prior to the 1st day of April, 1955."

35

40

Clause 87

Paragraph 2(d) now reads:

2. In this Ordinance <sup>Act</sup>

Definitions

- (d) "maintenance order" means an order, other than an order of affiliation, for the periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made.  
R.O.,c.63,s.2.

Clause 88

Section 19 now reads:

- Lunacy 19. (1) No person shall perform a marriage ceremony where he knows that either of the contracting parties is a lunatic so formally declared under any law or Ordinance in force in the Territories.
- Idem (2) No person shall go through a form of marriage with any person in the Territories where he knows that such person is a lunatic so formally declared under any law or Ordinance in force in the Territories. R.O.,c.64,s.19.

Clause 89

Section 3 now reads:

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

Capacity and liabilities of married woman

in all respects as if she were unmarried. R.O.,c.65,s.3.

Clause 90

Subsection 4(1) now reads:

4. (1) All property that
- (a) immediately prior to the 1st day of April 1955, was the property of a married woman.
- (b) belongs, at the time of her marriage, to a woman married after the 31st day of March 1955, or
- (c) after the 31st day of March 1955, is acquired by, or devolves upon, a married woman,
- belongs to her in all respects as if she were unmarried and may be dealt with accordingly.

Property of married woman

**Clause 91**

**Subsection 4(2) now reads:**

**Saving provision** (2) Nothing in subsection (1) interferes with or renders inoperative a restriction upon anticipation or alienation attached to the enjoyment of any property and contained in an instrument executed prior to the 1st day of April 1955.

92. The Act is further amended by repealing section 5.

93. The Act is further amended by repealing section 6.

94. The Act is further amended by repealing section 7.

5

#### MECHANICS' LIEN ACT

95. The Mechanics' Lien Act is amended by repealing subsection 6(2) and substituting the following:

"Estate  
of spouse

(2) Where labour is performed at the instance of a person in respect of a building, erection or mine on property belonging to the spouse of that person, the lien for wages given by this section shall attach to the estate or interest of the spouse in the property as well as to that of the person at whose instance the labour is performed."

10

15

#### MUNICIPAL ACT

96. The Municipal Act is amended by repealing paragraph 283(2)(c) and substituting the following:

20

"(c) is the spouse and cohabitant of a person who is liable to the municipality for taxes in respect of lands owned or occupied by that person."

#### PARTNERSHIP ACT

25

97. The Partnership Act is amended by repealing subparagraph 4(c)(iii) and substituting the following:

"(iii) a person who is the surviving spouse or child of a deceased partner and receives by way of annuity a portion of the profits made in the business in which the deceased person was a partner is not, by reason only of that receipt, a partner in the business or liable as such;"

30

35

Clause 92

Section 5 now reads:

Limitations on  
husband's  
liability

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

(a) in respect of a tort committed by her before or after marriage; or

(b) in respect of a contract entered into, or a debt or obligation incurred by her before marriage. R.O.,c.65,s.5.

Clause 93

Section 6 now reads:

Saving provision

6. Nothing in this Ordinance Act

(a) exempts a husband from liability in respect of any contract entered into, or debt or obligation incurred by his wife after marriage in respect of which he would be liable if this Ordinance had not been passed;

(b) prevents a husband and wife from acquiring, holding or disposing of property jointly or as tenants in common, or from rendering themselves or being rendered jointly liable in respect of any tort, contract, debt or obligation, or from suing or being sued in tort, contract or otherwise in like manner as if they were not married; or

(c) prevents the exercise by a husband and wife of any joint power given to the husband and wife. R.O.,c.65,s.6.

Clause 94

Section 7 now reads:

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

Remedies for  
protection of  
property

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

Idem

(3) Subject to subsections (1) and (2), no husband or wife is entitled to sue the other in tort, except in respect of a tort committed while living apart under a separation agreement or under a decree or order for judicial separation. R.O.,c.65,s.7.

Actions in tort

Clause 95

Subsection 6(2) now reads:

Estate of wife

(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.

Clause 96

Paragraph 283(2) (c) now reads:

(2) Subsection (1) does not apply in respect of any person who Saving provision

(c) is the wife of a man living with her husband who is liable to the municipality for taxes in respect of lands owned or occupied by him.

Clause 97

Subparagraph 4(c) (iii) now reads:

4. In determining whether a partnership does or does not exist, Rules for determining existence of partnership  
regard shall be had to the following rules:

(iii) a person being the widow or child of a deceased partner, and receiving by way of annuity a portion of the profits made in the business in which the deceased person was a partner, is not by reason only of such receipt a partner in the business or liable as such;

PHARMACY ACT

98. The Pharmacy Act is amended by repealing paragraph 4(1)(b) and substituting the following:

- "(b) satisfies the Commissioner that he
- (i) is registered as a pharmaceutical chemist in a province or the Yukon Territory, or holds a certificate of qualification as a practising pharmaceutical chemist issued by the Pharmacy Examining Board of Canada, and 5
  - (ii) has not been removed from the register of pharmaceutical chemists or had his privileges as a practising pharmaceutical chemist suspended in any province or the Yukon Territory for disciplinary reasons, or". 10 15

99. The Act is further amended by adding immediately after subsection 4(2) the following subsections: 20

"Saving provision

(3) Paragraph (1)(b) does not affect the registration of any person who is registered in the register at the coming into force of paragraph (1)(b). 25

Exception

(4) The Commissioner may register a person who does not qualify under subparagraph 4(1)(b)(i), for a single period of one year, for the purpose of giving the person an opportunity to obtain the necessary qualifications under subparagraph 4(1)(b)(i), where 30

(a) the person satisfies the Commissioner that he is professionally qualified and proficient to practise as a pharmaceutical chemist; and 35

(b) the Commissioner is satisfied that special circumstances exist that necessitate registering such a person.

Determining qualifications and professional proficiency

(5) For the purpose of determining professional qualifications and proficiency under subsection (4), the Commissioner may obtain the advice and assistance of professional and academic bodies and individuals in the field of pharmaceutical chemistry." 40 45

Clause 98

Paragraph 4(1)(b) now reads:

Qualifications for  
registration

4. (1) A person who

(b) produces to the Commissioner a certificate under the hand of the proper authority that he has the right to practise the profession of pharmaceutical chemist in any province, in the United Kingdom or in any part of Her Majesty's dominions and satisfies the Commissioner that he is the person named in the certificate, and is a suitable person, or

<sup>prescribed by the regulations</sup>  
and who pays the fee ~~required by this Ordinance~~ is entitled to be registered in the register.

Clause 99

Subsections 4(3), (4) and (5) are new.



100. The Act is further amended by repealing paragraph 9(1)(a) and substituting the following:

"(a) satisfies the Commissioner of those matters referred to in subparagraphs 4(1)(b)(i) and (ii); and".

5

101. The Act is further amended by repealing subsection 17(2) and substituting the following:

"Reinstatement  
and renewal

(2) A person whose name has been struck off the register and whose licence to practise has been suspended or cancelled may be reinstated on the register, his licence renewed and his rights and privileges under that licence restored by the Commissioner, upon such terms and conditions as the Board of Inquiry may recommend and notwithstanding that the person may not then be entitled to be registered pursuant to section 4, where the Board is of the opinion that the reinstatement and renewal is justified having regard to the present circumstances of the person."

10

15

20

#### PUBLIC SERVICE ACT

102. The Public Service Act is amended by repealing section 18 and substituting the following:

"Qualifications

18.(1) The Commissioner may, in relation to any position or any class or grade, establish the qualifications that in his opinion are necessary or desirable having regard to the nature of the duties to be performed.

25

Discrimination

(2) In establishing qualifications pursuant to subsection (1), the Commissioner shall not discriminate against any person including discrimination by reason of race, national or ethnic origin, colour, religion, sex, age or physical or mental disability unless

30

(a) it is reasonable and bona fide in the circumstances; or

35

(b) it is part of a program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability."

40

Clause 100

Paragraph 9(1) (a) now reads:

Temporary  
licence

9. (i) The Commissioner may grant a temporary licence to practise the profession of pharmaceutical chemist for a period specified by the Commissioner not exceeding six months and upon such other terms and conditions as the Commissioner may specify in the licence to any person who

(a) produces to the Commissioner a certificate under the hand of the proper authority that he has the right to practise the profession of pharmaceutical chemist in any province of Canada, England, Scotland, Northern Ireland, New Zealand or Australia and satisfies the Commissioner that he is the person named in the certificate, and is a suitable person;

and  
(b) ~~pays a fee of ten dollars.~~ <sup>the prescribed by the regulations.</sup> ~~100-100-100~~

Clause 101

Section 17(2) now reads:

(2) A pharmaceutical chemist whose name has been struck off <sup>Reinstatement</sup> the register and whose licence to practise has been suspended or cancelled may be reinstated on the register, his licence renewed and his rights and privileges thereunder restored in such manner and upon such conditions as the Commissioner in his discretion may decide. R.O., c.77, s.16.

Clause 102

Section 18 now reads:

18. The Commissioner may in relation to any position or any <sup>Qualifications</sup> class or grade prescribe qualifications as to age, residence or any other matter that in his opinion are necessary or desirable having regard to the nature of the duties to be performed, but in so doing the Commissioner shall not discriminate against any person by reason of race, national origin, or religion.

PUBLIC TRUSTEE ACT

103. The Public Trustee Act is amended by repealing subparagraph 11(1)(b)(i) and substituting the following:

"(i) of a spouse or child or reputed child of the missing person, or". 5

SEDUCTION ACT

104. The Seduction Act is repealed.

TRUSTEE ACT

10

105. The Trustee Act is amended by repealing section 19.

106. The Act is further amended by repealing section 24 and substituting the following:

"Breach of trust

24. Where a trustee has committed a breach of trust at the instigation or request or with the consent in writing of a beneficiary, a judge may, if he thinks fit, make such order as to the judge seems just for impounding all or part of the interest of the beneficiary in the trust estate by way of indemnity to the trustee or person claiming through him." 15  
20

VITAL STATISTICS ACT

107. The Vital Statistics Act is amended by repealing subsection 3(5) and substituting the following: 25

"Child of married woman

(5) Except as provided in subsection (6), the birth of a child of a married woman shall be registered showing  
(a) the surname of the husband,  
(b) the surname of the mother, or  
(c) a hyphenated or combined surname comprised of the surname of the husband and the surname of the mother,  
as the surname of the child, and the particulars of the husband shall be given as those of the father of the child." 30  
35

Clause 103

Subparagraph 11(1) (b) (i) now reads:

11. (1) The Public Trustee without a further order of a judge may pay out of the capital or income of the property of a person declared to be a missing person

(b) such payments and allowances as are necessary for the support or maintenance

(i) of a wife or child or reputed child of the missing person, or

Clause 104

The Seduction Act now reads:

AN ORDINANCE RESPECTING ACTIONS FOR SEDUCTION

SHORT TITLE.

1. This Ordinance may be cited as the Seduction <sup>Act</sup> Ordinance. Short title  
R O, c 88, s 1.

ACTIONS FOR SEDUCTION

2. (1) The father, or where the father is deceased, the mother (whether she is a widow or has remarried), of any unmarried female who has been seduced and for whose seduction the father or mother could maintain an action if the unmarried female was at the time of her seduction dwelling under his or her protection may maintain an action for her seduction notwithstanding that the unmarried female was at the time of her seduction serving or residing with another person upon hire or otherwise. Acted by father or mother

(2) At the trial of an action for seduction under subsection (1), it is not necessary to prove any act of service performed by the party seduced but the same shall be presumed and no evidence to the contrary shall be received. Proof of service not required R O, c 88, s 2.

3. Any person who, by reason of the relation of master or otherwise, is entitled at common law to maintain an action for the seduction of any unmarried female may maintain such action where the father or mother entitled to maintain such action under section 2 Acted by other persons

(a) had, before the seduction, abandoned the female seduced and had refused to provide for and retain her as an inmate of his or her home. Abandonment by father or mother

(b) is not resident in the Territories at the time of the birth of any child born in consequence of the seduction; or Non-residence of father or mother

(c) is resident in the Territories but does not bring an action for the seduction within six months from the date of the birth of any child born in consequence of the seduction. Where no action by father or mother

Clause 105

Section 19 now reads:

~~Conveyances by  
married women  
as bare trustees~~

19. Where a freehold hereditament is vested in a married woman as bare trustee she may convey or surrender the same as if she were a feme sole and without her husband joining in the conveyance.

Clause 106

Section 24 now reads:

24. Where a trustee has committed a breach of trust at the instigation or request or with the consent in writing of a beneficiary, a judge may, if he thinks fit, and notwithstanding that the beneficiary is a married woman entitled for her separate use, whether with or without a restraint upon anticipation, make such order as to the judge seems just for impounding all or any part of the interest of the beneficiary in the trust estate by way of indemnity to the trustee or person claiming through him.

~~Trustee committing breach of trust at instigation of beneficiary~~

Clause 107

Subsection 3(5) now reads:

(5) Except as provided in subsection (6), the birth of a child of a married woman shall be registered showing the surname of the husband as the surname of the child, and the particulars of the husband shall be given as those of the father of the child.

~~Child of married woman~~

108. The Act is further amended by repealing subsection 3(6) and substituting the following:

"Idem

(6) Where a child is born to a married woman, if she files with the district registrar a statutory declaration that at the time of conception she was living separate and apart from her husband, and that her husband is not the father of the child, no particulars as to the father shall be given in the statement required under subsection (2) unless the mother and a person acknowledging himself to be the father jointly so request in writing, in which case the particulars of the person acknowledging himself to be the father may be given as the particulars of the father, and the birth may be registered showing

5

10

15

(a) the surname of the person acknowledging himself to be the father,

(b) the surname of the mother, or

(c) a hyphenated or combined surname comprised of the surname of the person acknowledging himself to be the father and the surname of the mother,

20

as the surname of the child, and, if the request is made after the registration of the birth, the Registrar General may amend the registration in accordance with the request by making the necessary notation on the registration."

25

109. The Act is further amended by repealing subsection 3(8) and substituting the following:

30

"Idem

(8) Where an unmarried woman who is the mother of a child and a person acknowledging himself to be the father jointly so request in writing, the particulars of the person acknowledging himself to be the father may be given as the particulars of the father, and the birth may be registered showing

35

(a) the surname of the person acknowledging himself to be the father,

(b) the surname of the mother, or

(c) a hyphenated or combined surname comprised of the surname of the person acknowledging himself to be the father and the surname of the mother,

40

45

as the surname of the child, and, if the request is made after the registration of the birth, the Registrar General may amend the registration in accordance with the request by making the necessary notation on the registration."

50

Clause 108

Subsection 3(6) now reads:

(6) Where a child is born to a married woman, if she files with <sup>idem</sup> the district registrar a statutory declaration that at the time of conception she was living separate and apart from her husband, and that her husband is not the father of the child, no particulars as to the father shall be given in the statement required under subsection (2) unless the mother and a person acknowledging himself to be the father jointly so request in writing, in which case the particulars of the person so acknowledging may be given as the particulars of the father, and the birth may be registered showing the surname of the father, and the birth may be registered showing the surname of the person so acknowledging as the surname of the child and, if the request is made after the registration of the birth, the Registrar General may amend the registration in accordance with the request by making the necessary notation thereon.

Clause 109

Subsection 3(8) now reads:

(8) Where an unmarried woman who is the mother of a child and <sup>idem</sup> a person acknowledging himself to be the father jointly so request in writing, the particulars of the person so acknowledging may be given as the particulars of the father, and the birth may be registered showing the surname of the person so acknowledging as the surname of the child and, if the request is made after the registration of birth, the Registrar General may amend the registration in accordance with the request by making the necessary notation thereon.

110. The Act is further amended by repealing subsection 3(8.1) and substituting the following:

"Consent

(8.1) Where subsection (5), (6) or (8) applies to a registration, a person referred to in subsection (2) shall include, with the statement respecting the birth, the consent, in the prescribed form, of the mother and husband or the person acknowledging himself to be the father, as the case may be, to the surname of the child."

5

10

111. The Act is further amended by repealing subsection 3(8.2) and substituting the following:

"No consent

(8.2) Where a mother and the husband or the person acknowledging himself to be the father, as the case may be, do not comply with subsection (8.1), the Registrar shall register the birth of the child showing a hyphenated surname comprised of the surnames of the mother and the husband or the person acknowledging himself to be the father, as the case may be, in alphabetical order of surname."

15

20

112. This Act is further amended by adding immediately after subsection 3(8.2) the following subsection:

"Amendment of registration

(8.3) Where a birth was registered on or after the 17th day of April, 1985 and before the date of assent to the Statute Law (Canadian Charter of Rights and Freedoms) Amendment Act, a person referred to in subsection (2) may request a change in the surname of the child under paragraph (5)(b) or (c), (6)(b) or (c) or (8)(b) or (c) and shall include with the request the consent referred to in subsection (8.1), and the Registrar General may amend the registration in accordance with the request by making the necessary notation on the registration."

25

30

35

113.(1) Subject to subsections (2) and (3), this Act shall be deemed to have come into force on the 17th day of April, 1985.

40

(2) Sections 18 and 19 of this Act shall come into force on the 1st day of October, 1985.

(3) Sections 23, 24, 29, 30, 31, 32, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 88, 98, 99 and 100 of this Act shall come into force on the date of assent to this Act.

45



Clause 110

Subsection 3(8.1) now reads:

(8.1) Notwithstanding anything in this section, the birth of a <sup>Registration of</sup> child may be registered showing

(a) the surname of the husband, hyphenated or combined with the surname of the mother, where subsection (5) applies to the registration, or

(b) the surname of the person acknowledging himself to be the father, hyphenated or combined with the surname of the mother, where subsections (6) and (8) apply to the registration,

as the surname of the child, upon and in accordance with the joint request in writing of the mother and the husband or the person acknowledging, as the case may be.

Clause 111

(8.2) Where a request is made pursuant to subsection (8.1) after <sup>Amendment of</sup> the registration of the birth, the Registrar General, upon receipt of the <sup>Registration</sup> prescribed fee, may amend the registration in accordance with the request by making the necessary notation thereon.

Clause 112

Subsection 3(8.3) is new.

Clause 113

The coming into force of this Act is the 17th day of April, 1985 except as otherwise provided.