

1970

c 102 The Habeas Corpus Amendment Act, 1970

Ontario

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CHAPTER 102

An Act to amend The Habeas Corpus Act

Assented to November 13th, 1970
Session Prorogued November 13th, 1970

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 1 of *The Habeas Corpus Act* is amended by striking out “or before the Court of Appeal” in the twelfth and thirteenth lines. R.S.O. 1960,
c. 169, s. 1,
subs. 1,
amended

(2) Subsection 3 of the said section 1 is repealed. R.S.O. 1960,
c. 169, s. 1,
subs. 3,
repealed

2.—(1) Subsection 1 of section 8 of *The Habeas Corpus Act* is amended by striking out “Court of Appeal” in the sixth line and in the ninth line, and inserting in lieu thereof in each instance “Divisional Court”, so that the subsection shall read as follows: R.S.O. 1960,
c. 169, s. 8,
subs. 1,
amended

(1) Where a person confined or restrained of his liberty is brought before a judge upon a writ of *habeas corpus* and is remanded into custody upon the original order or warrant of commitment or by virtue of any warrant, order or rule of such judge, such person may appeal from the decision or judgment of the judge to the Divisional Court, and thereupon the writ of *habeas corpus*, the return thereto, and the affidavits, depositions, evidence, conviction and other proceedings shall be certified by the proper officer to the Divisional Court. Appeal
from
remand to
custody

(2) Subsection 2 of the said section 8 is amended by striking out “Court of Appeal” in the first line and inserting in lieu thereof “Divisional Court”, so that the subsection shall read as follows: R.S.O. 1960,
c. 169, s. 8,
subs. 2,
amended

(2) The Divisional Court shall thereupon hear and determine the appeal without formal pleadings and, if the court determines that the confinement or restraint is illegal, shall so certify to the person having Court may
order
discharge

the custody or charge of the person so confined or restrained, and shall order his immediate discharge, and he shall be discharged accordingly.

R.S.O. 1960,
c. 169,
amended

3. *The Habeas Corpus Act* is amended by adding thereto the following section:

Appeal to
Court of
Appeal

8a. An appellant under section 8 may appeal from the decision of the Divisional Court to the Court of Appeal.

Commence-
ment

4. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

5. This Act may be cited as *The Habeas Corpus Amendment Act, 1970*.