

NEWFOUNDLAND—LABRADOR  
HUMAN RIGHTS ASSOCIATION

## HUMAN RIGHTS SURVEY

GUIDELINES TO FOLLOW  
DECLARATION OF HUMAN RIGHTS  
&  
CANADIAN BILL OF RIGHTS



Prepared MARCH, 1976

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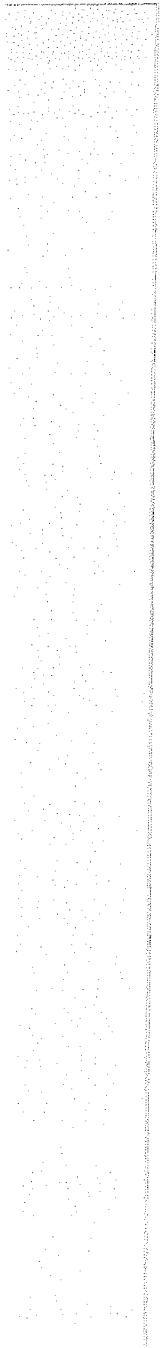
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## FOREWORD

Canada is still far away from fulfilling her moral obligation in implementing the Declaration of Human Rights Charter. Our Association has made an attempt to raise the consciousness of the basic rights of people. This booklet has been prepared to show how deficient our knowledge is and some guidelines for the protection of the individual's right.

I am frequently asked to define Human Rights and what is the function of our organization. The concept of Human Rights is the right of the individual to dissent and to obtain the opportunities that are available in the society whenever the individual feels it necessary to do so. No one need to suffer silently and if there is a remedy then that remedy should be made available to the injured person. True justice must be equally shared by all. The function of the Association has always been to promote the respect and the observance of Human Rights and to define, extend and foster recognition of these rights in this Province.

Over the years this Association has remained completely non-partisan and has functioned as objectively as possible. The work of the Association is done by the members on entirely voluntary basis. We receive an operational grant and at times special grants; without which our organization could not survive. All these grants have come from the Federal Government through the Secretary of State's Department; no financial help has been received from the Provincial Government. We wish to thank those who send us small donations from time to time. We wish to thank the Secretary of State's local office for these grants and the assistance they have given us.

Over the years we have successfully dealt with hundreds of cases where the human understanding and justice were missing. We now have a chapter in Corner Brook and in the near future we wish to promote a chapter in Labrador. Our summer project was a success, though with regret we discovered that the people of our Province had very little concept in the area of Civil Liberties and Human Rights. We will endeavor to correct this to the best of our abilities.

It is the right of every individual or group to raise questions, when they feel their rights have been violated. We urge you to contact us whenever you are in that dilemma. Your moral and financial support is the backbone of our Association. Do not neglect your duty and please support us either by joining the Association and by sending us financial help. Volunteer organization is the only type of Association that can work effectively in a non-partisan way.

Finally we wish to thank those who have participated in this survey.



Dr. B. Bhattacharya,  
President

February 24, 1976

In 1975, the Newfoundland-Labrador Human Rights Association received a special grant from the Department of the Secretary of State to conduct a summer project. The main aim of the project was to find out the level awareness of the Newfoundland population with regard to Human Rights; also we tried to create a conscious awareness towards Human Rights and Civil Liberties.

The project was carried out by four (4) students. The criteria for choosing these students were that (a) they had personal knowledge of the area in which they were to work (b) had some knowledge of conducting survey (c) had interest in Human Rights and Civil Liberties issues. The Province was divided into four (4) areas: Labrador, West and Central, South, and the Avalon Peninsula. The project was of nine (9) weeks duration and students had an orientation of one week before the start of the survey.

The intensive orientation program gave the students an indepth insight into the subject of Human Rights and Civil Liberties; the fine points of interviewing to obtain specific answers; and the aims and objectives of the Newfoundland-Labrador Human Rights Association. Following this orientation each student spent four (4) to five (5) weeks in an area of the Province interviewing and talking to people from all walks of life. As each student completed his/her designated area of the Province he/she returned to the Avalon Peninsula area where he/she spent another three (3) to four (4) weeks interviewing people in St. John's and the surrounding area. During this time they maintained their communication with the President for advice whenever in any difficulty.

The amount of time spent interviewing people across the Province varied depending on the population of the area and the time needed to get there.

When each student completed his/her section of the Province and a section of the Avalon Peninsula, he/she started to compile and evaluate the information he/she had collected in the past seven (7) weeks. The interviewed people were placed in different categories and grouped in two (2) areas:

- (a) Those who were in a position, in our opinion, to know Human Rights and Civil Liberty issues.
- (b) Those who were not, in our opinion, in a position to know anything about Human Rights and Civil Liberty issues.

An attempt was made to assess the depth of knowledge of those interviewed i.e. their knowledge of the Newfoundland-Labrador Human Rights Association, the Human Rights Commission or the Office of the Ombudsman; however, the indepth questioning often revealed that the person had some knowledge of Human Rights and Civil Liberties, but could not make a distinction among the three (3) offices. It was also found that there was much confusion about the function of the Newfoundland-Labrador Human Rights Association. It was decided to consider this information as more

conceptional rather than factual i.e. those people have a vague concept or information about the subject of Human Rights but no real factual knowledge of the Newfoundland-Labrador Human Rights Association, the Human Rights Commission, or the Ombudsman.

Approximately five hundred (500) people were interviewed, however only two hundred fifty (250) cooperated in completing our questionnaire; these ranged from professionals to persons on social assistance. The questionnaire was designed so as to start with general questions followed by several related questions with each subsequent question asking more specific information and when a person agreed to complete the questionnaire, he/she then proceeded to answer the questions in writing.

There was mixed reaction to our interviewers and questionnaires apart from the two hundred fifty (250) people who did cooperate; some refused to have anything to do with the students once they saw the questionnaire; others criticized the whole program and expressed the opinion that associations such as the Newfoundland-Labrador Human Rights Association were only creating trouble; and still others said the whole issue of Human Rights should be left alone and better forgotten. It is interesting to note that many of the persons whom we had considered knowledgeable of Human Rights were those who would not cooperate. Some of the people interviewed were not willing to complete the questionnaire, but they permitted their conversations to be taped while the same topic was being discussed. We found groups such as Welfare and Police officers who stated that it was their policy not to comment on such matters. There was also the group that had second thoughts about the interview. We advertised our survey prior to starting and made appointments with individuals long beforehand. On the day of the interview the appointment was confirmed but as soon as the purpose of the interview was stated, several either refused to answer questions or cancelled the interview for no apparent reason. Many people spoke to the students only when they were assured that their names will never be made known. Indeed this shows how little freedom we have and what needs to be done in this Province.

Each of the fourteen (14) questions were awarded five (5) points each and the interviewers awarded thirty (30) points according to their impressions of the person being interviewed. Another 10 points were awarded for final evaluation in a group discussion with the President. This gave a total of one hundred (100) points or one hundred (100) percent for the questionnaire.

Below is the result of our findings of these two groups:

1. Those who were, in our opinion, in a position to know Human Rights and Civil Liberties:

Business people	49.8%
Social Workers	52.3%

Clergy	52.7%
Educators	56.7%
Professionals	59.6%
Municipal Officials	46.8%
Law Enforcement Agents	44.6%

2. Those who were not, in our opinion, in a position to know anything about Human Rights and Civil Liberties:

Students	33.0%
Self-employed (sales)	37.7%
Small Business (owners)	41.2%
Blue Collar Workers	29.6%
Salespersons (clerks)	25.8%
Labourers	28.0%
Unemployed and Welfare	31.4%

It must be pointed out that the selection of people interviewed was purely and solely on a random sample selection basis. No effort was made to zero in on any one type of person in our Newfoundland culture. The samples were taken from all major parts of the Province with as many persons being interviewed as possible.

One of the most striking results of our project is to observe that our educators, professionals and law enforcement agents have a poor knowledge of Human Rights and Civil Liberties. The results such as these have caused the Newfoundland-Labrador Human Rights Association to become deeply concerned about the way Newfoundlanders treat their fellow citizens. Many people are being mistreated and abused every day in Newfoundland and have no knowledge of how to obtain a remedy or corrective action. It must be said that we were not totally surprised to see our findings. This survey has given us greater incentive to work and made us wonder what would happen if we give up pursuing our course. Our Human Rights code remains totally inadequate and never grew up from its birth some years ago.

Thanks to everyone who helped.

## YOU AND THE LAW

### GUIDELINES TO FOLLOW

- You never have to tell a police officer your name, age, address, unless you have been "lawfully" arrested.
- You never have to tell a police officer whether you have a job or a place to stay.
- You never have to carry or show a police officer your wallet, or any money you may have with you.

- You are under no obligation to stand and talk to a police officer. If you do not wish to talk to the police officer, you may walk away. He can not force you to stay with him, unless he makes a “lawful” arrest.
- Usually you are under no obligation to answer any questions a police officer may wish to ask you. There are two (2) outstanding exceptions:
  - (a) If you are driving a automobile, you must produce a valid driver's licence, motor registration, and an automobile insurance card.
  - (b) If a police officer asks you what you are doing in a particular place, (to justify your being in that place) you are required to tell him what you are doing there.
- If you are accused of a crime, and you are not guilty, simply deny the accusation and say no more. Your silence can not be used against you.
- When you are being asked questions by a police officer insist on speaking to a lawyer, before giving any detail or signing any paper, **this is your right.**
- You should always assist law officers when it is legal and for the protection of society and when the actions of the law officer do not violate either yours or others basic civil rights.

#### **THE ARREST:**

What is an arrest? Any form of physical restraint is an arrest. It is simply the taking, seizing, or detaining of a person by another with the intention to take him into custody.

The whole purpose of an arrest is to bring the accused before the courts in order that justice may take place.

The previous section dealt with a “lawful” arrest. In such cases, the police officer **MUST** inform you of two (2) things, if you ask him, in order to make such an arrest. These are:

- (a) you are under arrest
- (b) what the charge is

If a police officer asks you to come along with him, you should say “Am I under arrest?” If the officer answers “No”, you may walk away. If the officer answers “Yes” you should ask “What is the charge “or” What have I done?” The officer must tell you the charge, or the reason for the arrest. If he does not, you may ignore him; if he forces you, you may later sue the officer and the arrest would not be “lawful”. There is no such thing as arrest for suspicion.

Never under any circumstances forcibly resist a police officer. Go along with the officer and keep asking if you are under arrest. Where possible make

certain that witnesses see all details of the incidents and make certain you get the names and addresses of the witnesses. Before answering any questions contact a lawyer.

Many persons are required or authorized by law to carry out the law; however, everyone who is authorized by law to use force is criminally responsible for any excess force according to the nature and quality of the act that constitutes the excess. A police officer is only authorized to use force to effect a legitimate purpose. If he goes beyond this he is committing an assault. A police officer may use only the force necessary in the circumstances of preventing escape by flight.

Once you are arrested you should immediately ask for a telephone to make a call. The police are not obligated to permit a telephone call, but your chances are good that they will permit one call. If you do not ask, they may never offer the opportunity.

#### **SEARCH WARRANTS:**

The police have no general power to search your person or your property. They may do so **ONLY** in specific situations. You need not submit to a search unless the police have reasonable and probable grounds for the search, however the police officer is not obligated to tell you.

If you have been arrested the police officer may lawfully search your person, clothes, bags, and car. You should be asked to sign a list of the things which have been taken by the police and to sign again when they are returned. You should verify the list on each occasion.

If a police officer enters your place of dwelling with a search warrant or a **WRIT OF ASSISTANCE**, he may search any person found in the place. The search warrant issued and signed by a Magistrate permits the police to search the place named on the warrant. The warrant is good only on the date on which it was issued and **MUST** disclose the reasons for the search, that is a specific allegation that an offense has been committed and a description of the goods to be searched for. The officer doing the search **MUST** have the warrant; he must identify himself and state the reason for the search. A warrant is required to search your car.

A writ of assistance may be carried only by RCMP officers, it permits the officer named on the writ to enter any dwelling and search for narcotics.

#### **UNIVERSAL DECLARATION OF HUMAN RIGHTS**

**Whereas** recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

**Whereas** disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy

freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

**Whereas** it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

**Whereas** it is essential to promote the development of friendly relations between nations,

**Whereas** the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

**Whereas** Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

**Whereas** a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge.

**Now therefore, the General Assembly proclaims This Universal Declaration of Human Rights** as a common standard of achievement for all peoples and all nations to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

#### **Article 1**

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

#### **Article 2**

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

#### **Article 3**

Everyone has the right to life, liberty and security of person.

#### **Article 4**

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

#### **Article 5**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

#### **Article 6**

Everyone has the right to recognition everywhere as a person before the law.

#### **Article 7**

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

#### **Article 8**

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

#### **Article 9**

No one shall be subjected to arbitrary arrest, detention or exile.

#### **Article 10**

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

#### **Article 11**

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

#### **Article 12**

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

#### **Article 13**

(1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

#### **Article 14**

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.  
(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

#### **Article 15**

(1) Everyone has the right to a nationality.  
(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

#### **Article 16**

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and its dissolution.  
(2) Marriage shall be entered into only with the free and full consent of the intending spouses.  
(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

#### **Article 17**

(1) Everyone has the right to own property alone as well as in association with others.  
(2) No one shall be arbitrarily deprived of his property.

#### **Article 18**

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

#### **Article 19**

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

#### **Article 20**

(1) Everyone has the right to freedom of peaceful assembly and association.  
(2) No one may be compelled to belong to an association.

#### **Article 21**

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

#### **Article 22**

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

#### **Article 23**

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.  
(2) Everyone, without any discrimination, has the right to equal pay for equal work.  
(3) Everyone who works has the right to just and favourable remuneration insuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.  
(4) Everyone has the right to form and to join trade unions for the protection of his interests.

#### **Article 24**

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

#### **Article 25**

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.  
(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

#### **Article 26**

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.  
(2) Education shall be directed to the full development of the human personality and to the

strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

#### **Article 27**

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

#### **Article 28**

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

#### **Article 29**

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

#### **Article 30**

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

# Canadian Bill of Rights

The Parliament of Canada, affirming that the Canadian Nation is founded upon principles that acknowledge the supremacy of God, the dignity and worth of the human person and the position of the family in a society of free men and free institutions:

Affirming also that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law;

And being desirous of enshrining these principles and the human rights and fundamental freedoms derived from them, in a Bill of Rights which shall reflect the respect of Parliament for its constitutional authority and which shall ensure the protection of these rights and freedoms in Canada:

THEREFORE Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

## Part I Bill of Rights

1. It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely:

- (a) the right of the individual to life, liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law;
- (b) the right of the individual to equality before the law and the protection of the law;
- (c) freedom of religion;
- (d) freedom of speech;
- (e) freedom of assembly and association; and
- (f) freedom of the press.

2. Every law of Canada shall, unless it is expressly declared by an Act of the Parliament of Canada that it shall operate notwithstanding the *Canadian Bill of Rights*, be so construed and applied as not to abrogate, abridge or infringe or to authorize the abrogation, abridgment or infringement of any of the rights or freedoms herein recognized and declared, and in particular, no law of Canada shall be construed or applied so as to

- (a) authorize or effect the arbitrary detention, imprisonment or exile of any person;
- (b) impose or authorize the imposition of cruel and unusual treatment or punishment;
- (c) deprive a person who has been arrested or detained

- (i) of the right to be informed promptly of the reason for his arrest or detention,
- (ii) of the right to retain and instruct counsel without delay, or
- (iii) of the remedy by way of *habeas corpus* for the determination of the validity of his detention and for his release if the detention is not lawful;

- (d) authorize a court, tribunal, commission, board or other authority to compel a person to give evidence if he is denied counsel, protection against self incrimination or other constitutional safeguards;

- (e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;
- (f) deprive a person charged with a criminal offence of the right to be presumed innocent until proved guilty according to law in a fair and public hearing by an independent and impartial tribunal, or of the right to reasonable bail without just cause; or
- (g) deprive a person of the right to the assistance of an interpreter in any proceedings in which he is involved or in which he is a party or a witness, before a court, commission, board or other tribunal, if he does not understand or speak the language in which such proceedings are conducted.

3. The Minister of Justice shall, in accordance with such regulations as may be prescribed by the

Governor in Council, examine every proposed regulation submitted in draft form to the Clerk of the Privy Council pursuant to the *Regulations Act* and every Bill introduced in or presented to the House of Commons, in order to ascertain whether any of the provisions thereof are inconsistent with the purposes and provisions of this Part and he shall report any such inconsistency to the House of Commons at the first convenient opportunity.

4. The provisions of this Part shall be known as the *Canadian Bill of Rights*.

## Part II

5. (1) Nothing in Part I shall be construed to abrogate or abridge any human right or fundamental freedom not enumerated therein that may have existed in Canada at the commencement of this Act.

(2) The expression "law of Canada" in Part I means an Act of the Parliament of Canada enacted before or after the coming into force of this Act, any order, rule or regulation thereunder, and any law in force in Canada or in any part of Canada at the commencement of this Act that is subject to be repealed, abolished or altered by the Parliament of Canada.

(3) The provisions of Part I shall be construed as extending only to matters coming within the legislative authority of the Parliament of Canada.

6. Section 6 of the *War Measures Act* is repealed and the following substituted therefor:

"6. (1) Sections 3, 4 and 5 shall come into force only upon the issue of a proclamation of the Governor in Council declaring that war, invasion or insurrection, real or apprehended, exists.

(2) A proclamation declaring that war, invasion or insurrection, real or apprehended, exists shall be laid before Parliament forthwith after its issue, or, if Parliament is then not sitting, within the first fifteen days next thereafter that Parliament is sitting.

(3) Where a proclamation has been laid before Parliament pursuant to subsection (2), a notice of motion in either House signed by ten members thereof and made in accordance with the rules of that House within ten days of the day the proclamation was laid before Parliament, praying that the proclamation be revoked, shall be debated in that House at the first convenient opportunity within the four sitting days next after the day the motion in that House was made.

(4) If both Houses of Parliament resolve that the proclamation be revoked, it shall cease to have effect, and sections 3, 4 and 5 shall cease to be in force until those sections are again brought into force by a further proclamation but without prejudice to the previous operation of those sections or anything duly done or suffered thereunder of any offence committed or any penalty or forfeiture or punishment incurred.

(5) Any act or thing done or authorized or any order or regulation made under the authority of this Act, shall be deemed not to be an abrogation, abridgement or infringement of any right or freedom recognized by the *Canadian Bill of Rights*."

