

BILLS BEFORE THE LEGISLATURES

DOMINION

Penitentiaries

The Penitentiary Act, 1939, which has not been proclaimed, provides for the appointment of a penitentiaries commission consisting of three persons. Since that time the government has reconsidered the matter and decided that instead of this administrative body a one-man commission, with two deputy commissioners, should be set up, in order that one person should be responsible to the Minister for the administration of the penitentiaries. To make this change effective, Rt. Hon. Mr. Ilsley, Minister of Justice, introduced on May 1st a bill to amend The Penitentiary Act. In his explanatory remarks he indicated that the act of 1939 would be proclaimed after the amendments are passed. (Bill 177)

ALBERTA

Taxation

The budget speech delivered by the Dominion Minister of Finance on June 27th, 1946, outlined terms on which any province might enter into a tax agreement with the Dominion. The Dominion would grant each province certain minimum annual payments, in return for which the province would agree to forego the imposition of personal income tax and would impose on corporations only a five per cent corporation income tax. In addition, the province would either undertake not to levy succession duties or would accept an appropriate reduction in the annual payments from the Dominion. After negotiations extending over most of the intervening months, the governments of six of the nine provinces have reached an understanding with the Dominion and are introducing legislation to authorize the execution of the proposed agreements. The "agreeing" provinces are Alberta, British Columbia, Manitoba, New Brunswick, Prince Edward Island and Saskatchewan.

In each of these provinces more or less uniform legislation is being introduced to authorize the execution of the agreements and to carry out their terms. The same bill, as a rule, provides for the suspension of personal income taxes, succession duties and corporation taxes, except for a new corporation income tax. Sometimes there is a separate measure to authorize a further agreement whereby the Dominion will collect the corporation income tax on behalf of the province. Further, each of these provinces is introducing a uniform five per cent corporation income tax

measure. (See the note on Saskatchewan legislation in the April issue of *The Canadian Bar Review* at page 412.)

The Alberta legislation on taxation follows this pattern but the bills before the Legislative Assembly do not contain the actual text of the agreement with the Dominion. (Bills 76 and 41)

Automobile Accident Indemnity

In recent years the legislatures of a number of the provinces have been giving particular attention to the problem of assuring compensation for victims of motor vehicle accidents. In 1945 Manitoba enacted the safety-responsibility provisions of its Highway Traffic Act. Saskatchewan followed in 1946 with its new plan for automobile accident compensation. Within the last month bills have been introduced in the Legislative Assemblies of Alberta and Ontario along the lines of the Manitoba legislation.

The main feature of the Alberta bill is the proposal to establish an Unsatisfied Judgment Fund to be raised by adding to the fee for registration of a motor vehicle a sum not exceeding one dollar. Any person who has recovered judgment for damages in excess of one hundred dollars resulting from bodily injuries caused by a motor vehicle and is unable to collect the judgment may apply to a judge of the Supreme Court for payment out of the Fund. Where a person is injured and the owner or driver of the motor vehicle cannot be identified, a procedure is established for commencing an action against the Superintendent of Insurance. If judgment is recovered in this action, it will be paid out of the Fund on order of a judge of the Supreme Court. There is also a provision for the payment out of the Fund of hospital expenses to persons injured in motor vehicle accidents. When such payments are made the Superintendent of Insurance is subrogated in respect of the amount paid in any rights which the person hospitalized has against the person who caused or contributed to the injuries.

Under another section of the bill the Provincial Secretary is required to suspend the licence of any driver involved in a motor vehicle accident which results in bodily injuries or property damage in excess of twenty-five dollars unless and until the driver gives proof of financial responsibility. (Bill 85)

Insurance

On March 5th Hon. Mr. Hooke introduced a bill to make a number of changes in the Alberta Insurance Act. It is proposed to enact the provision to protect the rights of third persons under motor vehicle liability policies which was approved by

the Superintendents of Insurance of the provinces and which, as we have noted, has been introduced in the Legislative Assemblies of Manitoba and Ontario. The 1946 amendments to the Alberta Insurance Act, which have not been proclaimed, are being repealed. However all the 1946 provisions with the exception of the changes in the automobile statutory conditions are included for re-enactment in the present bill. (Bill 58)

An amendment is also proposed to authorize the Government Insurance Office to carry on the business of sickness and accident insurance and automobile insurance (Bill 78).

Mechanics' Liens

At the present time, under the Alberta Land Titles Act there is no requirement that the owner of the land or the person for whom the work was done or the materials furnished be notified of the registration of a mechanic's lien. A bill has been introduced in the Legislative Assembly by Hon. Mr. Maynard to amend the act to require the Registrar to send a notice of the registration of a lien to such persons. (Bill 43)

It is also proposed to amend The Mechanics' Lien Act to provide that a lien will expire six years from the date of registration unless before the expiration of that period a renewal statement is filed showing the amount still owing on the lien (Bill 74).

BRITISH COLUMBIA

Taxation

British Columbia is one of the six provinces which are concluding tax agreements with the Dominion (See page 528 above on the Alberta taxation measures). On March 27th the Minister of Finance of British Columbia introduced in the Legislative Assembly a bill to authorize and implement the proposed agreement, the text of which is contained in an appendix. Legislation has also been brought forward to establish the standard five per cent corporation income tax, which is being enacted by all the "agreeing" provinces. (Bills 86 and 87)

Consumer Credit

During the war the sale of goods on the deferred payment plan was controlled by regulations issued by the Wartime Prices and Trade Board. There now appears to be a movement to have similar regulations made a permanent part of the law of some of the provinces. On March 19th Mr. C. W. Morrow introduced

a bill in the Legislative Assembly of British Columbia to authorize the Lieutenant-Governor in Council to make regulations respecting the sale and purchase of goods on credit or on the deferred payment plan. Every regulation so made will cease to be operative on the date on which the first session of the Legislature in 1948 ends. (Bill 49)

Insurance

The Attorney-General of British Columbia has introduced a bill to make a number of amendments to the Insurance Act. Included among the proposed changes is the uniform provision to protect the rights of third persons under motor vehicles liability policies which, as has been noted above, are before the Legislative Assemblies of Alberta and other provinces. The bill also contains a provision requiring every insurer at the time of the issuance of a motor vehicle owner's liability policy to deliver to the owner a card in a prescribed form to be known as a motor-vehicle liability insurance card. (Bill 75)

MANITOBA

Taxation

Manitoba being one of the "agreeing" provinces, Premier Garson has introduced two bills to authorize and implement the proposed tax agreement with the Dominion (see comments on Alberta tax legislation). The main bill follows the usual form and contains the text of the agreement which is to be signed. The Succession Duty Act is to be suspended in respect to persons who die on or after April 1st, 1947. (Bill 76). The second bill, which is a uniform measure being enacted by all the "agreeing" provinces, provides for the imposition of the five per cent corporation income tax (Bill 38).

Other taxation bills which have been introduced into the Legislative Assembly will increase the provincial tax on gasoline and motive fuel from seven to nine cents a gallon. The increase is to go into effect on April 1st, 1947, the date of the Dominion's withdrawal from this field of taxation. (Bills 68 and 69)

Vacation with Pay

At the present time there is legislation which requires employers to give their employees vacations with pay in British Columbia, Alberta, Saskatchewan, Ontario and Quebec. On April 8th, Hon. Mr. Smith introduced a similar measure in the Legislative Assembly of Manitoba. The bill is to entitle every

employee who has completed a year's service with an employer to a vacation of one week with pay. Unlike the corresponding Ontario statute, the measure defines precisely the year's service which is to be used as a basis for determining the employee's right to holidays with pay. When a plant closes down for the holidays, an employee who is not entitled to vacation with pay must receive either the vacation with pay or an opportunity to earn wages by doing maintenance or other work about the plant. (Bill 77)

Court of Appeal

Attorney-General McLenaghan has introduced an amendment to The Court of Appeal Act, the purpose of which is to expedite the speedy disposal of matters coming before the court. The court is to hold four sessions each year instead of five and the dates for commencement of the sessions are revised. (Bill 92)

NEW BRUNSWICK

Taxation

The New Brunswick tax legislation follows the pattern adopted by the other "agreeing" provinces (see discussion of Alberta tax legislation). On April 3rd the Provincial Secretary introduced a bill to authorize the Province to enter into an agreement with Canada for the temporary suspension of income taxes, corporation taxes, succession duties and taxes on securities and to provide for the temporary suspension of these taxes. The text of the proposed agreement is set out in an appendix to the bill (Bill 107). A second measure provides for the enactment of the five per cent corporation income tax (Bill 111). There is also a bill to authorize the Province to enter into an agreement with the Dominion under which the Dominion Income Tax Department will collect the corporation income tax on behalf of the province (Bill 132) and another to regulate municipal assessments in conformity with the main tax agreement (Bill 155).

A proposed amendment to The Gasoline Sales Act imposes an additional gasoline tax of three cents a gallon to be known as the Winter Roads Gasoline Tax, the proceeds of which are to be used for the removal of snow and sanding on public highways and streets (Bill 100).

Dower

On April 22nd the Attorney General of New Brunswick introduced a bill to change the statute Respecting Dower as

regards divorced wives. A new section is added which provides that when a wife has been divorced from her husband by reason of adultery on her part she shall not be entitled to dower out of any lands of her husband. (Bill 138)

Examination and Licensing of Tradesmen

A bill has been introduced by the Minister of Labour to provide for the examination and licensing of tradesmen engaged in any skilled trade which may be designated by the Governor-in-Council. A Board of Examiners will be set up with power to issue licences to qualified candidates who have successfully passed prescribed examinations in the trade and also to persons engaged in the trade for a period of five or more years before the trade came under the act. When any trade is brought under the statute no person may engage in it without a licence. (Bill 147)

Classification of Places of Public Accommodation

On April 19th the Minister of Lands and Mines introduced in the Legislative Assembly a bill to provide for the classification of hotels, tourist camps, restaurants and other places of public accommodation according to standards of cleanliness, sanitation, construction and facilities. Provision is made for the issuing of insignia denoting the classification. (Bill 127)

NOVA SCOTIA

Labour Relations

The Minister of Labour has introduced in the Legislative Assembly of Nova Scotia a new and comprehensive labour relations law to replace The Wartime Labour Relations Regulations, P.C. 1003, which the Dominion government proposes to revoke.

The legislation covers the same general ground as The Labour Relations Regulations, but differs from the Regulations on a number of important points. The Nova Scotia bill eliminates the distinction between trade unions and employees' associations and provides for the certification of bargaining agents rather than bargaining representatives. Another improvement is the granting of authority to the Board to revoke certification when the bargaining agent no longer represents a majority of employees in the unit for which it was certified.

The act will be administered by a new board to be known as the Labour Relations Board (Nova Scotia). Trade unions

will be required to file with the Minister of Labour copies of their constitutions, by-laws and financial statements and there is a provision to make the treasurer of a trade union more accountable to the members for the funds in his custody. Employers will be obliged to honour written assignments of wages to a trade union (check-off) provided certain conditions are fulfilled. At the end of the bill is a provision to make possible an agreement with the Dominion whereby the same persons may administer the Dominion and provincial legislation on labour relations. (Bill 121)

Notaries Public and Commissioners for Oaths

The Attorney-General of Nova Scotia has proposed two changes in the statute Of Notaries Public and Commissioners for Administering Oaths. The first amendment provides that no oath, affidavit or declaration shall be sufficient if sworn before a person who is a party to the transaction or matter or if sworn before a person employed by such a party. The other change, which does not appear to affect barristers, provides that the commission of commissioners for administering oaths shall, unless sooner revoked, be for a period of two years, but may be renewed without fee. (Bill 29)

Automobile Insurance

Premier Macdonald has introduced a bill to enact the uniform amendment to protect the rights of third parties under motor vehicle liability policies, which is before the Legislative Assemblies of a number of the other provinces. (Bill 48)

ONTARIO

Unsatisfied Judgment Fund

The changes which are being made this year in The Highway Traffic Act are of unusual importance. On March 28th Hon. Mr. Doucett introduced a bill to establish in Ontario an Unsatisfied Judgment Fund similar to that proposed for Alberta (see the note at page 529 on the Alberta automobile accident indemnity legislation). The Fund will be made up from fees not exceeding one dollar for each driver, which are to be paid at the time of the issue or renewal of drivers' licences. As in the Alberta bill, there is provision for payment out of the Fund of unpaid judgments. There is also a procedure for obtaining payment from the Fund when an accident has been caused by a driver whose identity cannot be established.

Other changes include a revision of the provisions for the suspension of owner's and driver's licences upon conviction and an extension of the Minister's powers to require proof of financial responsibility where a person is responsible for an accident or has an unfavourable driving record. (Bill 137)

Taxation

On March 27th Hon. L. M. Frost, Treasurer of the Province of Ontario, introduced in the Legislative Assembly bills to amend The Corporation Tax Act and to suspend the Income Tax Act (Ontario). As indicated in Mr. Frost's budget speech of March 11th the Province of Ontario is not accepting the proposals of the Dominion for a tax agreement. The Corporation Tax Act is to become effective as from January 1st, 1947. The chief change in the act is an increase in the tax on the income of ordinary corporations to seven per cent. No change is made in the rate of tax on paid-up capital and on place of business. The suspension of The Income Tax Act is continued for the calendar year 1947. (Bills 130 and 131)

Other measures provide for an increase in the rate of tax imposed under The Mining Tax Act and for the repeal of the provisions in the Assessment Act which permit municipalities to tax investment income of corporations (Bills 129 and 112). The gasoline tax is increased from eight to eleven cents, effective April 1st, 1947 (Bill 95).

Labour Relations

Labour relations in Ontario will continue to be regulated for another year, at least, by The Wartime Labour Relations Regulations. On April 2nd Hon. Mr. Daley introduced a bill to provide for the continuation in effect in Ontario under provincial authority of these regulations as amended. Provision is made for the making of alterations in them to vest fully jurisdiction for administration in the appropriate provincial authorities. (Bill 145)

Collective Bargaining in Police Forces

In the bill that Hon. Mr. Blackwell has introduced to amend The Police Act there are provisions to regulate collective bargaining by members of police forces. These provisions are very similar to the legislation which it is proposed to apply to members of Ontario fire departments and provide for compulsory arbitration (see comments in the April issue of *The Canadian Bar Review* at page 409). There is, however, an additional clause

which forbids a member of a police force from remaining or becoming a member of a trade union or of any organization which is affiliated with a trade union. (Bill 138)

PRINCE EDWARD ISLAND

Taxation

The taxation legislation before the Legislative Assembly of Prince Edward Island bears a close resemblance to that being adopted by the other "agreeing" provinces (see note on Alberta tax legislation). Bills have been introduced to authorize and implement the agreement with the Dominion and to establish the uniform corporation income tax. There are also measures to authorize an agreement under which the Dominion will collect the corporation income tax on behalf of the province and to establish the rates of provincial licence, registration and filing fees in accordance with the terms of the main agreement. (Bills 18, 19, 61 and 17)

A bill has also been introduced to add to the gasoline tax an additional tax of three cents a gallon to be effective on April 1st, 1947 (Bill 27).

Uniform Legislation

Among an unusually large number of important measures before the Legislative Assembly are some which have been recommended by the Conference of Commissioners on Uniformity of Legislation. These comprise the Bills of Sale Act, The Defamation Act, The Maintenance Orders (Facilities for Enforcement) Act and Section 39 of the Evidence Act. (For the last see the Proceedings of the Canadian Bar Association, 1945, vol. 28, pp. 286-7.)

Insurance

A bill has been introduced in the Legislative Assembly to enact the same provision to protect the rights of third parties in automobile liability policies which we have noted as being under consideration by a number of the provinces (see comments on Manitoba insurance legislation in the April issue of the Review at page 408).

Statute Law

Several important amendments to the statute law are under consideration. These include a proposal to add new sections to

The Real Property Act to provide for the execution of conveyances where a person had contracted to sell real property but died without completing the transaction, and to empower a person to convey property to himself or to himself jointly with another person (Bill 44). A bill has also been introduced to provide for the disposition of the estate of an intestate who is an illegitimate child and dies leaving a widow and no issue (Bill 10). Among the changes in The Probate Act is the addition of a schedule of fees (Bill 64). A bill has also been introduced to regulate crop mortgages for securing the purchase price of seed potatoes and fertilizer (Bill 26).

Legal Education

At present the minimum period of service under articles for a law student is four years. An amendment proposed to The Legal Profession Act will reduce this requirement to eighteen months if the student holds the degree of Bachelor of Laws of any law school or university recognized by the Council of The Law Society. (Bill 14)

Other Legislation

Bills have also been introduced in the Legislative Assembly to provide for uniformity of time throughout the province (Bill 5) and to regulate and license inns (Bill 24).

QUEBEC

Abolition of Appeals to Privy Council

On April 23rd Premier Duplessis introduced a bill to abolish appeals from the civil courts of Quebec to the Privy Council. To bring this about changes are to be made to the Code of Civil Procedure and to the Court of King's Bench Reference Act. (Bill 75)

Taxation

The Quebec taxation programme bears a close resemblance to the corresponding Ontario legislation. A bill has been brought forward by Hon. Mr. Gagnon to tax corporations on paid-up capital, places of business and profits. These taxes will be similar to those in effect in Quebec before the war, but the tax on profits is to be increased to seven per cent. (Bill 44). The provincial gasoline tax is being raised from eight to eleven cents a

gallon, the additional rate to be effective beginning April 1st, 1947 (Bill 45).

Instalment Sales

Hon. Paul Beaulieu, Minister of Trade and Commerce, has introduced in the Legislative Assembly a bill to regulate instalment sales. The legislation provides that the initial payment must be at least fifteen per cent of the instalment plan sale price. The maximum term for the deferred payments is to vary from six months to twenty-four months, according to the amount of the sale. The price of the instalment sale will be the cash price increased in a proportion not exceeding three-quarters of one per cent of the cash price for each month of the duration of the term and no other charges are permitted except in the case of overdue payments. The bill also regulates in some detail the form of the contract. (Bill 54)

Rules of Practice

A bill has also been introduced by Premier Duplessis to authorize the judges of the Superior Court of the District of Montreal to make rules of practice which will be applicable to the conduct of proceedings in the Superior Court of this district (Bill 78).

SASKATCHEWAN

Taxation

In the April issue of the Review it was noted that a bill was before the Saskatchewan Legislative Assembly to provide for a five per cent corporation income tax. The remaining legislation to authorize and implement the tax agreement with the Dominion has now been introduced. These measures are in substantially the same form as the corresponding bills which have been introduced in the other "agreeing" provinces (Bills 104 and 114).

Insurance

An amendment to the Saskatchewan Insurance Act has been introduced to protect the rights of third parties under automobile liability policies. It is in the same form as has been proposed in a number of other provinces (see comments on Manitoba insurance legislation in the April issue of the Review). (Bill 54)

Economic Stabilization

On March 25th a bill was introduced in the Legislative Assembly by Hon. Mr. Corman to empower the Lieutenant

Governor in Council to make orders and regulations to control and regulate prices, rentals and services. The bill provides that every order and regulation must be laid before the Legislative Assembly within fifteen days if it is in session or, if it is not in session, within fifteen days after the commencement of the next session. From the preamble to the bill it appears that the measure is brought forward in view of the expected withdrawal of the Dominion from certain fields of emergency legislation. (Bill 109)

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LITERATURE AND LAW

These gentlemen set about forming a company to pay them a handsome sum for taking off their hands a property which they had contracted to buy with that end in view. They bring the company into existence by means of the usual machinery. They appoint themselves sole guardians and protectors of this creature of theirs, half-fledged and just struggling into life, bound hand and foot while yet unborn by contracts tending to their private advantage, and so fashioned by its makers that it could only act by their hands and only see through their eyes. They issue a prospectus representing that they had agreed to purchase the property for a sum largely in excess of the amount which they had, in fact, to pay. On the faith of this prospectus they collect subscriptions from a confiding and credulous public. And then comes the last act. Secretly, and therefore dishonestly, they put into their own pockets the difference between the real and the pretended price. After a brief career the company is ordered to be wound up. In the course of the liquidation the trick is discovered. Mr. Gluckstein is called upon to make good a portion of the sum which he and his associates had misappropriated. Why Mr. Gluckstein alone was selected for attack I do not know any more than I know why he was only asked to pay back a fraction of the money improperly withdrawn from the coffers of the company . . . In these two matters Mr. Gluckstein has been in my opinion extremely fortunate. But he complains that he may have a difficulty in recovering from his co-directors their share of the spoil, and he asks that the official liquidator may proceed against his associates before calling upon him to make good the whole amount with which he has been charged. My Lords, there may be occasions in which that would be a proper course to take. But I cannot think that this is a case in which any indulgence ought to be shown to Mr. Gluckstein. He may or may not be able to recover a contribution from those who joined with him in defrauding the company. He can bring an action at law if he likes. If he hesitates to take that course or takes it and fails, then his only remedy lies in an appeal to that sense of honour which is popularly supposed to exist among robbers of a humbler type. (Lord Macnaghten in *Gluckstein v. Barnes*, [1900] A.C. 240, at pp. 248 and 255)