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c 363 Securities Act

Ontario

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CHAPTER 363

The Securities Act

INTERPRETATION

1. In this Act,

(a) "broker" means any person or company, trading in securities in the capacity of an agent, who is a member of a stock exchange in Ontario and such other person or company, trading in securities in the capacity of an agent, who is recognized by the Commission as a broker; R.S.O. 1950, c. 351, s. 1, cl. (a); 1951, c. 83, s. 8.

(b) "broker-dealer" means any person or company who is a member of the Broker-Dealers' Association of Ontario and such other person or company recognized by the Commission as a broker-dealer who engages either for the whole or part of his or its time in the business of trading in securities in the capacity of an agent or principal;

(c) "Commission" means the Ontario Securities Commission;

(d) "company" means any incorporated corporation, incorporated association, incorporated syndicate or other incorporated organization;

(e) "industrial company" means a company other than a company recognized by the Commission as a mining company or investment company;

(f) "investment company" means a company, other than a company recognized by the Commission as a mining company or an industrial company, whose principal business is the acquisition of or the investment in the securities of other companies whether for the purpose of acquiring control or management of such companies or for the purpose of deriving revenue from such securities and includes a company, other than an issuer within the meaning of The Investment Contracts Act, which issues investment certificates, investment contracts, savings certificates, savings contracts or securities of a like nature; R.S.O. 1960, c. 351, s. 1, cls. (b-f).
(g) "investment counsel" means any person or company who engages in or holds himself or itself out as engaging in the business of advising others as to the advisability of investing in or purchasing or selling specific securities and who is primarily engaged in giving continuous advice as to the investment of funds on the basis of the individual needs of each client; 1953, c. 97, s. 1 (1).

(h) "investment dealer" means any person or company who is a member, branch office member or associate member of the Central District of the Investment Dealers' Association of Canada and such other person or company recognized by the Commission as an investment dealer who engages either for the whole or part of his or its time in the business of trading in securities in the capacity of an agent or principal;

(i) "mining company" means a company, other than a company recognized by the Commission as an industrial company or an investment company, which engages either directly or indirectly in any mode or method of working whereby the ground, soil or earth or any rock, stone or quartz may be disturbed, removed, drilled, washed, sifted, roasted, smelted, refined, crushed or dealt with for the purpose of winning, obtaining or proving the presence of any mineral or minerals, which includes in addition to any other minerals, any metal, coal, natural gas, oil and salt, or of any mineral-bearing substance, mineral deposit, ore body, stratum, soil, rock, bed of earth, clay, sand, gravel or cement;

(j) "official" means president, vice-president, secretary, treasurer and manager;

(k) "person" means an individual, partnership, unincorporated association, unincorporated organization, and syndicate other than an incorporated syndicate;

(l) "primary distribution to the public" used in relation to securities means,

(i) trades that are made for the purpose of distributing to the public securities issued by a company and not previously distributed,

(ii) trades in previously distributed securities for the purpose of redistributing such securities to the public where the securities form all or a part of or are derived from the holdings of
any person or company or any combination of persons or companies holding a sufficient quantity of such securities or of the securities from which such securities have been derived to materially affect the control of the company that is the issuer of the securities, whether such trades are made directly to the public or through an underwriter, optionee, sub-underwriter, sub-optionee or otherwise and includes any transaction involving a purchase and resale, or a repurchase and resale, in the course of or incidental to such distribution or redistribution to the public but does not include either a trade through a person or company registered for trading in securities under this Act who is not engaged in such distribution or redistribution to the public but is acting as the agent of the purchaser or a sale by a person or company not engaged in such distribution or redistribution to the public;

(m) "register" means register under this Act;

(n) "registrar" means the registrar of the Commission appointed under this Act;

(o) "regulations" means the regulations made under this Act;

(p) "salesman" means an individual registered as a salesman under this Act; R.S.O. 1950, c. 351, s. 1, cls. (h-p).

(q) "securities adviser" means any person or company who engages in or holds himself or itself out as engaging in the business of advising others, either directly or through publications or writings, as to the advisability of investing in or purchasing or selling specific securities; 1953, c. 97, s. 1 (2).

(r) "security" includes,

(i) any document, instrument or writing commonly known as a security,

(ii) any document constituting evidence of title to or interest in the capital, assets, property, profits, earnings or royalties of any person or company,

(iii) any document constituting evidence of an interest in an association of legatees or heirs,

(iv) any document constituting evidence of an interest in any option given upon a security,
(v) any bond, debenture, share, stock, note, unit, unit certificate, participation certificate, certificate of share or interest, pre-organization certificate or subscription,

(vi) any agreement providing that money received will be repaid or treated as a subscription to shares, stock, units or interests at the option of the recipient or of any person or company,

(vii) any certificate of share or interest in a trust estate or association,

(viii) any profit-sharing agreement or certificate,

(ix) any certificate of interest in an oil, natural gas or mining lease, claim or royalty voting trust certificate,

(x) any oil or natural gas royalties or leases or fractional or other interest therein,

(xi) any collateral trust certificate,

(xii) any income or annuity contract not issued by an insurance company or an issuer within the meaning of The Investment Contracts Act,

(xiii) any bankers’ share,

(xiv) any trustees’ share,

(xv) any investment contract other than an investment contract within the meaning of The Investment Contracts Act, or

(xvi) any investment participating bond or investment trust debenture,

whether any of the foregoing relate to a person, proposed company or company as the case may be;

(s) “security issuer” means a company that engages in the primary distribution to the public of securities of its own issue;

(l) “sub-broker-dealer” means an individual who, being retired from active business or as incidental to his principal occupation and as correspondent of any investment dealers or broker-dealers or both, trades in securities for a part of his time in the capacity of an agent or principal;

(n) “trade” or “trading” includes,

(i) any solicitation for or obtaining of a subscription to, disposition of or trade in or option
upon a security for valuable consideration whether the terms of payment be upon margin, instalment or otherwise,

(ii) any attempt to deal in, sell or dispose of a security or an interest in or option upon a security for valuable consideration whether the terms of payment be upon margin, instalment or otherwise,

(iii) any participation as a floor trader in any transaction in a security upon the floor of any stock exchange,

(iv) any receipt by a person or company registered for trading in securities under this Act of an order to buy or sell a security, whether the order is received over the telephone or in person, and

(v) any act, advertisement, conduct or negotiation directly or indirectly in furtherance of any of the foregoing. R.S.O. 1950, c. 351, s. 1, cls. (g-t).

PART I

THE COMMISSION

2.—(1) The Commission shall be composed of a chairman and not more than two other members, one of whom shall be designated as vice-chairman, who shall be appointed by the Lieutenant Governor in Council.

(2) The chairman shall devote his full time to the work of the Commission and the other members shall devote such time as may be necessary for the due exercise and performance of the powers and duties of the Commission. R.S.O. 1950, c. 351, s. 2.

3. The chairman, and in his absence the vice-chairman, may exercise and shall perform the powers and duties vested in or imposed upon the Commission by this Act or the regulations, but every direction, decision, order or ruling of the chairman or the vice-chairman is subject to review by the Commission, and the Commission may confirm or revoke any such direction, decision, order or ruling or may make such alteration therein or addition thereto as a majority of the members deem proper. R.S.O. 1950, c. 351, s. 3.
4. The staff of the Commission shall consist of a registrar and such other officers, clerks, stenographers and employees as the Lieutenant Governor in Council may appoint. R.S.O. 1950, c. 351, s. 4.

5. (1) The members of the Commission, the registrar and the officers, clerks, stenographers and employees of the Commission shall be paid such salaries or remuneration as the Lieutenant Governor in Council may determine.

(2) The salaries, remuneration and other expenses of the Commission shall be paid out of such moneys as may be appropriated therefor by the Legislature. R.S.O. 1950, c. 351, s. 5.

PART II

REGISTRATION

6. (1) No person or company shall,

(a) trade in any security unless such person or company is registered as a broker, investment dealer, broker-dealer, sub-broker-dealer, security issuer or as a salesman of a registered broker, investment dealer, broker-dealer or security issuer;

(b) act as a partner or officer of or on behalf of any person or company in connection with a trade in any security by such person or company unless such person or company is registered for trading in securities under this Act;

(c) act as a salesman of or on behalf of any person or company in connection with a trade in any security by such person or company unless he is registered as a salesman of such person or company and such person or company is registered as a broker, investment dealer, broker-dealer or security issuer;

(d) act as investment counsel or securities adviser unless such person or company is registered as an investment counsel or securities adviser, as the case may be; or

(e) advise others by means of a publication or writing as to the advisability of investing in or purchasing or selling a security specified therein unless such person or company is registered or is exempted from registration,
and such registration has been made in accordance with the provisions of this Act and the regulations and such person or company, as the case may be, has received written notice of such registration from the registrar. R.S.O. 1950, c. 351, s. 6 (1); 1953, c. 97, s. 2 (1); 1956, c. 81, s. 1.

(2) Where a person or company is registered as a broker, investment dealer, broker-dealer, investment counsel or securities adviser, every partner or officer of such person or company may act as a broker, investment dealer, broker-dealer, investment counsel or securities adviser, as the case may be, on behalf of such person or company, without separate registration and where a company is registered as a security issuer the officials thereof may act on its behalf in connection with a trade in a security by such company without separate registration. R.S.O. 1950, c. 351, s. 6 (2); 1953, c. 97, s. 2 (2).

(3) No individual who becomes a partner or officer of a person or company after such person or company has been registered shall trade in securities until such person or company has received from the registrar written permission for such partner or officer so to trade.

(4) The termination of the employment of a salesman with a person or company registered for trading in securities under this Act shall operate as a suspension of the registration of the salesman until notice in writing has been received by the registrar from a person or company registered for trading in securities under this Act of the employment of the salesman and the employment has been approved by the Commission. R.S.O. 1950, c. 351, s. 6 (3, 4).

7. The Commission shall grant registration or renewal of registration to an applicant where in the opinion of the Commission the applicant is suitable for registration and the proposed registration is not objectionable. R.S.O. 1950, c. 351, s. 7.

8. The Commission shall suspend or cancel any registration where in its opinion such action is in the public interest. R.S.O. 1950, c. 351, s. 8.

9. Notwithstanding any ruling of the Commission, a further application for registration may be made upon new or other material or where it is clear that material circumstances have changed, provided that no further application for registration shall be made within six months of such ruling unless leave is first obtained from the Commission. R.S.O. 1950, c. 351, s. 9.
10. Every application shall be made in writing upon a form prescribed by the regulations and provided by the Commission, and shall be accompanied by such fee as may be prescribed by the regulations. R.S.O. 1950, c. 351, s. 10.

11. Every applicant shall state in the application an address for service in Ontario, and all notices under this Act or the regulations are sufficiently served for all purposes if delivered or sent by prepaid post to the latest address for service so stated. R.S.O. 1950, c. 351, s. 11.

12. The registrar may and shall when so directed by the Commission require any further information or material to be submitted by any applicant or any registered person or company within a specified time limit and may require verification by affidavit or otherwise of any information or material then or previously submitted or may require the applicant or the registered person or any partner, officer, director or employee of the registered person or company to submit to examination under oath. R.S.O. 1950, c. 351, s. 12.

13.—(1) The Commission may appoint one or more experts to assist the Commission in such manner as it may deem expedient.

(2) The Commission may submit any agreement, prospectus, financial statement, report or other document to one or more experts appointed under subsection 1 for examination and the Commission has the like power to summon and enforce the attendance of witnesses before the expert and to compel them to produce documents, records and things as is vested in the Commission by subsection 3 of section 21 and subsections 3 and 4 of section 21 apply mutatis mutandis.

(3) An expert appointed under subsection 1 shall be paid such amounts for services and expenses as the Lieutenant Governor in Council may determine. R.S.O. 1950, c. 351, s. 13.

14.—(1) Registration may, in the absolute discretion of the Commission, be refused to any person who has not been a resident of Ontario for at least one year immediately prior to the date of application for registration with the intention of making his permanent home in Ontario, unless at the time of application such person is registered in a capacity corresponding to that of a broker, investment dealer, broker-dealer, sub-broker-dealer, security issuer, investment counsel, securities adviser or salesman under the security laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding
the date of the application and is otherwise suitable for registration. R.S.O. 1950, c. 351, s. 14 (1); 1953, c. 97, s. 3 (1).

(2) Where a company or partnership makes application for registration, the registration may, in the absolute discretion of the Commission, be refused, unless every officer and director, or every member, as the case may be, has been a resident of Ontario for at least one year immediately prior to the date of application for registration with the intention of making his permanent home in Ontario or is registered in a capacity corresponding to that of a broker, investment dealer, broker-dealer, sub-broker-dealer, security issuer, investment counsel, securities adviser or salesman under the security laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is otherwise suitable for registration. R.S.O. 1950, c. 351, s. 14 (2); 1953, c. 97, s. 3 (2).

(3) For the purposes of this section, a person shall not be deemed to cease to reside in Ontario by reason only of his absence from Ontario as a member of Her Majesty’s armed forces. R.S.O. 1950, c. 351, s. 14 (3).

15. Every registration and renewal of registration lapses on the 31st day of March in each year and every registered person or company shall apply for renewal of registration on or before the 1st day of March in each year giving full particulars of any change in the facts set forth in the latest application form on record, and enclosing the prescribed fee. R.S.O. 1950, c. 351, s. 15.

16.—(1) Every registered broker, investment dealer and broker-dealer shall, within five days, notify the registrar in writing of,

(a) any change in the address for service;

(b) any change in the officers or members in the case of a company or partnership; and

(c) the commencement and termination of employment of every salesman.

(2) Every registered security issuer shall, within five days, notify the registrar in writing of,

(a) any change in the address for service;

(b) any change in the officials; and

(c) the commencement and termination of employment of every salesman. R.S.O. 1950, c. 351, s. 16 (1, 2).
Section 16 (3)

Every registered investment counsel and securities adviser shall, within five days, notify the registrar in writing of:

(a) any change in the address for service; and

(b) any change in the officers or members in the case of a company or partnership. R.S.O. 1950, c. 351, s. 16 (3); 1953, c. 97, s. 4.

Salesmen

Every registered salesman shall, within five days, notify the registrar in writing of:

(a) any change in his address for service; and

(b) every commencement and termination of his employment by a person or company registered for trading in securities under this Act.

Sub-broker-dealer

Every registered sub-broker-dealer shall, within five days, notify the registrar in writing of any change in his address for service. R.S.O. 1950, c. 351, s. 16 (4, 5).

17.-(1) The registrar shall cause all cash, cheques, money orders and postal notes to be deposited daily with the Treasurer of Ontario for payment into the Consolidated Revenue Fund.

Refund

Where an application is refused or a registration is cancelled, the registrar may recommend to the Treasurer of Ontario that a refund of the fee or of such part thereof as he deems fair and reasonable be made and the Treasurer may make such refund. R.S.O. 1950, c. 351, s. 17.

EXEMPTION FROM REGISTRATION

18. Registration as an investment counsel or securities adviser is not required to be obtained by,

(a) a bank to which the Bank Act (Canada) applies, or the Industrial Development Bank incorporated under the Industrial Development Bank Act (Canada), or a loan corporation or trust company registered under The Loan and Trust Corporations Act, or an insurance company licensed under The Insurance Act, or any officer or employee, in the performance of his duties as such, of Her Majesty in right of Canada or of any province, or of any municipal corporation or public board or commission in Canada;

(b) a lawyer, accountant, engineer or teacher whose performance of such services is solely incidental to the practice of his profession;
a person or company registered for trading in securities under this Act, or any partner, officer or employee thereof, whose performance of such services is solely incidental to the conduct of the business as such, and who receives no special compensation therefor other than compensation paid or given by a mining, industrial or investment company in respect of any services performed for such company;

(d) a publisher of any bona fide newspaper, news magazine or business or financial publication of general and regular paid circulation distributed only to subscribers thereto for value or to purchasers thereof, who gives advice as an investment counsel or securities adviser only through such publication and has no interest either directly or indirectly in any of the securities upon which the advice is given and receives no commissions or other consideration for giving the advice and who gives the advice as solely incidental to the conduct of his business as a publisher; or

(e) such other persons or companies not within the intent of this section as may be designated by the regulations. R.S.O. 1950, c. 351, s. 18; 1953, c. 97, s. 5.

19.—(1) Subject to the regulations, registration is not required in respect of the following trades:

1. A trade in a security taking place at a judicial, executor’s, administrator’s, guardian’s or committee’s sale, or at a sale by an authorized trustee or assignee, an interim or official receiver or a custodian under the Bankruptcy Act (Canada), a receiver under The Judicature Act or a liquidator under The Corporations Act or the Winding-up Act (Canada).

2. An isolated trade in a specific security by or on behalf of the owner, for the owner’s account, where such trade is not made in the course of continued and successive transactions of a like nature, and is not made by a person whose usual business is trading in securities.

3. A trade where one of the parties is a bank to which the Bank Act (Canada) applies, or the Industrial Development Bank incorporated under the Industrial Development Bank Act (Canada), or a loan corporation or trust company registered under The Loan and Trust Corporations Act, or an insurance company licensed under The Insurance Act, or is an officer or employee, in the performance of his duties...
as such, of Her Majesty in right of Canada or of any province or territory of Canada, or of any municipal corporation or public board or commission in Canada.

4. A trade by or for the account of a pledgee or mortgagee for the purpose of liquidating a bona fide debt by selling or offering for sale or delivering in good faith in the ordinary course of business a security pledged in good faith as security for the debt.

5. A trade in a security that may occasionally be transacted by employees of a person or company registered for trading in securities under this Act where the employees do not usually sell securities to the public and have been temporarily designated by the registrar as "non-trading" employees, either individually or as a class.

6. A trade between a person or company and an underwriter, optionee, sub-underwriter or sub-optionee in securities issued by such person or company and trades in such securities between or among underwriters, optionees, sub-underwriters and sub-optionees.

7. A trade in a security by a person or company acting solely through an agent who is a person or company registered for trading in securities under this Act.

8. Trades in respect of which registration is not required by the regulations. R.S.O. 1950, c. 351, s. 19 (1).

(2) Subject to the regulations, registration is not required to trade in the following securities:

1. Securities of its own issue that are distributed or issued by a company to the holders of its securities as a stock dividend or other distribution out of earnings or surplus, or securities whether of its own issue or not that are distributed or issued by such company to the holders of its securities as incidental to a bona fide re-organization or winding-up of the company or distribution of its assets for the purpose of winding-up its affairs, or the sale by a company to the holders of its securities of additional securities of its own issue if the Commission is notified in writing of the terms of the sale at least ten days before the sale is to be made, and provided that no commission or other remuneration is paid or given to others in respect of such distribution, issuance or sale, except for ministerial or professional services or services performed by a person or company registered for
trading in securities under this Act in connection with a *bona fide* re-organization of the company.

2. Securities of a company that are exchanged by or on account of such company with another company or the holders of the securities of such other company in connection with a consolidation, amalgamation, merger or re-organization of either company.

3. Securities of or guaranteed by any government in the Commonwealth of Nations or any colony or dependency thereof, or of or guaranteed by the government of any foreign country or state forming a portion of any foreign country.

4. Securities in which trust funds may lawfully be invested in Ontario.

5. Securities secured by mortgage upon real estate or tangible personal property where all of the securities are sold at the one time.

6. Negotiable promissory notes or commercial paper maturing not more than a year from the date of issue.

7. Securities evidencing indebtedness due under any contract made pursuant to the provisions of any statute of any province of Canada providing for the acquisition of personal property under conditional sale contracts.

8. Securities issued by a person or company organized exclusively for educational, benevolent, fraternal, charitable, religious or recreational purposes and not for pecuniary profit, where no part of the net earnings thereof ensure to the benefit of any security holder.

9. Securities issued by corporations operated on a co-operative basis as defined by Part V of *The Corporations Act*.

10. Shares of a credit union within the meaning of *The Credit Unions Act*.

11. Securities traded by a company with its employees who are not induced to trade by expectation of employment or continued employment.

12. Securities of a private company issued by the private company where the securities are not offered for sale to the public.

13. Securities issued and sold by a prospector for the purpose of financing a prospecting expedition.
14. Securities issued by a prospecting syndicate where such securities are sold by the prospector or one of the prospectors who staked the claims that belong to or are the subject of a declaration of trust in favour of the prospecting syndicate within the meaning of Part VI, provided that a prospecting syndicate agreement relating to the prospecting syndicate has been accepted for filing thereunder and provided that the prospector delivers a copy of the prospecting syndicate agreement to the person purchasing the security before accepting payment therefor.

15. Securities of a prospecting syndicate within the meaning of Part VI, issued by the prospecting syndicate, where a prospecting syndicate agreement relating to the prospecting syndicate has been accepted for filing thereunder and where such securities are not offered for sale to the public and are sold to not more than fifty persons or companies.

16. Securities in respect of which registration is not required by the regulations. R.S.O. 1950, c. 351, s. 19 (2); 1956, c. 81, s. 2.

(3) Where a person or company has been guilty of acts or conduct which, in the opinion of the Commission, would warrant the Commission refusing to grant registration to him or it under this Act, the Commission may rule that subsections 1 and 2 shall not apply to him or it. 1953, c. 97, s. 6.

20.—(1) A person is not required to obtain registration by reason only of trades made by him as a floor trader upon the floor of a stock exchange.

(2) The registrar may designate as “non-trading” any employee or class of employees of a person or company registered for trading in securities under this Act who do not usually sell securities to the public, but the designation shall be temporary only and may be cancelled as to any employee or class of employees where the registrar is satisfied that any such employee or member of any such class of employees should be required to apply for registration as a salesman. R.S.O. 1950, c. 351, s. 20.

PART III
INVESTIGATION AND ACTION BY COMMISSION

21.—(1) Where upon a statement made under oath it appears probable to the Commission that any person or company has,
(a) contravened any of the provisions of this Act or the regulations; or

(b) committed an offence under the Criminal Code of Canada in connection with a trade in securities, the Commission may by order appoint any person to make such investigation as it deems expedient for the due administration of this Act and in the order shall determine and prescribe the scope of the investigation.

(2) For the purposes of any investigation ordered under subsection 1, the person appointed to make the investigation may investigate, inquire into and examine,

(a) the affairs of the person or company in respect of whom or which the investigation is being made and into any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with such person or company and into any property, assets or things owned, acquired or alienated in whole or in part by such person or company or by any person or company acting on behalf of or as agent for such person or company; and

(b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to, or in connection with any such person or company and into the relationship that may at any time exist or have existed between such person or company and any other person or company by reason of investments, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money, stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship.

(3) For the purposes of subsections 1 and 2, the person making the investigation has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things as is vested in the Supreme Court or a judge thereof for the trial of civil actions, provided that,

(a) the provisions of rules of court or of law relating to the service of subpoenas upon and to the payment of conduct money or witness fees to witnesses do not apply;
(b) no person is entitled to claim any privilege in respect of any document, record or thing asked for, given or produced on the ground that he might be incriminated or exposed to a penalty or to civil litigation thereby;

(c) no person shall refuse to answer any question upon any ground of privilege, provided that a solicitor shall not be required to disclose any communications between himself and his client; and

(d) no provisions of The Evidence Act exempt any bank or any officer or employee thereof from the operations of this section.

R.S.O. 1960, c. 125

(4) Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities or other property of the person or company the affairs of whom or of which are being investigated.

(5) Where an investigation is ordered under this section, the Commission may appoint an accountant or other expert to examine documents, records, properties and matters of the person or company the affairs of whom or of which are being investigated.

(6) Every person appointed under subsection 1 or 5 shall report the result of his investigation or examination to the Commission. R.S.O. 1950, c. 351, s. 21.

22. Where upon the report of an investigation made under section 21 it appears to the Commission that any person or company may have,

(a) contravened any of the provisions of this Act or the regulations; or

(b) committed an offence under the Criminal Code (Canada) in connection with a transaction relating to securities,

the Commission shall send a full and complete report of the investigation, including the report made to it, any transcript of evidence and any material in the possession of the Commission relating thereto, to the Attorney General. R.S.O. 1950, c. 351, s. 22.

23. Notwithstanding section 21, the Attorney General may by order appoint any person to make an investigation into any matter relating to a trade in securities, in which case the person so appointed, for the purposes of the investi-
Sec. 26 (1)  

The Commission may,  

(a) where it is about to investigate or during or after the investigation of any person or company under section 21 or 23;  

(b) where it is about to make or has made a direction, decision, order or ruling suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities; or  

(c) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company which in the opinion of the Commission are connected with or arise out of any security or any trade therein, or out of any business conducted by such person or company,

in writing or by telegram direct any person or company having on deposit or under control or for safekeeping any funds or securities of the person or company referred to in clause (a), (b) or (c), to hold such funds or securities or direct the person or company referred to in clause (a), (b) or (c) to refrain from withdrawing any such funds or securities from any other person or company having any of them on deposit, under control or for safekeeping or to hold all funds or securities of clients or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act* or the *Winding-up Act* (Canada), or until the Commission in writing revokes the direction or consents to release
any particular fund or security from the direction, provided
that no such direction applies to funds or securities in a stock
exchange clearing house or to securities in process of transfer
by a transfer agent unless the direction expressly so states,
and in the case of a bank, loan or trust company the direction
only applies to the offices, branches or agencies thereof named
in the direction.

(2) Any person or company in receipt of a direction given
under subsection 1, if in doubt as to the application of the
direction to any funds or security, or in case of a claim being
made thereto by any person or company not named in the
direction, may apply to the Supreme Court or a judge thereof
who may direct the disposition of such funds or security and
may make such order as to costs as may seem just.

(3) In any of the circumstances mentioned in clause a, b
or c of subsection 1, the Commission may in writing or by
telegram notify any registrar of deeds or master of titles or
any local master of titles or any mining recorder that pro-
cedings are being or are about to be taken that may affect
land or mining claims belonging to the person or company
referred to in the notice, which notice shall be registered
against the lands or claims mentioned therein and has the
same effect as the registration of a certificate of *lis pendens*,
save that the Commission may in writing revoke or modify
the notice. R.S.O. 1950, c. 351, s. 26.

### 27.-(1) The Commission may,

(a) where it is about to investigate or during or after the
investigation of any person or company under sec-
tion 21 or 23;

(b) where it is about to make or has made a direction,
decision, order or ruling suspending or cancelling
the registration of any person or company or affect-
ing the right of any person or company to trade in
securities; or

(c) where criminal proceedings or proceedings in respect
of a contravention of this Act or the regulations are
about to be or have been instituted against any per-
son or company that in the opinion of the Commis-
sion are connected with or arise out of any security or
any trade therein, or out of any business conducted
by such person or company,

by originating notice apply to a judge of the Supreme Court
for the appointment of a receiver, trustee and manager of the
property of such person or company.
(2) Upon an application made under subsection 1, the court may, where it is satisfied that the appointment of a receiver, trustee and manager of the property of any person or company is in the best interests of the creditors of such person or company or of persons or companies any of whose property is in the possession or under the control of such person or company, appoint a receiver, trustee and manager of the property of such person or company.

(3) Upon an ex parte application made by the Commission under this section, the court may make an order under subsection 2 appointing a receiver, trustee and manager for a period not exceeding eight days.

(4) A receiver, trustee and manager of the property of any person or company appointed under this section shall be the receiver, trustee and manager of all of the property belonging to the person or company or held by the person or company on behalf of or in trust for any other person or company, and the receiver, trustee and manager shall have authority, if so directed by the court, to wind-up or manage the business and affairs of the person or company and all powers necessary or incidental thereto.

(5) An order made under this section may be enforced in the same manner as any other order or judgment of the Supreme Court and may be varied or discharged upon an application made by notice.

(6) Upon an application made under this section, the rules of practice of the Supreme Court apply. R.S.O. 1950, c. 351, s. 27.

PART IV

APPEALS

28. A notice of every direction, decision, order or ruling of the Commission,

(a) granting or refusing to grant registration to or renewing, refusing to renew, suspending, cancelling or changing the registration of any person or company; or

(b) regarding trading or the right to trade in securities or any conditions or restrictions relating thereto,

shall be served upon the applicant or the person or company whose registration is thereby affected and upon such other person or company as in the opinion of the Commission is primarily affected by the direction, decision, order or ruling, at the address appearing in the application or upon the records of the Commission. R.S.O. 1950, c. 351, s. 28.
29.—(1) Any person or company upon whom a notice is served under section 28 or any other person or company who is primarily affected by any such direction, decision, order or ruling may, by notice in writing served upon the registrar within thirty days after the mailing of the notice, request a hearing and review by the Commission of the direction, decision, order or ruling.

(2) Where a hearing and review is requested under subsection 1, the registrar shall serve a notice in writing of the time and place thereof to the person or company requesting the hearing and review and to such other person or company as in the opinion of the Commission is primarily affected by the hearing, stating the date and place thereof.

(3) Upon the review, the Commission may hear such evidence as may be submitted to it by the person or company requesting the review or by any other person or company and which in the opinion of the Commission is relevant to the review but shall not be bound by the legal or technical rules of evidence, and all oral evidence submitted shall be taken down in writing and together with such documentary evidence and things as are received in evidence by the Commission shall form the record.

(4) Upon a review, the Commission may by order confirm or revoke the direction, decision, order or ruling under review or may make such alteration therein or addition thereto as a majority of the members of the Commission deem proper.

(5) A notice of the order made upon every review shall be served forthwith upon the person or company requesting the review and to such other person or company as in the opinion of the Commission is primarily affected by such order. R.S.O. 1950, c. 351, s. 29.

30.—(1) Where the Commission has reviewed a direction, decision, order or ruling under section 29, any person or company upon whom a notice is served under subsection 5 of section 29 or any other person or company who is primarily affected by any such direction, decision, order or ruling or by the order made upon the review may appeal to a justice of appeal of the Supreme Court.

(2) Every appeal shall be by notice of motion served upon the registrar within thirty days after the mailing of the notice under subsection 5 of section 29 and the practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action, provided that the Rules Committee may vary or amend such practice and procedure or may prescribe the
practice and procedure that shall be applicable to appeals taken under this Act.

(3) The registrar shall certify to the Registrar of the Supreme Court of Ontario,

(a) the direction, decision, order or ruling that has been reviewed by the Commission;
(b) the order of the Commission upon the review, together with any statement of reasons therefor;
(c) the record of the review; and
(d) all written submissions to the Commission or other material that in the opinion of the registrar are relevant to the appeal.

(4) The Attorney General may designate counsel to assist the court upon the hearing of any appeal that is taken under this section. R.S.O. 1950, c. 351, s. 30.

31. Where an appeal is taken under section 30, the court may by its order direct the Commission to make such direction, decision, order or ruling or to do such other act as the Commission is authorized and empowered to do under this Act or the regulations and as the court deems proper having regard to the material and submissions before it and to this Act and the regulations, and the Commission shall make such direction, decision, order or ruling or do such act accordingly. R.S.O. 1950, c. 351, s. 31.

32. An order of the court is final and there is no appeal therefrom but notwithstanding such order the Commission has power to make any further direction, decision, order or ruling upon new material or where there is a material change in the circumstances, and every such direction, decision, order or ruling is subject to sections 28 to 31. R.S.O. 1950, c. 351, s. 32.

PART V

AUDITS

33. Every stock exchange, the Central District of the Investment Dealers' Association of Canada and the Broker-Dealers' Association of Ontario shall,

(a) select a panel of auditors each of whom shall have practised as such in Ontario for not less than five years and shall be known as a panel auditor or members' auditor; and
(b) employ an exchange auditor, district association auditor or association auditor, as the case may be, whose appointment is subject to the approval of the Commission and the appointee shall be an auditor who has practised as such in Ontario for not less than ten years. R.S.O. 1950, c. 351, s. 33.

34.—(1) Every stock exchange, the Central District of the Investment Dealers’ Association of Canada and the Broker-Dealers’ Association of Ontario shall cause each member of such class or classes of their members as the Commission may designate in writing to appoint an auditor from the panel of auditors selected under section 33 and such auditor shall make the examination of the financial affairs of such member as called for by the by-laws, rules or regulations applicable to members of such class or classes and shall report thereon to the exchange auditor, district association auditor or association auditor, as the case may be.

(2) The by-laws, rules and regulations of every stock exchange in Ontario, the rules and regulations of the Central District of the Investment Dealers’ Association of Canada and the regulations of the Broker-Dealers’ Association of Ontario in respect of the practice and procedure of the examinations under subsection 1 and the actual conduct of the examinations shall be satisfactory to the Commission. R.S.O. 1950, c. 351, s. 34.

35. Every registered broker, investment dealer and broker-dealer whose financial affairs are not subject to examination under section 34 shall keep such books and records as are necessary for the proper recording of his or its business transactions and financial affairs and shall file with the Commission annually and at such other time or times as the Commission may require a financial statement satisfactory to the Commission as to his or its financial position, certified by such broker, investment dealer or broker-dealer, or an officer or partner thereof, and reported upon by the auditors of such broker, investment dealer, or broker-dealer, and such other information as the Commission may require in such form as it may prescribe. R.S.O. 1950, c. 351, s. 35.

36.—(1) Notwithstanding anything in sections 33, 34 and 35, the Commission or any person to whom as its representative it may in writing delegate such authority may at any time make an examination of the financial affairs of any person or company registered under this Act or any person or company whose securities have been the subject of a filing with the Commission, and prepare a balance sheet as of the date of such
examination and such other statements and reports as may be required by the Commission.

(2) The Commission or any person making an examination under this section is entitled to free access to all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person or company whose financial affairs are being examined and no person or company shall withhold, destroy, conceal or refuse to give any information or thing reasonably required for the purpose of the examination.

(3) The Commission may charge such fees as may be prescribed by the regulations for any examination made under this section. R.S.O. 1950, c. 351, s. 36.

PART VI

PROSPECTING SYNDICATES AND SECURITIES ISSUED BY A PERSON

37.—(1) Upon the acceptance for filing of a prospecting syndicate agreement by the Commission, the liability of the members of the syndicate or parties to the agreement is limited to the extent provided by the terms of the agreement where,

(a) the sole purpose of the syndicate is the financing of prospecting expeditions, preliminary mining development, or the acquisition of mining properties or any combination thereof;

(b) the agreement clearly sets out,

(i) the purpose of the syndicate,

(ii) the particulars of any transaction effected or in contemplation involving the issue of units for a consideration other than cash,

(iii) the maximum amount, not exceeding 25 per cent of the sale price, that may be charged or taken by any person as commission upon the sale of units in the syndicate,

(iv) the maximum number of units in the syndicate, not exceeding $33\frac{\pi}{6}$ per cent of the total number of units of the syndicate, that may be issued in consideration of the transfer to the syndicate of mining properties,

(v) the location of the head office of the syndicate and that the head office shall at all times...
be maintained in Ontario and that the Commission and the unit holders of the syndicate shall be notified immediately of any change in the location of the head office,

(vi) that any person holding mining properties for the syndicate shall execute a declaration of trust in favour of the syndicate with respect to such mining properties,

(vii) that after the sale for cash of any issued units of the syndicate no mining properties shall be acquired by the syndicate other than by staking unless such acquisition is approved by a vote of at least two-thirds of the units of the syndicate that have been sold for cash,

(viii) that the administrative expenditures of the syndicate, including, in addition to any other items, salaries, office expenses, advertising and commissions paid by the syndicate with respect to the sale of its units, shall be limited to one-third of the total amount received by the treasury of the syndicate from the sale of its units,

(ix) that a statement of the receipts and disbursements of the syndicate shall be furnished to the Commission and to each unit holder annually,

(x) that 90 per cent of the vendor units of the syndicate shall be escrowed units and may be released upon the consent of the Commission and that any release of such units shall not be in excess of one vendor unit for each unit of the syndicate sold for cash,

(xi) that no securities, other than those of the syndicate’s own issue, or no mining properties owned by the syndicate or held in trust for the syndicate shall be disposed of unless such disposal is approved by a vote of at least two-thirds of the issued units of the syndicate other than escrowed units; and

(c) the agreement limits the capital of the syndicate to a sum not exceeding $35,000.

(2) The Commission may in its discretion accept for filing any agreement submitted for filing under this section and is not required to determine whether it is in conformity with clauses a, b and c of subsection 1.
(3) Where a prospecting syndicate agreement is accepted for filing under this section, the requirements of The Partnerships Registration Act as to filing do not apply thereto.

(4) No person or company registered for trading in securities under this Act shall trade in a security issued by a prospecting syndicate either as agent for the prospecting syndicate or as principal.

(5) No person or company registered for trading in securities under this Act shall trade in a security issued by a person other than a prospecting syndicate, either as agent for such person or as principal unless,

(a) written permission, upon such terms as the Commission may require, has been obtained from the Commission; and

(b) information satisfactory to the Commission relating to such person and such security has been accepted for filing by the Commission. R.S.O. 1950, c. 351, s. 37.

PART VII

TRADING IN THE SECURITIES OF A MINING COMPANY

38.—(1) No person or company shall trade in any security issued by a mining company either on his or its own account or on behalf of any other person or company where such trade would be in the course of a primary distribution to the public of such security until there has been filed with the Commission a prospectus, and a receipt therefor obtained from the registrar, which prospectus shall be dated and signed by every person who is, at the time of filing, a director or promoter of the mining company issuing the security or an underwriter or optionee of such security, and which prospectus shall contain a full, true and plain disclosure relating to the security issued and shall set forth,

1. the full name of the company and the address of the head office;

2. the laws under which the company was incorporated and stating whether incorporated by letters patent or otherwise and the date thereof, and if supplementary letters patent or a similar authority for variation of the letters patent or otherwise has been issued so stating with the date thereof;

3. the officers, directors and promoters giving in each case the name in full, present occupation and home address in full;
4. the name and address of the auditors;

5. the name and address of every registry and transfer agency;

6. the particulars of the share capital authorized, issued and paid up, the number and classes of shares and the par value thereof, or if without par value so stating;

7. the particulars in respect of any bonds, or debentures outstanding or proposed to be issued;

8. the number of shares or other securities held in escrow, the name of the trustee and a summary of the provisions of the escrow agreement including the proposed plan of release from escrow;

9. the shares sold for cash to date tabulated under each class of shares as follows:
   i. the number of shares sold, separately listed as to price,
   ii. the total cash received for the shares sold, and
   iii. the commissions paid on the sale of the shares;

10. the particulars of securities, other than shares, sold for cash to date as follows:
    i. the securities sold,
    ii. the total cash received for the securities sold, and
    iii. the commissions paid on the sale of the securities;

11. the number of shares issued or to be issued or cash paid or to be paid to any promoter with his name and address and the consideration for the payment;

12. particulars as follows:
    i. the official designation and location of all properties, showing whether owned, leased or held under option or intended to be acquired by the company and all material facts relating to leases or options,
    ii. the names and addresses of all vendors of property purchased or intended to be purchased by the company, showing the consideration paid or intended to be paid to each vendor, and the property acquired from each, and
iii. the names and addresses in full of every person or company who has received or is to receive from any vendor a greater than 5 per cent interest in the shares or other consideration received or to be received by the vendor;

13. the particulars relating to all properties as follows:
   i. the means of access thereto,
   ii. the character, extent and condition of any underground exploration and development and any underground plant and equipment, and if none so state,
   iii. the character, extent and condition of any surface exploration and development and any surface plant and equipment, and if none so state,
   iv. the known history of the property, and
   v. a description of any work done and improvements made by the present management, and if none so state;

14. the particulars of the securities, if any, covered by option agreements or underwriting agreements outstanding or proposed to be given and particulars of sub-option agreements or sub-underwriting agreements outstanding or proposed to be given and particulars of any assignments or proposed assignments of any such agreements and the price or prices at which and the date or dates by which the option agreements or underwriting agreements must be exercised, showing the name of the optionee and where the optionee is a company, syndicate or partnership, the names of all persons having more than 5 per cent interest therein, and the name and address of the person for or on whose behalf the option agreement or underwriting agreement has been entered into;

15. the details of future development and exploration plans of the management showing how it is proposed to expend the proceeds from current sales of securities;

16. where a company has not been incorporated for more than one year prior to the date of the statement, the amount or estimated amount of preliminary expenses showing administrative and development expenses
separately, including the amount already expended and the estimated future expenditures in each case;

17. the amount and general description of any indebtedness to be created or assumed, which is not shown in a balance sheet filed with the Commission, and also particulars of the security, if any, given or to be given for such indebtedness;

18. particulars as follows:

   i. the principal business in which each director or officer has been engaged during the past three years and giving the length of time, position held and name of company or firm,

   ii. the nature and extent of the interest, direct or indirect, which any director or officer of the company, whether personally or as a partner in a firm, has ever had in any property acquired or to be acquired by the company, and

   iii. the aggregate remuneration paid by the company during the last financial year, and estimated to be paid or payable during the current financial year to directors and, separately stated, to officers;

19. the particulars of dividends, if any, paid during the last five years;

20. the names and addresses of the persons who, by reason of beneficial ownership of securities of the company or any agreement in writing, are in a position or are entitled to elect or cause to be elected a majority of the directors of the company;

21. any other material facts not disclosed in the foregoing;

22. a certification to be signed by the directors and promoters of the company in the following form: The foregoing constitutes full, true and plain disclosure of all material facts in respect of the offering of securities referred to above as required by section 38 of The Securities Act (Ontario), and there is no further material information applicable other than in the financial statements or reports where required; and

23. a certification to be signed by the underwriters and optionees in the following form: To the best of my knowledge, information and belief, the foregoing constitutes full, true and plain disclosure of all material
facts in respect of the offering of securities referred to above as required by section 38 of The Securities Act (Ontario), and there is no further material information applicable other than in the financial statements or reports where required. In respect of matters which are not within my knowledge I have relied upon the accuracy and adequacy of the foregoing.

(2) A full and up-to-date report on the property of the mining company and the development thereof made by a person who in the opinion of the Commission is a qualified mining engineer, geologist or prospector, certified by such person stating,

(a) the address and occupation of such person;
(b) the qualifications of such person;
(c) any interest that such person may have either directly or indirectly or that he may expect to receive either directly or indirectly in the property or securities;
(d) whether or not the report is based on personal examination;
(e) the date of any such examination; and
(f) where not personally examined the source of information contained in the report,

shall accompany the prospectus required under subsection 1.

(3) No person or company shall engage in the primary distribution to the public of such a security as mentioned in subsection 1 until such person or company has notified the Commission in writing of his or its intention to engage in such primary distribution to the public.

(4) Any director, promoter, underwriter or optionee may sign a prospectus required under subsection 1 by his agent thereunto in writing lawfully authorized and where the Commission is satisfied upon evidence presented to it that any director is for adequate cause not available to sign any such prospectus the Commission may dispense with the requirement for his signature.

(5) Every underwriter and optionee is entitled to rely upon the accuracy and adequacy of the disclosure made in any prospectus filed under subsection 1 except as regards any matters that are within the knowledge of the underwriter or optionee. R.S.O. 1950, c. 351, s. 38 (1-5).

(6) A prospectus of a mining company shall be accompanied by,
(a) an earnings statement of the company and, unless the Commission otherwise directs, of all its subsidiaries, showing all profits or losses and the nature and source thereof year by year for the last five completed financial years of the company and any part of a subsequent financial year to the date at which the balance sheet required by clause b is made up, or for such shorter or longer period as the Commission may require, but not for a longer period than five additional years; and

(b) a balance sheet of assets and liabilities of the company and, unless the Commission otherwise directs, of all its subsidiaries, as at a date not more than 120 days before the date of the prospectus or such other date as the Commission may accept.

(7) Where the proceeds of the securities offered by the prospectus of a mining company are to be applied in whole or in part directly or indirectly in the purchase of one or more businesses, the prospectus shall be accompanied by,

(a) a pro forma statement combining the net profits or net losses of the business or businesses with those of the company or companies covered by the earnings statement for the years and period mentioned in clause a of subsection 6 or, if the Commission so requires, a statement showing all profits or losses and the nature and source thereof of the business or businesses year by year for the last five completed financial years of the business or businesses and any part of a subsequent year to the date to which the balance sheet required by clause b of subsection 6 is made up, or to such other date or for such shorter or longer period as the Commission may require, but not for a longer period than five additional years; and

(b) a pro forma balance sheet showing the assets to be acquired and the liabilities to be assumed and the assets and liabilities of the company or companies covered by the balance sheet mentioned in clause b of subsection 6 as at the date at which the balance sheet is made up or, if the Commission so requires, a statement showing the assets to be acquired and the liabilities to be assumed.

(8) Every balance sheet and pro forma balance sheet of a mining company shall show separately the shares of capital stock issued for cash and the value at which the shares were issued, the shares of capital stock issued for properties, claims
or leases and the value at which the shares were issued, the shares of capital stock issued for other consideration and the value at which the shares were issued and shall be accompanied by analyses of deferred charges where, in the opinion of the Commission, such deferred charges are significant.

(9) The Commission may require the prospectus of a mining company to be accompanied by a pro forma balance sheet showing the assets and liabilities of the company and, unless the Commission otherwise directs, of all its subsidiaries, as at the date at which the balance sheet required by clause 6 of subsection 6 is made up, giving effect to the sale, issue or redemption of securities issued or to be issued by the company and to such other transactions as the Commission may require.

(10) Where the Commission directs that profits or losses of a subsidiary or subsidiaries of a mining company shall not be included in the earnings statement unless the Commission otherwise directs, there shall be set out therein, by note or otherwise, the interest of the company in the profits or losses of the subsidiary or subsidiaries and the extent to which that interest has been included in the earnings statement for the years and period covered by the statement.

(11) Where, before the date of the prospectus, a mining company that has carried on business for less than five years acquires control of a business that has been carried on for a longer period than the business of the company, for the purposes of clause a of subsection 6, the company is deemed to have carried on business for the same period as the business acquired.

(12) Every earnings statement, balance sheet, pro forma statement and pro forma balance sheet mentioned in subsections 6, 7 and 9, and any other financial statement or pro forma financial statement accompanying the prospectus, shall be drawn up in such manner and contain such information as the Commission may from time to time require.

(13) Every earnings statement, balance sheet, pro forma statement and pro forma balance sheet mentioned in subsections 6, 7 and 9 shall be approved by the board of directors and the approval evidenced by the signatures at the foot of every balance sheet and every pro forma balance sheet of two or more directors authorized to signify such approval.

(14) The auditor or accountant eligible for appointment as auditor of a mining company shall make such examination as will enable him to report as required by subsection 15.
(15) A prospectus of a mining company shall be accompa-
nied by a report by the auditor of the company or, where
the Commission permits, by an accountant eligible for ap-
pointment as auditor of the company, upon every earnings state-
ment, pro forma statement, balance sheet and pro forma
balance sheet that accompanies a prospectus.

(16) The auditor or accountant shall state in the report
whether in his opinion,

(a) every earnings statement presents fairly the results
of the operations for the years and period covered;

(b) every balance sheet presents fairly the financial
position as at the date at which it is made up;

(c) every pro forma statement presents fairly, after
giving effect to the assumptions on which it is based,
the results of the operations for the years and period
covered;

(d) every pro forma balance sheet presents fairly, after
giving effect to the assumptions on which it is based,
the financial position as at the date at which it is
made up.

(17) The auditor or accountant shall be a person acceptable
to the Commission.

(18) There shall be filed with the Commission, in the form
that the Commission requires, a consent by the auditor or
accountant to the use of his report required under subsection
15. 1956, c. 81, s. 3.

(19) Where a change occurs during the period of primary
distribution to the public in any material fact contained in
any prospectus, financial statement or report accepted for
filing under this section, which is of such a nature as to render
such prospectus, financial statement or report misleading, an
amended prospectus, financial statement or report shall be
filed within twenty days from the date the change occurs but,
subject to any direction of the Commission, the amended
prospectus shall be required to be signed only by the signa-
tories to the original prospectus and where any change in
directors, promoters, underwriters or optionees has occurred
since the filing of the original prospectus the decision of the
Commission as to who shall be required to sign the amended
prospectus or as to any like matter is final.

(20) Where primary distribution to the public of a security
mentioned in subsection 1 is still in progress twelve months
from the date of the last prospectus accepted for filing under
subsection 1, a new prospectus as required under subsection 1
together with the report required under subsection 2 and the
Sec. 39 (1) 

financial statements required under subsection 6 shall be filed with the Commission within twenty days from the expiration of such twelve-month period. R.S.O. 1950, c. 351, s. 38 (9, 10).

PART VIII

TRADING IN THE SECURITIES OF AN INDUSTRIAL COMPANY

39.—(1) No person or company shall trade in any security issued by an industrial company either on his or its own account or on behalf of any other person or company where such trade would be in the course of a primary distribution to the public of such security until there has been filed with the Commission a prospectus, and a receipt therefor obtained from the registrar, which prospectus shall be dated and signed by every person who is, at the time of filing, a director or promoter of the industrial company issuing the security or an underwriter or optionee of such security, and which prospectus shall contain a full, true and plain disclosure relating to the security issued and shall set forth,

1. the full name of the company and the address of the head office;
2. the laws under which the company was incorporated and stating whether incorporated by letters patent or otherwise and the date thereof, and if supplementary letters patent or a similar authority for variation of the letters patent or otherwise has been issued so stating with the date thereof;
3. the general nature of the business actually transacted or to be transacted;
4. the officers and directors giving in each case the name in full, present occupation and home address in full;
5. the name and address of the auditors;
6. the name and address of every registry and transfer agency;
7. the particulars of the share capital authorized, issued and paid up, the number and classes of shares and the par value thereof, or if without par value so stating;
8. where shares are offered, a description of respective voting rights, preferences, conversion and exchange rights, rights to dividends, profits or capital of each class of shares, including redemption rights, and rights on liquidation or distribution of capital assets,
provided that it is not necessary to set out such description in respect of any class of shares that will be wholly redeemed or cancelled prior to, contemporaneously with or out of the proceeds of the issue of the shares offered or any provisions relating to any shares that will have ceased to be effective prior to or contemporaneously with the issue of the shares offered;

9. the particulars in respect of any bonds, or debentures outstanding or proposed to be issued, and of any other securities issued or proposed to be issued, which if issued will rank ahead of or pari passu with the securities offered;

10. the amount and general description of any substantial indebtedness to be created or assumed, which is not shown in the balance sheet filed with the Commission and also particulars of the security, if any, given or to be given for such indebtedness;

11. the particulars of the securities, if any, covered by options outstanding or proposed to be given by the company and the price or prices at which and the date or dates by which the options must be exercised, showing the name of the original grantee of the option and where the original grantee is a company, syndicate or partnership, the names of all persons having more than a 5 per cent interest therein, provided that where options are evidenced by instruments in bearer or transferable form capable of being freely bought and sold, then to the extent that the options have been or are to be made available to a class of holders of securities of the company, or have been or are to be offered in the course of a primary distribution to the public it is not necessary to disclose the names of the grantees except where the grantee is an underwriter;

12. the number of securities of each class, that in the case of obligations shall bear an appropriate and correct descriptive title, offered and the issue price and the terms thereof and in the case of a second or subsequent offer of securities the amount offered for subscription on each previous offer within the two preceding years and the amount actually issued and the amount paid up thereon, specifying the amounts received in cash or other consideration respectively and the commission, if any, paid or payable;
13. the estimated net proceeds to be derived from the securities offered on the basis of such securities being fully taken up and paid for;

14. the specific purposes in detail and the approximate amounts to be devoted to such purposes, so far as determinable, for which the securities offered are to supply funds and if the funds are to be raised in part from other sources the amount thereof and the sources thereof shall be stated, and particulars of any provision made for the holding in trust of the proceeds of the issue of the securities offered pending or subject to the fulfilment of any conditions;

15. where shares are offered by the company or an underwriter, the minimum amount, if any, that in the opinion of the directors must be raised by the issue of those shares in order to provide the sums, or, if any part thereof is to be defrayed in any other manner, the balance of the sum required to be provided for the following matters:

i. the purchase price of any property purchased or to be purchased that is to be defrayed in whole or in part out of the proceeds of the issue,

ii. any preliminary expenses payable by the company,

iii. any commission payable by the company to any person in consideration of his agreeing to subscribe for or procuring or agreeing to procure subscriptions for any shares in the company,

iv. the repayment of any moneys borrowed by the company in respect of the foregoing matters, and

v. the repayment of bank loans, if any;

16. the particulars showing the date of and the parties to the agreement, if any, with an underwriter in respect of the securities offered and the remuneration of or price payable by the underwriter for the securities offered;

17. any provisions of the by-laws as to the remuneration of the directors;

18. the aggregate remuneration paid by the company during its last financial year, if completed at least three months prior to the offer, and estimated to be
paid or payable during the current financial year or, if such remuneration is not capable of approximate estimation then the basis of determining it, to directors of the company and, separately stated, to officers of the company who individually have received or may be entitled to receive remuneration in excess of $10,000 per annum;

19. the amount, if any, paid within the two preceding years or payable as a commission by the company for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares in or obligations of the company, or the rate of any such commission;

20. in the case of a company that has not been carrying on business for more than one year, the amount or estimated amount of the preliminary expenses;

21. the particulars of any property purchased or acquired by the company, or proposed to be purchased or acquired, the purchase price of which is to be defrayed in whole or in part out of the proceeds of the issue or has been paid within the last two preceding years or is to be paid in whole or in part in securities of the company, or the purchase or acquisition of which has not been completed at the date of the statement and the nature of the title or interest therein acquired or to be acquired by the company, provided that this clause does not apply to transactions entered into in the ordinary course of operations or on the general credit of the company;

22. the names and addresses of the vendors of any property under paragraph 21 and the amount, specifying separately the amount, if any, for goodwill, paid or payable in cash or securities of the company to the vendors for the property and where there is more than one separate vendor or the company is a sub-purchaser, the amount so payable to each vendor, provided that where the vendors or any of them are a firm, the members of the firm shall not be treated as separate vendors, and provided further that where the property consists of securities of any other company purchased or acquired or proposed to be purchased or acquired by the company on substantially similar terms from more than twenty-five separate vendors it is sufficient to state the nature and terms of the transaction with particulars of the name and address of each person who is the vendor of securities aggregating more than 10 per cent of the
total amount of the securities so purchased or acquired or proposed to be purchased or acquired;

23. the number and amount of securities that, within the two preceding years, have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash and in the latter case the extent to which they are so paid up, and in either case the consideration for which those securities have been issued or are proposed or intended to be issued;

24. where obligations are offered, particulars of the security, if any, that has been or will be created for such obligations, specifying the property, if any, comprised or to be comprised in the security and the nature of the title to the property and, if more than 25 per cent in value of the property consists or is to consist of shares or obligations, particulars of the rights, if any, of the company to substitute other shares or obligations;

25. the particulars of any services rendered or to be rendered to the company that are to be paid for by the company wholly or partly out of the proceeds of the securities offered or have been within the last two preceding years or are to be paid for by securities of the company exclusive of commissions to be disclosed under paragraph 15 and amount included under paragraph 19 and amount included under paragraph 23;

26. the amount paid within the two preceding years or intended to be paid to any promoter with his name and address and the consideration for such payment;

27. the dates of and the parties to and the general nature of every material contract entered into within the two preceding years, and a reasonable time and place at which any such material contract or a copy thereof may be inspected, but this requirement does not apply to a contract entered into in the ordinary course of business carried on or intended to be carried on by the company;

28. full particulars of the nature and extent of the interest, if any, of every director in the promotion of, or in any property acquired by the company within the preceding two years or proposed to be acquired by the company, or, where the interest of such director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to
him or to the firm in cash or securities or otherwise by
any person either to induce him to become, or to
qualify him as a director, or otherwise for services
rendered by him or by the firm in connection with
the promotion or formation of the company, but this
paragraph does not apply in the case of a statement
issued more than one year after the date at which
the company commenced business, except as to the
particulars relating to property proposed to be
acquired by the company;

29. in the case of a company that has been carrying
on business for less than three years, the length of
time during which the business of the company has
been carried on, and, if the company has acquired or
proposes to acquire, either by direct acquisition or
indirectly by ownership of shares or otherwise, a
business that has been carried on for less than
three years, also the length of time during which
such business has been carried on;

30. where shares are offered, the names and addresses of
the persons, if known, who, by reason of beneficial
ownership of securities of the company or any agree-
ment in writing, are in a position to, or are entitled
to, elect or cause to be elected a majority of the
directors of the company;

31. where any securities of the company of the same class
as those offered are held in escrow, particulars of the
number and description thereof, the name of the
depository, the date on which and the conditions,
if any, governing the release of such securities from
escrow;

32. where shares are offered, particulars of dividends,
if any, paid during the five years preceding the date
of the statement;

33. any other material facts not disclosed in the fore-
going;

34. a certification to be signed by the directors and pro-
moters of the company in the following form: The
foregoing constitutes full, true and plain disclosure of
all material facts in respect of the offering of securities
referred to above as required by section 39 of The
Securities Act (Ontario), and there is no further ma-
terial information applicable other than in the financial
statements or reports where required; and
35. A certification to be signed by the underwriters and optionees in the following form: *To the best of my knowledge, information and belief, the foregoing constitutes full, true and plain disclosure of all material facts in respect of the offering of securities referred to above as required by section 39 of The Securities Act (Ontario), and there is no further material information applicable other than in the financial statements or reports where required. In respect of matters which are not within my knowledge I have relied upon the accuracy and adequacy of the foregoing.*

(2) No person or company shall engage in the primary distribution to the public of such a security as mentioned in subsection 1 until such person or company has notified the Commission in writing of his or its intention to engage in such primary distribution to the public.

(3) Any director, promoter, underwriter or optionee may sign a prospectus required under subsection 1 by his agent thereunto in writing lawfully authorized and where the Commission is satisfied upon evidence presented to it that any director is for adequate cause not available to sign any such prospectus the Commission may dispense with the requirement for his signature.

(4) Every underwriter and optionee is entitled to rely upon the accuracy and adequacy of the disclosure made in any prospectus filed under subsection 1 except as regards any matters that are within the knowledge of the underwriter or optionee. R.S.O. 1950, c. 351, s. 39 (1-4).

(5) A prospectus of an industrial company shall be accompanied by,

   (a) an earnings statement of the company and, unless the Commission otherwise directs, of all its subsidiaries, showing all profits or losses and the nature and source thereof year by year for the last five completed financial years of the company and any part of a subsequent financial year to the date at which the balance sheet required by clause $b$ is made up, or for such shorter or longer period as the Commission may require, but not for a longer period than five additional years; and

   (b) a balance sheet of assets and liabilities of the company and, unless the Commission otherwise directs, of all its subsidiaries, as at a date not more than 120 days before the date of the prospectus or such other date as the Commission may accept.
(6) Where the proceeds of the securities offered by the prospectus of an industrial company are to be applied in whole or in part directly or indirectly in the purchase of one or more businesses, the prospectus shall be accompanied by,

(a) a *pro forma* statement combining the net profits or net losses of the business or businesses with those of the company or companies covered by the earnings statement for the years and period mentioned in clause a of subsection 5 or, if the Commission so requires, a statement showing all profits or losses and the nature and source thereof of the business or businesses year by year for the last five completed financial years of the business or businesses and any part of a subsequent year to the date to which the balance sheet required by clause b of subsection 5 is made up, or to such other date or for such shorter or longer period as the Commission may require, but not for a longer period than five additional years; and

(b) a *pro forma* balance sheet showing the assets to be acquired and the liabilities to be assumed and the assets and liabilities of the company or companies covered by the balance sheet mentioned in clause b of subsection 5 as at the date at which the balance sheet is made up or, if the Commission so requires, a statement showing the assets to be acquired and the liabilities to be assumed.

(7) The Commission may require the prospectus of an industrial company to be accompanied by a *pro forma* balance sheet showing the assets and liabilities of the company and, unless the Commission otherwise directs, of all its subsidiaries, as at the date at which the balance sheet required by clause b of subsection 5 is made up, giving effect to the sale, issue or redemption of securities issued or to be issued by the company and to such other transactions as the Commission may require.

(8) Where the Commission directs that profits or losses of a subsidiary or subsidiaries of an industrial company shall not be included in the earnings statement, unless the Commission otherwise directs, there shall be set out therein, by note or otherwise, the interest of the company in the profits or losses of the subsidiary or subsidiaries and the extent to which that interest has been included in the earnings statement for the years and period covered by the statement.

(9) Where, before the date of the prospectus, an industrial company that has carried on business for less than five years acquires control of a business that has been carried on for a
longer period than the business of the company, for the purposes of clause a of subsection 5, the company is deemed to have carried on business for the same period as the business acquired.

(10) Every earnings statement, balance sheet, *pro forma* statement and *pro forma* balance sheet mentioned in subsections 5, 6 and 7, and any other financial statement or *pro forma* financial statement accompanying the prospectus, shall be drawn up in such manner and contain such information as the Commission may from time to time require.

(11) Every earnings statement, balance sheet, *pro forma* statement and *pro forma* balance sheet mentioned in subsections 5, 6 and 7 shall be approved by the board of directors and the approval evidenced by the signatures at the foot of every balance sheet and every *pro forma* balance sheet of two or more directors authorized to signify such approval.

(12) The auditor or accountant eligible for appointment as auditor of an industrial company shall make such examination as will enable him to report as required by subsection 13.

(13) A prospectus of an industrial company shall be accompanied by a report by the auditor of the company or, where the Commission permits, by an accountant eligible for appointment as auditor of the company, upon every earnings statement, *pro forma* statement, balance sheet and *pro forma* balance sheet that accompanies a prospectus.

(14) The auditor or accountant shall state in the report whether in his opinion,

(a) every earnings statement presents fairly the results of the operations for the years and period covered;

(b) every balance sheet presents fairly the financial position as at the date at which it is made up;

(c) every *pro forma* statement presents fairly, after giving effect to the assumptions on which it is based, the results of the operations for the years and period covered;

(d) every *pro forma* balance sheet presents fairly, after giving effect to the assumptions on which it is based, the financial position as at the date at which it is made up.

(15) The auditor or accountant shall be a person acceptable to the Commission.

(16) There shall be filed with the Commission, in the form that the Commission requires, a consent by the auditor or accountant to the use of his report required under subsection 13. 1956, c. 81, s. 4.
(17) Where a change occurs during the period of primary distribution to the public in any material fact contained in any prospectus, financial statement or report accepted for filing under this section, which is of such a nature as to render such prospectus, financial statement or report misleading, an amended prospectus, financial statement or report shall be filed within twenty days from the date the change occurs but, subject to any direction of the Commission, the amended prospectus shall be required to be signed only by the signatories to the original prospectus and where any change in directors, promoters, underwriters or optionees has occurred since the filing of the original prospectus the decision of the Commission as to who shall be required to sign the amended prospectus or as to any like matter is final.

(18) Where primary distribution to the public of a security mentioned in subsection 1 is still in progress twelve months from the date of the last prospectus accepted for filing under subsection 1, a new prospectus as required under subsection 1 together with the financial statements required under subsection 5 shall be filed with the Commission within twenty days from the expiration of such twelve-month period. R.S.O. 1950, c. 351, s. 39 (9, 10).

PART IX

TRADING IN THE SECURITIES OF AN INVESTMENT COMPANY

40.-(1) No person or company shall trade in any security issued by an investment company either on his or its own account or on behalf of any other person or company where such trade would be in the course of a primary distribution to the public of such security until there has been filed with the Commission a prospectus, and a receipt therefor obtained from the registrar, which prospectus shall be dated and signed by every person who is, at the time of filing, a director or promoter of the investment company issuing the security or an underwriter or optionee of such security, and which prospectus shall contain a full, true and plain disclosure relating to the security issued and shall set forth,

1. the full name of the company and the address of the head office;

2. the laws under which the company was incorporated and stating whether incorporated by letters patent or otherwise and the date thereof, and if supplementary letters patent or a similar authority for variation of the letters patent or otherwise has been issued so stating with the date thereof;
3. the general nature of the business actually transacted or to be transacted giving full particulars of investment powers and duties;

4. the officers and directors giving in each case the name in full, present occupation and home address in full;

5. the names and home addresses in full of the persons constituting any investment advisory committee or similar body together with a concise statement of powers and duties, and giving the business experience of such persons for the preceding five years, and where such persons are officers or directors of other companies, so stating, giving the names of such companies;

6. the name and address of the auditors;

7. the name and address of every registry and transfer agency;

8. the particulars of the share capital authorized, issued and paid up, the number and classes of shares and the par value thereof, or if without par value so stating;

9. where shares are offered, a description of respective voting rights, preferences, conversion and exchange rights, rights to dividends, profits or capital of each class of shares, including redemption rights, and rights on liquidation or distribution of capital assets, provided that it is not necessary to set out such description in respect of any class of shares that will be wholly redeemed or cancelled prior to, contemporaneously with or out of the proceeds of the issue of the shares offered or any provisions relating to any shares that will have ceased to be effective prior to or contemporaneously with the issue of the shares offered;

10. the particulars in respect of any bonds, or debentures outstanding or proposed to be issued, and of any other securities issued or proposed to be issued, that if issued will rank ahead of or pari passu with the securities offered;

11. the names and addresses in full of any trustees and the particulars of any trustee agreements where assets are held to protect the liability to the public in respect of securities sold to the public and if not applicable so stating;
12. the amount and general description of any substantial indebtedness to be created or assumed, that is not shown in the balance sheet filed with the Commission and also particulars of the security, if any, given or to be given for such indebtedness;

13. the particulars of the securities, if any, covered by options outstanding or proposed to be given by the company and the price or prices at which and the date or dates by which the options must be exercised, showing the name of the original grantee of the option and where the original grantee is a company, syndicate or partnership, the names of all persons having more than a 5 per cent interest therein, provided that where options are evidenced by instruments in bearer or transferable form capable of being freely bought and sold, then to the extent that the options have been or are to be made available to a class of holders of securities of the company, or have been or are to be offered in the course of a primary distribution to the public it is not necessary to disclose the names of the grantees except where the grantee is an underwriter;

14. a brief description of the method by which the securities offered will be sold to the public;

15. the number of securities of each class, which in the case of obligations shall bear an appropriate and correct descriptive title, offered and the issue price and the terms thereof and in the case of a second or subsequent offer of securities the amount offered for subscription on each previous offer within the two preceding years and the amount actually issued and the amount paid up thereon, specifying the amounts received in cash or other consideration respectively and the commission, if any, paid or payable;

16. the estimated net proceeds to be derived from the securities offered on the basis of such securities being fully taken up and paid for;

17. the specific purposes in detail and the approximate amounts to be devoted to such purposes, so far as determinable, for which the securities offered are to supply funds and if the funds are to be raised in part from other sources the amount thereof and the sources thereof shall be stated, and particulars of any provision made for the holding in trust of the proceeds of the issue of the securities offered pending or subject to the fulfilment of any conditions;
18. where shares are offered by the company or an underwriter, the minimum amount, if any, which in the opinion of the directors must be raised by the issue of those shares in order to provide the sums, or, if any part thereof is to be defrayed in any other manner, the balance of the sum required to be provided for the following matters:

i. the purchase price of any property purchased or to be purchased that is to be defrayed in whole or in part out of the proceeds of the issue,

ii. any preliminary expenses payable by the company,

iii. any commission payable by the company to any person in consideration of his agreeing to subscribe for or procuring or agreeing to procure subscriptions for any shares in the company,

iv. the repayment of any moneys borrowed by the company in respect of the foregoing matters, and

v. the repayment of bank loans, if any;

19. the particulars showing the date of and the parties to the agreement, if any, with an underwriter in respect of the securities offered and the remuneration of or price payable by the underwriter for the securities offered;

20. any provisions of the by-laws as to the remuneration of the directors and of the persons constituting the investment advisory committee or similar body, if any;

21. the aggregate remuneration paid by the company during its last financial year, if completed at least three months prior to the offer, and estimated to be paid or payable during the current financial year or, if such remuneration is not capable of approximate estimation then the basis of determining it, to directors of the company and, separately stated, to officers of the company who individually have received or may be entitled to receive remuneration in excess of $10,000 per annum;

22. the amount, if any, paid within the two preceding years or payable as a commission by the company for subscribing or agreeing to subscribe or procuring
or agreeing to procure subscriptions for any securities of the company, or the rate of any such commission;

23. in the case of a company that has not been carrying on business for more than one year the amount or estimated amount of the preliminary expenses;

24. the particulars of any property purchased or acquired by the company, or proposed to be purchased or acquired, the purchase price of which is to be defrayed in whole or in part out of the proceeds of the issue or has been paid within the last two preceding years or is to be paid in whole or in part in securities of the company, or the purchase or acquisition of which has not been completed at the date of the statement and the nature of the title or interest therein acquired or to be acquired by the company, provided that this paragraph does not apply to transactions entered into in the ordinary course of operations or on the general credit of the company;

25. the names and addresses of the vendors of any property under paragraph 24 and the amount, specifying separately the amount, if any, for goodwill, paid or payable in cash or securities of the company to the vendors for the property and where there is more than one separate vendor or the company is a sub-purchaser, the amount so payable to each vendor, provided that where the vendors or any of them are a firm, the members of the firm shall not be treated as separate vendors, and provided further that where the property consists of securities of any other company purchased or acquired or proposed to be purchased or acquired by the company on substantially similar terms from more than twenty-five separate vendors it is sufficient to state the nature and terms of the transaction with particulars of the name and address of each person who is the vendor of securities aggregating more than 10 per cent of the total amount of the securities so purchased or acquired or proposed to be purchased or acquired;

26. the number and amount of securities that, within the two preceding years, have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash and in the latter case the extent to which they are so paid up, and in either case the consideration for which those securities have been issued or are proposed or intended to be issued;

27. where obligations are offered, particulars of the security, if any, that has been or will be created for
such obligations, specifying the property, if any, comprised or to be comprised in the security and the nature of the title to the property and, if more than 25 per cent in value of the property consists or is to consist of shares or obligations, particulars of the rights, if any, of the company to substitute other shares or obligations;

28. the particulars of any services rendered or to be rendered to the company that are to be paid for by the company wholly or partly out of the proceeds of the securities offered or have been within the last two preceding years or are to be paid for by securities of the company exclusive of commissions to be disclosed under paragraph 18 and amount included under paragraph 22 and amount included under paragraph 26;

29. the amount paid within the two preceding years or intended to be paid to any promoter with his name and address and the consideration for such payment;

30. the dates of and the parties to and the general nature of every material contract entered into within the two preceding years, and a reasonable time and place at which any such material contract or a copy thereof may be inspected, but this requirement does not apply to a contract entered into in the ordinary course of business carried on or intended to be carried on by the company;

31. full particulars of the nature and extent of the interest, if any, of every director in the promotion of, or in any property acquired by the company within the preceding two years or proposed to be acquired by the company or, where the interest of such director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or securities or otherwise by any person either to induce him to become, or to qualify him as a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company, but this paragraph does not apply in the case of a statement issued more than one year after the date at which the company commenced business, except as to the particulars relating to property proposed to be acquired by the company;

32. in the case of a company that has been carrying on business for less than three years, the length of time
during which the business of the company has been carried on, and, if the company has acquired or proposes to acquire, either by direct acquisition or indirectly by ownership of shares or otherwise, a business that has been carried on for less than three years, also the length of time during which such business has been carried on;

33. where shares are offered, the names and addresses of the persons, if known, who, by reason of beneficial ownership of securities of the company or any agreement in writing, are in a position to, or are entitled to, elect or cause to be elected a majority of the directors of the company;

34. the particulars of dividends, if any, paid during the five years preceding the date of the statement;

35. any other material facts not disclosed in the foregoing;

36. a certification to be signed by the directors and promoters of the company in the following form: The foregoing constitutes full, true and plain disclosure of all material facts in respect of the offering of securities referred to above as required by section 40 of The Securities Act (Ontario), and there is no further material information applicable other than in the financial statements or reports where required; and

37. a certification to be signed by the underwriters and optionees in the following form: To the best of my knowledge, information and belief, the foregoing constitutes full, true and plain disclosure of all material facts in respect of the offering of securities referred to above as required by section 40 of The Securities Act (Ontario), and there is no further material information applicable other than in the financial statements or reports where required. In respect of matters which are not within my knowledge I have relied upon the accuracy and adequacy of the foregoing.

(2) No person or company shall engage in the primary distribution to the public of such a security as mentioned in subsection 1 until such person or company has notified the Commission in writing of his or its intention to engage in such primary distribution to the public.

(3) Any director, promoter, underwriter or optionee may sign a prospectus required under subsection 1 by his agent thereunto in writing lawfully authorized and where the Commission is satisfied upon evidence presented to it that any
director is for adequate cause not available to sign any such prospectus the Commission may dispense with the require-
ment for his signature.

(4) Every underwriter and optionee is entitled to rely upon the accuracy and adequacy of the disclosure made in any prospectus filed under subsection 1 except as regards any matters that are within the knowledge of the underwriter or optionee. R.S.O. 1950, c. 351, s. 40 (1-4).

(5) A prospectus of an investment company shall be accom-
panied by,

(a) an earnings statement of the company and, unless the Commission otherwise directs, of all its sub-
sidiaries, showing all profits or losses and the nature and source thereof year by year for the last five completed financial years of the company and any part of a subsequent financial year to the date at which the balance sheet required by clause c is made up, or for such shorter or longer period as the Com-
mission may require, but not for a longer period than five additional years;

(b) a statement showing each category of surplus of the company and, unless the Commission otherwise directs, of all its subsidiaries, for the years and period covered by the earnings statement; and

(c) a balance sheet of assets and liabilities of the com-
pany and, unless the Commission otherwise directs, of all its subsidiaries, as at a date not more than 120 days before the date of the prospectus or such other date as the Commission may accept.

(6) Where the proceeds of the securities offered by the prospectus of an investment company are to be applied in whole or in part directly or indirectly in the purchase of one or more businesses, the prospectus shall be accompanied by,

(a) a pro forma statement combining the net profits or net losses of the business or businesses with those of the company or companies covered by the earnings statement for the years and period mentioned in clause a of subsection 5 or, if the Commission so requires, a statement showing all profits or losses and the nature and source thereof of the business or businesses year by year for the last five completed financial years of the business or businesses and any part of a subsequent year to the date to which the balance sheet required by clause c of subsection 5
is made up, or to such other date or for such shorter or longer period as the Commission may require, but not for a longer period than five additional years;

(b) a pro forma balance sheet showing the assets to be acquired and the liabilities to be assumed and the assets and liabilities of the company or companies covered by the balance sheet mentioned in clause (c) of subsection 5 as at the date at which the balance sheet is made up or, if the Commission so requires, a statement showing the assets to be acquired and the liabilities to be assumed; and

(c) a statement containing such further information as to each category of surplus of the company or companies or the business or businesses to be acquired as the Commission may require.

(7) Every balance sheet and pro forma balance sheet of an investment company shall include a statement, as at the date of the balance sheet, of the portfolio of investments of the company and all its subsidiaries and the statement shall be drawn up to classify investments as follows and show, for each class, the aggregate value at which each class of investment is carried on the books of the company and all its subsidiaries, the basis for that value, and the aggregate market value where obtainable:

(a) securities of or guaranteed by the Government of Canada;

(b) securities of or guaranteed by the government of any province of Canada;

(c) securities of any municipal corporation in Canada;

(d) securities of or guaranteed by any government in the Commonwealth or any colony or dependency thereof;

(e) securities of or guaranteed by the government of any foreign country or state forming a portion of any foreign country;

(f) mortgages and agreements for sale; and

(g) other classes of securities listing each class and issue separately, and showing for each issue, where applicable, the quantity held, principal amount, maturity date, interest or dividend rate, cost, valuation on the books, basis for that value, and market value where obtainable;

provided that one group of investments, not more than 10 per cent of the aggregate value at which all investments in the
portfolio are carried on the books of the company and all its subsidiaries, may be listed in one amount as miscellaneous securities.

(8) The Commission may require the prospectus of an investment company to be accompanied by a *pro forma* balance sheet showing the assets and liabilities of the company and, unless the Commission otherwise directs, of all its subsidiaries, as at the date at which the balance sheet required by clause *c* of subsection 5 is made up, giving effect to the sale, issue or redemption of securities issued or to be issued by the company and to such other transactions as the Commission may require.

(9) Where the Commission directs that the profits or losses of a subsidiary or subsidiaries of an investment company shall not be included in the earnings statement, unless the Commission otherwise directs, there shall be set out therein, by note or otherwise, the interest of the company in the profits or losses of the subsidiary or subsidiaries and the extent to which that interest has been included in the earnings statement for the years and period covered by the statement.

(10) Where, before the date of the prospectus, an investment company that has carried on business for less than five years acquires control of a business that has been carried on for a longer period than the business of the company, for the purposes of clauses *a* and *b* of subsection 5, the company is deemed to have carried on business for the same period as the business acquired.

(11) Every earnings statement, balance sheet, *pro forma* statement, *pro forma* balance sheet and statement of surplus mentioned in subsections 5, 6 and 8, and any other financial statement or *pro forma* financial statement accompanying the prospectus, shall be drawn up in such manner and contain such information as the Commission may from time to time require.

(12) Every earnings statement, balance sheet, *pro forma* statement, *pro forma* balance sheet and statement of surplus mentioned in subsections 5, 6 and 8 shall be approved by the board of directors and the approval evidenced by the signatures at the foot of every balance sheet and every *pro forma* balance sheet of two or more directors authorized to signify such approval.

(13) The auditor or accountant eligible for appointment as auditor of an investment company shall make such examination as will enable him to report as required by subsection 14.
(14) A prospectus of an investment company shall be accompanied by a report by the auditor of the company or where the Commission permits by an accountant eligible for appointment as auditor of the company, upon every earnings statement, *pro forma* statement, balance sheet, *pro forma* balance sheet and statement of surplus that accompanies a prospectus.

(15) The auditor or accountant shall state in the report whether in his opinion,

(a) every earnings statement presents fairly the results of the operations for the years and period covered;

(b) every balance sheet presents fairly the financial position as at the date at which it is made up and the statement of the portfolio of investments mentioned in subsection 7 presents fairly the information which it purports to present;

(c) every *pro forma* statement presents fairly, after giving effect to the assumptions on which it is based, the results of the operations for the years and period covered;

(d) every *pro forma* balance sheet presents fairly, after giving effect to the assumptions on which it is based, the financial position as at the date at which it is made up and the statement of the portfolio of investments mentioned in subsection 7 presents fairly the information that it purports to present;

(e) every statement of surplus presents fairly the transactions set out in the statement.

(16) The auditor or accountant shall be a person acceptable to the Commission.

(17) There shall be filed with the Commission, in the form that the Commission requires, a consent by the auditor or accountant to the use of his report required under subsection 14. 1956, c. 81, s. 5.

(18) Where a change occurs during the period of primary distribution to the public in any material fact contained in any prospectus, financial statement or report accepted for filing under this section, which is of such a nature as to render such prospectus, financial statement or report misleading, an amended prospectus, financial statement or report shall be filed within twenty days from the date the change occurs but, subject to any direction of the Commission, the amended prospectus shall be required to be signed only by the signatories to the original prospectus and where any change in
directors, promoters, underwriters or optionees has occurred since the filing of the original prospectus the decision of the Commission as to who shall be required to sign the amended prospectus or as to any like matter is final.

(19) Where primary distribution to the public of a security mentioned in subsection 1 is still in progress twelve months from the date of the last prospectus accepted for filing under subsection 1, a new prospectus as required under subsection 1 together with the financial statements required under subsection 5 shall be filed with the Commission within twenty days from the expiration of such twelve-month period. R.S.O. 1950, c. 351, s. 40 (8, 9).

PART X

GENERAL PROVISIONS RELATING TO MINING, INDUSTRIAL, AND INVESTMENT COMPANIES

41. Sections 38, 39 and 40 do not apply to trades mentioned in paragraph 3 or 6 of subsection 1 of section 19 nor to securities,

(a) that are mentioned in subsection 2 of section 19;

(b) that are listed and posted for trading on any recognized stock exchange where such securities are sold through such stock exchange;

(c) that are traded or sold to the public except in the primary distribution thereof to the public;

(d) from one person or company registered for trading in securities under this Act to another person or company registered for trading in securities under this Act where the purchasing person or company is acting as principal; or

(e) that are exempted by the regulations. R.S.O. 1950, c. 351, s. 41.

42.—(1) Where doubt exists whether any trade proposed or intended to be made in a security would be in the primary distribution to the public of the security, the Commission may, upon the application of any of the parties thereto, determine whether the proposed or intended trade would be in the course of the primary distribution to the public of the security and rule accordingly, and such ruling is final and there is no appeal therefrom.

(2) Where doubt exists whether a primary distribution to the public of any security,
(a) has been concluded; or
(b) is currently in progress,

the Commission may determine the question and rule accordingly, and such ruling is final and there is no appeal therefrom. R.S.O. 1950, c. 351, s. 42.

43.—(1) Where a person or company proposing to make a primary distribution to the public of previously distributed securities of any company is unable to obtain from the company that is the issuer of such securities, information or material that is necessary for the purpose of complying with section 38, 39 or 40, as the case may be, the Commission may order the company that is the issuer of such securities to furnish to the person or company who or that proposes to make the distribution, such information and material as the Commission deems necessary for the purposes of the distribution upon such terms and subject to such conditions as it deems proper and all such information and material may be used by the person or company to whom it is furnished for the purpose of complying with this Act.

(2) Where a person or company proposing to make a primary distribution to the public of previously distributed securities of any company is unable to obtain any or all of the signatures to the prospectus as required under subsection 1 of section 38, subsection 1 of section 39 or subsection 1 of section 40, as the case may be, or otherwise to comply with section 38, 39 or 40, as the case may be, the Commission may, upon being satisfied that all reasonable efforts have been made to comply with section 38, 39 or 40, as the case may be, and that no person is likely to be prejudicially affected by the failure to comply, make such order, waiving any of the provisions of section 38, 39 or 40, as it deems advisable, upon such terms and subject to such conditions as it deems proper. R.S.O. 1950, c. 351, s. 43.

44. The Commission may in its discretion accept for filing any prospectus, financial statement or report or amended prospectus, financial statement or report submitted for filing under section 38, 39 or 40, as the case may be, and direct the registrar to issue a receipt therefor unless it appears to the Commission,

(a) that the prospectus, or any financial statement or report that is required to accompany the prospectus,

(i) fails to comply in any substantial respect with any of the requirements of section 38, 39 or 40, as the case may be, or
Sec. 46 (2) (b)

(ii) contains any statement, promise or forecast that is misleading, false or deceptive, or

(iii) has the effect of concealing material facts; or

(b) that an unconscionable consideration has been paid or given or is intended to be paid or given, 

(i) for promotional purposes, or

(ii) for the acquisition of property; or

(c) that the proceeds from the sale of the securities that are to be paid into the treasury of the company, together with other resources of the company, are insufficient to accomplish the objects indicated in the prospectus; or

(d) that such escrow or pooling agreement as the Commission deems necessary or advisable with respect to securities issued for a consideration other than cash has not been entered into. R.S.O. 1950, c. 351, s. 44.

45. Where the Commission decides not to accept for filing a prospectus submitted for filing under section 38, 39 or 40, as the case may be, it shall forthwith cause notice of such decision to be served upon the person who or company that has submitted the prospectus for filing. R.S.O. 1950, c. 351, s. 45.

46.—(1) Where it appears to the Commission subsequent to the filing of a prospectus or an amended prospectus under section 38, 39 or 40, as the case may be, and the issue of a receipt therefor, that any of the circumstances set out in section 44 exist, it may order that all trading in the primary distribution to the public of the securities to which the prospectus relates, shall cease.

(2) A notice of every order made under this section shall be served upon the person who or company that filed the prospectus and upon every person or company registered for trading in securities under this Act who or that has notified the Commission of his or its intention to engage in the primary distribution to the public of the securities, and forthwith upon the receipt of the notice,

(a) no further trades shall be made in the primary distribution to the public of the securities named in the order by any person or company; and

(b) the prospectus or amended prospectus in question shall, for the purposes of this Act, be deemed not to be filed with the Commission and any receipt received therefor shall be deemed to be revoked.
(3) Where a notice is sent by prepaid post under subsection 2, it shall be presumed to be received by the person or company to whom it is addressed in the ordinary course of post. R.S.O. 1950, c. 351, s. 46.

47.—(1) Every person or company registered for trading in securities under this Act who receives from any person an order or subscription for a security to which section 38, 39 or 40 is applicable after having solicited such person to purchase such security shall, before entering into a contract for the sale of such security and before accepting payment or receiving any security under any such contract or in anticipation of making such a contract, deliver or cause to be delivered to such person a copy of the prospectus or amended prospectus, whichever is the last filed with the Commission, together with,

(a) a copy of the last financial statements and reports accepted for filing by the Commission, where financial statements and reports are required to be filed; and

(b) a fair and accurate summary of the report on the property of the company and the development thereof, with any corrections, where the report is required to be filed.

(2) Every person or company registered for trading in securities under this Act who receives from any person an order or subscription for a security to which section 38, 39 or 40 is applicable and who has not solicited such person to purchase such security shall, at any time not later than the delivery of the written confirmation of the sale of such security, deliver or cause to be delivered to such person a copy of the prospectus or amended prospectus, whichever is the last filed with the Commission, together with,

(a) a copy of the last financial statements and reports accepted for filing by the Commission, where financial statements and reports are required to be filed; and

(b) a fair and accurate summary of the report on the property of the company and the development thereof, with any corrections, where the report is required to be filed.

(3) This section is not applicable to,

(a) a trade through a person or company registered for trading in securities under this Act who is not engaged in the primary distribution to the public of the security but is acting as the agent of the purchaser; or
(b) a sale by a person who is not engaged in the primary distribution to the public of the security. R.S.O. 1950, c. 351, s. 47.

48.—(1) Notwithstanding section 47, every person or company to which that section applies and that delivers to any person a circular, pamphlet or letter soliciting him to purchase or offering to sell him a security to which section 38 applies, may, with the first such circular, pamphlet or letter delivered to such person, deliver a copy of a concise statement of facts taken from the prospectus, financial statements and reports required under section 38 that is acceptable to the Commission, and such statement shall contain a notice at the end thereof in easily legible letters which shall not be smaller than the letters in the main portion thereof, that a copy of the prospectus will be sent on request.

(2) Every person or company that acts under subsection 1 and that receives from a person to whom the concise statement of facts mentioned therein was delivered, an order or subscription for a security to which section 38 applies, shall at any time not later than delivery of the written confirmation of the sale of such security, deliver to such person a copy of the prospectus or amended prospectus, whichever is the last filed with the Commission, together with,

(a) a copy of the last financial statements and reports accepted for filing by the Commission where financial statements and reports are required to be filed; and

(b) a fair and accurate summary of the report on the property of the company and the development thereof, with any corrections, where the report is required to be filed. 1952, c. 96, s. 1.

49.—(1) A person who has entered into a contract to which section 47 applies is entitled to rescission of the contract where,

(a) section 47 has not been complied with;

(b) written notice of exercising the right of rescission is served on the person or company registered for trading in securities under this Act within,

(i) seven days of the date of the delivery of a copy of the prospectus or amended prospectus, whichever is the last filed with the Commission, together with a copy of the financial statements and reports and summary of report, where required, provided that the date of
such delivery is within sixty days of the date of the delivery of the written confirmation of the sale of the security, or

(ii) sixty days of the date of the delivery of the written confirmation of the sale of the security provided that at the time such notice of exercising the right of rescission is served, a copy of the prospectus or amended prospectus, whichever is the last filed with the Commission, together with a copy of the financial statements and reports and summary of the report, where required, have not been delivered; and

(c) the purchaser is still the owner of the security.

(2) In an action for rescission to which this section applies, the onus of proving compliance with section 47 is upon the person or company registered for trading in securities under this Act.

(3) No action shall be commenced under this section after the expiration of a period of three months from the date of the service of notice under subsection 1. R.S.O. 1950, c. 351, s. 48.

PART XI

PROVISIONS RELATING TO TRADING IN SECURITIES GENERALLY

50. No term in a contract between a person or company registered for trading in securities under this Act who acts as an agent, and a customer relating to any right of such person or company registered for trading in securities under this Act in respect of any security, is binding upon the customer where the Commission has declared such right to be unreasonable by notice in writing sent by registered mail to such person or company registered for trading in securities under this Act and to every stock exchange operating in Ontario, the Central District of the Investment Dealers' Association of Canada and the Broker-Dealers' Association of Ontario. R.S.O. 1950, c. 351, s. 49.

51.—(1) Every broker who has acted as agent for a customer in the purchase or sale of a security upon a stock exchange shall promptly send or deliver to the customer a written confirmation of the transaction setting forth,

(a) the quantity and description of the security;
Sec. 53 (2) (a)  

(b) the consideration;
(c) the name of the person or company from or to or through whom the security was bought or sold;
(d) the day, and the name of the stock exchange, upon which the transaction took place; and
(e) the commission charged in respect of the purchase or sale. R.S.O. 1950, c. 351, s. 50.

(2) Clause c of subsection 1 need not be complied with if the written confirmation contains a statement that the name of the person or company from or to or through whom the security was bought or sold will be furnished to the customer upon request. 1956, c. 81, s. 6.

52. Every person or company registered for trading in securities under this Act who has acted either as principal or agent in connection with any trade in a security other than a trade upon a stock exchange shall promptly send to each customer a written confirmation of the transaction setting forth,

(a) the quantity and description of the security;
(b) the consideration;
(c) whether or not the person or company registered for trading in securities under this Act is acting as principal or agent;
(d) the commission, if any, charged in respect of the purchase or sale;
(e) the name of the salesman, if any, in the transaction; and
(f) the day upon which the transaction took place. R.S.O. 1950, c. 351, s. 51.

53.—(1) No person shall,

(a) call at any residence; or
(b) telephone from within Ontario to any residence within or outside of Ontario,

for the purpose of trading in any security with any member of the public.

(2) Subsection 1 does not apply,

(a) where the person calls at or telephones to the residence,
(i) of a close personal friend, a business associate or a customer with whom or on whose behalf the person calling or telephoning has been in the habit of trading in securities, or

(ii) of a person who has requested in writing that information respecting a specific security be furnished him by the person so calling or telephoning, but in such case the person so calling or telephoning shall call or telephone only in reference to that security; or

(b) to a trade or trades in any securities in respect of which registration is not required under this Act.

Interpretation

(3) In this section, “residence” includes any building or part of a building in which the occupant resides either permanently or temporarily and any premises appurtenant thereto. R.S.O. 1950, c. 351, s. 52.

Prohibition of representations

54.—(1) No person or company, with the intention of effecting a trade in a security other than a security that carries a right of redemption or repurchase by the person or company issuing such security, shall make any representation, written or oral, that he or it or any person or company,

(a) will resell or repurchase; or

(b) will refund all or any of the purchase price of, any such security in which he or it is trading.

Promises

(2) No person or company, with the intention of effecting a trade in a security, shall give any undertaking, written or oral, relating to the future value or price of such security.

(3) No person or company, with the intention of effecting a trade in a security, shall, except with the written permission of the Commission, make any representation, written or oral, that such security will be listed on any stock exchange or that application has or will be made to list such security upon any stock exchange. R.S.O. 1950, c. 351, s. 53.

Representation that security will be listed on stock exchange

Notice where acting as principal

55.—(1) Where a person or company registered for trading in securities under this Act, with the intention of effecting a trade in a security with any person other than a person registered for trading in securities under this Act, issues, publishes or sends a circular, pamphlet, letter, telegram or advertisement, and proposes to act in such trade as a principal, such person or company shall so state in the circular, pamphlet, letter, telegram or advertisement or otherwise in writing before entering into a contract for the sale or purchase of any
such security and before accepting payment or receiving any
security or other consideration under or in anticipation of any
such contract.

(2) Where a person or company registered for trading in
securities under this Act, with the intention of effecting a
trade in a security with any person other than a person regis-
tered for trading in securities under this Act, makes an oral
offer or invitation for an offer to any person and effects such
trade as a principal, such person or company shall state in a
written confirmation of the contract that he or it has acted
as principal.

(3) A statement made in compliance with this section that
a person or company registered for trading in securities under
this Act proposes to act or has acted as principal in connection
with a trade in a security does not prevent such person or
company from acting as agent in connection with a trade in
such security.

(4) This section does not apply to,

(a) trades mentioned in subsection 1 of section 19; or

(b) securities described in subsection 2 of section 19.
R.S.O. 1950, c. 351, s. 54.

56.—(1) A person who has entered into a contract to
which subsection 1 of section 55 applies is entitled to rescission of
the contract where subsection 1 of section 55 has not been
complied with and written notice of exercising the right of
rescission is served on the person or company registered for
trading in securities under this Act within sixty days of the
date of the delivery of the security to or by such person, as the
case may be, and in the case of a purchase by such person, he
is still the owner of the security purchased.

(2) A person who has entered into a contract to which sub-
section 2 of section 55 applies is entitled to rescission of the
contract where subsection 2 of section 55 has not been complied
with and written notice of exercising the right of rescission is
served on the person or company registered for trading in
securities under this Act within seven days of the date of the
delivery of the written confirmation of the contract and in the
case of purchase by such person, he is still the owner of the
security purchased.

(3) In an action for rescission to which this section applies, the onus
of proving compliance with section 55 is upon the
person or company registered for trading in securities under
this Act.
No action shall be commenced under this section after the expiration of a period of three months from the date of the service of notice under subsection 1 or 2. R.S.O. 1950, c. 351, s. 55.

57. Every registered investment counsel and securities adviser shall cause to be printed in a conspicuous position on every circular, pamphlet, advertisement, letter, telegram and other publication issued, published or sent by him or it, in type not less legible than that used in the body of the circular, pamphlet, advertisement, letter or other publication, a full and complete statement of any financial or other interest that he or it may have either directly or indirectly in any securities referred to therein or in the sale or purchase thereof, including,

(a) any ownership, beneficial or otherwise, that he or it may have in such securities or in any securities issued by the same company;

(b) any option that he or it may have in respect of such securities, and the terms thereof;

(c) any commission or other remuneration that he or it has received or may expect to receive from any person or company registered for trading in securities under this Act or otherwise in connection with any trade in such securities;

(d) any financial arrangement that he or it may have with any person or company registered for trading in securities under this Act relating to such securities; and

(e) any financial arrangement that he or it may have with any underwriter or other person who has any interest in the securities. 1953, c. 97, s. 7.

58. Every partnership or company registered for trading in securities under this Act shall publish the name of every person having an interest, either directly or indirectly, to the extent of not less than 10 per cent in the capital of the partnership or company, as the case may be, on all letterheads, circulars and other stationery upon which the name of the partnership or company appears and that contain any offer or solicitation respecting a trade in securities. R.S.O. 1950, c. 351, s. 57.

59. No person or company registered under this Act shall use the name of another person or company registered under this Act on letterheads, forms, advertisements or signs, as
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correspondent or otherwise, unless he or it is a partner, officer
or agent of or is authorized so to do in writing by the other
person or company registered under this Act. R.S.O. 1950,
c. 351, s. 58.

60. No person or company shall hold himself or itself out
as being registered under this Act by having printed in a
circular, pamphlet, advertisement, letter, telegram or other
stationery that he or it is so registered. R.S.O. 1950, c. 351,
s. 59.

61. No person or company who is not registered under this
Act shall, either directly or indirectly, hold himself or itself
out as being so registered. R.S.O. 1950, c. 351, s. 60.

62. No person or company shall make any representation,
written or oral, that the Commission has in any way passed
upon the financial standing, fitness or conduct of any person
or company registered under this Act or upon the merits of
any security. R.S.O. 1950, c. 351, s. 61.

63.—(1) Where a person, or a member or employee of a
partnership, or a director, officer or employee of a company,
after he or the partnership or company has contracted as a
person or company registered for trading in securities under
this Act with any customer to buy and carry upon margin
any securities of any person or company either in Canada or
elsewhere, and while such contract continues, sells or causes to
be sold securities of the same person or company for any
account in which,

(a) he;
(b) his firm or a partner thereof; or
(c) the company or a director thereof,
has a direct or indirect interest, if the effect of such sale would,
otherwise than unintentionally, be to reduce the amount of
such securities in the hands of the person or company regis-
tered for trading in securities under this Act or under his or its
control in the ordinary course of business below the amount of
such securities that he or it should be carrying for all cus-
tomers, any such contract with a customer shall at the option
of the customer be void, and the customer may recover from
the person or company registered for trading in securities under
this Act, all moneys paid with interest thereon or securities
deposited in respect thereof.

(2) The customer may exercise such option by a registered
letter to that effect addressed to the person or company regis-
tered for trading in securities under this Act, at his or its
address for service in Ontario. R.S.O. 1950, c. 351, s. 62.
(1) Every person, including any officer, director, official or employee of a company, who is knowingly responsible for,

(a) any fictitious or pretended trade in any security;

(b) any course of conduct or business that is calculated or put forward with intent to deceive the public or the purchaser or the vendor of any security as to the nature of any transaction or as to the value of such security;

(c) the making of any material false statement in any application, information, statement, material or evidence submitted or given to the Commission, its representative, the registrar or any person appointed to make an investigation or audit under this Act, under this Act or the regulations;

(d) the furnishing of false information in any report, statement, return, balance sheet or other document required to be filed or furnished under this Act or the regulations;

(e) the commission of any act or failure to perform any act where such commission or failure constitutes a contravention of any provision of this Act or the regulations; or

(f) failure to observe or comply with any order, direction or other requirement made under this Act or the regulations,

is guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or both.

(2) Subsection 1 shall be deemed to apply, mutatis mutandis, to any company save that the fines may be increased in the discretion of the magistrate to a sum of not more than $25,000. R.S.O. 1950, c. 351, s. 63.

(3) Every person or company is a party to and guilty of an offence under this Act,

(a) that actually commits the offence;

(b) that does or omits an act for the purpose of aiding another person or company in the commission of the offence;
(c) that abets another person or company in the commission of the offence; or

(d) that counsels or procures another person or company to commit the offence.

(4) Every person or company that counsels or procures another person or company to be a party to an offence under this Act of which that other person or company is afterwards guilty is a party to that offence, although it may be committed in a way different from that which was counselled or procured.

(5) Every person or company that counsels or procures another person or company to be a party to an offence under this Act is a party to every other offence under this Act which that other person or company commits in consequence of such counselling or procuring and which the person or company counselling or procuring knew, or ought to have known, to be likely to be committed in consequence of such counselling or procuring. 1953, c. 97, s. 8.

65.-(1) No proceedings under section 64 shall be instituted except with the consent or under the direction of the Attorney General. R.S.O. 1950, c. 351, s. 64 (1).

(2) No proceedings under section 64 shall be commenced more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commission. R.S.O. 1950, c. 351, s. 64 (2); 1952, c. 96, s. 2.

66. An information or complaint in respect of any contravention of this Act may be for one or more offences and no information, complaint, summons, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. R.S.O. 1950, c. 351, s. 65.

PART XIII

GENERAL PROVISIONS

67. No person or company shall carry on business as a stock exchange without the consent in writing of the Commission. R.S.O. 1950, c. 351, s. 66.

68. Every stock exchange in Ontario shall keep a record showing the time at which each transaction on such exchange took place and shall supply to any customer of any member of such exchange, upon production of a written confirmation of any transaction with such member, particulars of the time
at which the transaction took place and verification or otherwise of the matters set forth in the confirmation. R.S.O. 1950, c. 351, s. 67.

69.—(1) Where a prospectus has been accepted for filing by the Commission under this Act, every purchaser of the securities to which the prospectus relates shall be deemed to have relied upon the representations made in the prospectus whether the purchaser has received the prospectus or not and, if any material false statement is contained in the prospectus, every person who is a director of the company issuing the securities at the time of the issue of the prospectus, and every person who, having authorized such naming of him, is named in the prospectus as a director of the company or as having agreed to become a director of the company either immediately or after an interval of time, and every promoter of the company, and every person who has authorized the issue of the prospectus, is liable to pay compensation to all persons who have purchased the securities for any loss or damage such persons may have sustained, unless it is proved,

(a) that having consented to become a director of the company, he withdrew his consent before the issue of the prospectus, and that the prospectus was issued without his authority or consent; or

(b) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was so issued; or

(c) that after the issue of the prospectus and before a sale of the securities, he, on becoming aware of any untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of such withdrawal and of the reason therefor; or

(d) that with respect to every untrue statement not purporting to be made on the authority of an expert, or of a public official document or statement, that he had reasonable grounds to believe and did up to the time of the sale of the securities, believe that the statement was true; or

(e) that with respect to every untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement, or was a correct and fair copy or extract from the report or valuation, but the director, person named as director, promoter, or person who author-
ized the issue of the prospectus, is liable to pay compensation as aforesaid, if it is proved that he had no reasonable grounds to believe that the person making the statement, report or valuation was competent to make it; or

(f) that with respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, that it was a correct and fair representation of the statement or copy of or extract from the document.

(2) In this section, "prospectus" includes every statement and report and summary of report required to be filed with the prospectus under this Act. R.S.O. 1950, c. 351, s. 68.

70. Except with the consent of the Attorney General, no action whatever and no proceedings by way of injunction, mandamus, prohibition or other extraordinary remedy lies or shall be instituted,

(a) against any person whether in his public or private capacity, or against any company in respect of any act or omission in connection with the administration or carrying out of the provisions of this Act or the regulations where such person is a member of the Commission, a representative of the Commission or the registrar, or where such person or company was proceeding under the written or verbal direction or consent of any one of them or under an order of the Attorney General made under this Act; or

(b) against any exchange auditor, district association auditor, or association auditor employed under the provisions of clause b of section 33 in respect of the performance of his duties as such. R.S.O. 1950, c. 351, s. 69.

71. No person or company has any rights or remedies and no proceedings lie or shall be brought against any person or company in respect of any act or omission of the last-mentioned person or company done or omitted in compliance or intended compliance with,

(a) any requirement, order or direction under this Act of,

(i) the Commission or any member thereof,

(ii) the registrar,

(iii) any person appointed by order of the Attorney General,
(iv) the Attorney General,

(v) any representative of the Attorney General, the Commission, registrar or of any person appointed by the Attorney General; or

(b) this Act and the regulations. R.S.O. 1950, c. 351, s. 70.

Regulations 72. The Lieutenant Governor in Council may make regulations,

(a) prescribing requirements respecting applicants for registration;

(b) prescribing the classes of negotiable securities that may be accepted as collateral security for a bond;

(c) regulating the listing and trading of securities and records relating thereto;

(d) governing the furnishing of information by any person or company registered under this Act to the public in connection with securities or trades therein;

(e) governing the keeping of accounts and records and the preparation and filing of financial statements of the affairs of security issuers;

(f) designating any person or company or any class of persons or companies which shall not be required to obtain registration as investment counsel or securities adviser;

(g) prescribing the fees payable to the Commission, including fees for filing, fees upon applications for registration, fees in respect of audits made by the Commission and other fees in connection with the administration of this Act and the regulations;

(h) prescribing the form, contents and other particulars relating to statements, agreements and other information required to be filed, furnished or delivered under this Act and the regulations;

(i) prescribing the practice and procedure upon investigations under sections 21 and 23;

(j) prescribing the forms for use under this Act and the regulations;

(k) prescribing trades or securities, in addition to the trades and securities mentioned in section 19, in respect of which registration shall not be required;
Sec. 74 (1) prescribing trades or securities mentioned in section 19 in respect of which there shall cease to be exemption from registration;

(m) prescribing trades or securities, in addition to the trades and securities mentioned in section 41, in respect of which sections 38, 39 and 40 shall not apply;

(n) prescribing terms and conditions that shall be contained in an escrow or pooling agreement with respect to securities issued for a consideration other than cash;

(o) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 351, s. 71; 1953, c. 97, s. 9.

73. A statement as to,

(a) the registration or non-registration of any person or company;

(b) the filing or non-filing of any document or material required or permitted to be filed with the Commission; or

(c) any other matter pertaining to such registration, non-registration, filing or non-filing or to any such person, document or material,

purporting to be certified by the Commission or a member thereof or by the registrar is, without proof of the office or signature of the person certifying, receivable in evidence, so far as relevant, for all purposes in any action, proceeding or prosecution. R.S.O. 1950, c. 351, s. 72.

74.—(1) Where a magistrate or justice of another province issues a warrant for the arrest of any person on a charge of contravening any provision of this Act or any similar statute of that province, any magistrate or justice of Ontario within whose jurisdiction that person is or is suspected to be may upon satisfactory proof of the handwriting of the magistrate or justice who issues the warrant make an endorsement thereon in the form prescribed by the regulations, and a warrant so endorsed is sufficient authority to the person bringing the warrant and to all other persons to whom it was originally directed and to all constables within the territorial jurisdiction of the magistrate or justice so endorsing the warrant to execute it within that jurisdiction and to take the person arrested thereunder either out of or anywhere in Ontario and to re-arrest such person anywhere in Ontario.
(2) Any constable of Ontario or of any other province of Canada who is passing through Ontario having in his custody a person arrested in another province under a warrant endorsed in pursuance of subsection 1 is entitled to hold, take and re-arrest the accused anywhere in Ontario under such warrant without proof of the warrant or the endorsement thereof. R.S.O. 1950, c. 351, s. 73.

75. Section 12 of *The Audit Act* applies *mutatis mutandis* as if the provisions thereof, except the references to the Deputy Attorney General, were enacted in and formed part of this Act. R.S.O. 1950, c. 351, s. 74.