

The Canadian Abridgment BULLETIN

May 2009 — Issue 48



Highlighting new developments and providing research tips for users of The Canadian Abridgment

FROM THE PUBLISHER

In this issue of the Bulletin, we are excited to announce the addition of links to The Canadian Abridgment on WestlawCarswell from the Canadian Encyclopedic Digest (CED). We tell you about the new look for the CED online and the new way of using The Abridgment in combination with the CED to enhance your legal research in print or online.

We also update you on the highlights of our print publishing program for 2009. Inside, you will find information on the progress and aims of the 2009 Case Law Digest reissue program. This year, the Alternative Dispute Resolution and Bankruptcy and Insolvency volumes will be delivered in September and you can look forward to the Contracts volumes in December. In addition, we provide you with an update on the completion of the Reconsolidation of the Canadian Case Citations and the reconsolidation of three jurisdictions of Canadian Statute Citations.

I welcome any comments or suggestions that you may have concerning The Canadian Abridgment.

Rachel Francis, B.A. (Hon.), LL.B.
Director, Legal Strategic Market Group

Introduction of Links to The Canadian Abridgment from the CED

To enhance your use of The Canadian Abridgment online, beginning this spring we will be including links to the relevant Abridgment classification from sections of the Canadian Encyclopedic Digest (CED) on WestlawCarswell.

The Canadian Abridgment and the CED have long been recognized as ideal starting points for legal research and can be especially powerful when used in combination. The CED provides researchers with a useful overview of the legal principles and leading cases and The Canadian

Abridgment is then a quick and easy way to locate those cases and link to other relevant Canadian case law.

Links to The Canadian Abridgment are being added in conjunction with the launch of the Fourth Edition of the CED. The CED online at WestlawCarswell is being “rechunked” to make sections into larger, more logical units with topical headings as opposed to individual paragraphs, eliminating the need to click from paragraph to paragraph when accessing it online.

continued on page 2

In this issue...

- **Introduction of Links to The Canadian Abridgment from the CED**1-5
- **Update on The Canadian Abridgment Print Publishing Program**5-6
 - **Reissue of three Case Law Digest titles in 2009** 5
 - **Completion of the Reconsolidation of the Canadian Case Citations** 5
 - **Reconsolidation of three Canadian Statute Citations jurisdictions**6

CARSWELL®

Don't forget... you can now reach the Abridgment Helpline by e-mail at:
Carswell.Abridgment@thomsonreuters.com

continued from page 1...

Each newly “rechunked” CED section will include a link to the equivalent classification of The Canadian Abridgment, making it easy to follow up your CED research by canvassing the relevant case law. This enhancement will make it easier to use The Canadian Abridgment together with the CED when beginning your research on WestlaweCarswell.

A new way of accessing The Canadian Abridgment online

The CED is organized into a multilevel issue-based taxonomy. Within each section, the content is set out in numbered paragraphs. Previously, each CED paragraph was displayed individually online, which required users to click on each paragraph in order to review all of the content in a particular section. For example, in the Actions (Ontario) subject title, paragraphs 21, 22, 23, and 24 are all found under the section, “(b) – Civil Actions at Suit of Crown or of Person Suing for Crown and Self.” Under the old format, only one paragraph in a section would be displayed at a time, illustrated as follows:

[◀ Previous](#) **CED Actions §21 (Ontario)** [Next ▶](#)
 Canadian Encyclopedic Digest
 Actions (Ontario)
 II - Forms and Classes of Action (Approx. 1 page)

CED Actions §21 (Ontario)

Canadian Encyclopedic Digest
 Actions (Ontario)
 II - Forms and Classes of Action
 5 - Penal Actions
 (b) - Civil Actions at Suit of Crown or of Person Suing for Crown and Self

Copyright © CARSWELL, a Division of Thomson Canada Ltd. or its Licensors. All rights reserved.

To check the currency of the title, please refer to the subject title page.

§21
 Where a fine has been imposed for a contravention of an Act of the legislature or a regulation made thereunder, and no other provision is made for its recovery, it is recoverable with costs by a civil action at the suit of the Crown.^[FN1] However, no such fine, or any part of it, may be paid to a person acting as an informer or a prosecutor.^[FN2] Where one part of the forfeiture created by statute is given to the Crown and the other part to the informer or prosecutor, the suit is called a “qui tam action”.^[FN3]

^[FN1] Fines and Forfeitures Act, R.S.O. 1990, c. F.13, s. 2(1).
^[FN2] Fines and Forfeitures Act, R.S.O. 1990, c. F.13, s. 2(2).
^[FN3] *Garrett v. Roberts* (1884), 10 O.A.R. 650 at 655 (Ontario).

END OF DOCUMENT

Beginning this May, the CED will be displayed online not as single paragraphs, but rather as entire sections of the classification. For example, all four paragraphs in the section “(b) – Civil Actions at Suit of Crown or of Person Suing for Crown and Self” will be displayed together. This enhancement has enabled us to include links from each CED section to the equivalent Abridgment classification. Going forward, every new CED section will include a link to The Canadian Abridgment and will appear as shown in the following example:

[Previous](#)
CED Actions II.5.(b) (Ontario)
[Next](#)

Canadian Encyclopedic Digest
 Actions (Ontario)
 II - Forms and Classes of Action (Approx. 1 page)


CED Actions II.5.(b) (Ontario)

Canadian Encyclopedic Digest
 Actions (Ontario)
 II - Forms and Classes of Action
 5 - Penal Actions
 (b) - Civil Actions at Suit of Crown or of Person Suing for Crown and Self

Copyright © CARSWELL, a Division of Thomson Canada Ltd. or its Licensors. All rights reserved.

To check the currency of the title, please refer to the subject title page.

See Canadian Abridgment: [CIV.VII.2.j](#) Civil practice and procedure -- Actions -- Cause of Action -- Penal actions



§21 Where a fine has been imposed for a contravention of an Act of the legislature or a regulation made thereunder, and no other provision is made for its recovery, it is recoverable with costs by a civil action at the suit of the Crown.^[FN1] However, no such fine, or any part of it, may be paid to a person acting as an informer or a prosecutor.^[FN2] Where one part of the forfeiture created by statute is given to the Crown and the other part to the informer or prosecutor, the suit is called a "qui tam action".^[FN3]

§22 Where an offender is in default of payment of a fine, or a forfeiture imposed by law is not paid as required by the order imposing it, then, in addition to any other method provided by law for recovering the fine or forfeiture, the Attorney General of the province to whom the proceeds of the fine or forfeiture belong, or the Attorney General of Canada, where the proceeds of the fine or forfeiture belong to Her Majesty in right of Canada, may, by filing the order, enter as a judgment the amount of the fine or forfeiture, and costs, if any, in any civil court in Canada that has jurisdiction to enter a judgment for that amount.^[FN4] An order that is entered as a judgment in this way is enforceable in the same manner as if it were a judgment obtained by the Attorney General of the province or the Attorney General of Canada, as the case may be, in civil proceedings.^[FN5]

§23 A common informer's right to sue need not be specifically expressed in the statute. It is sufficient if the legislature's intention can be derived by reasonable implication from the language of the statute. The creation of a penalty to be sued for by an informer is not in any proper sense an invasion, or even a limitation, of the Royal prerogative, and the intention to enact such a penalty may be indirectly expressed in words which would be ineffectual to deprive the Crown of prerogative rights which have already vested.^[FN6]

§24 The character in which the plaintiff sues is material in a penal action, for it is a variance to sue out a writ qui tam and to declare in one's own right.^[FN7] The proper title of the cause should be in the affidavit, and must show the special character in which the plaintiff sues.^[FN8]

[FN1.](#) Fines and Forfeitures Act, R.S.O. 1990, c. F.13, s. 2(1).
[FN2.](#) Fines and Forfeitures Act, R.S.O. 1990, c. F.13, s. 2(2).
[FN3.](#) *Garrett v. Roberts* (1884), 10 O.A.R. 650 at 655 (Ontario).
[FN4.](#) Criminal Code, R.S.C. 1985, c. C-46, s. 734.6(1) [en. 1995, c. 22, s. 6].
[FN5.](#) Criminal Code, R.S.C. 1985, c. C-46, s. 734.6(2) [en. 1995, c. 22, s. 6].
[FN6.](#) *Bradlaugh v. Clarke* (1883), L.R. 8 App. Cas. 354 at 379 (U.K. H.L.); *Shrigley v. Taylor* (1883), 4 O.R. 396 at 399 (Ont. H.C.).
[FN7.](#) *Robertson v. Orchard* (1867), 4 P.R. 23 at 24 (Ont. H.C.); *Dale v. Beer* (1806), 7 East. 333 (K.B.).
[FN8.](#) *Robertson v. Orchard* (1867), 4 P.R. 23 at 24 (Ont. H.C.).

END OF DOCUMENT

Once you have reviewed the law on your issue by consulting the CED, this change will make it easy for you to continue your research by linking you to the relevant case law in the Abridgment. Links to Abridgment classifications will also provide you with a quick and easy way to update the statement of the law contained in the CED with the most recent case law digested in The Canadian Abridgment.

In addition to the inclusion of links to The Canadian Abridgment online at WestlaweCarswell, references to the relevant Abridgment classification will now be found in the print and CD ROM formats of the CED.

Timeline for addition of links to The Canadian Abridgment from the CED

In conjunction with the May 2009 release of the CED (scheduled for May 16), every one of our more than 200 CED titles will be “rechunked” and will be displayed online in this more user-friendly format. At the same time, the 104 CED titles which have been newly brought up to date as part of the CED Fourth Edition will display links to the relevant Canadian Abridgment classification. These titles are:

- Absentees (Shared)
- Actions (Ontario)
- Agriculture (Ontario)
- Animals (Shared)
- Arbitration (Shared)
- Associations and Not for Profit Corporations (Shared)
- Bailment (Shared)
- Boundaries and Surveys (Shared)
- Builders Liens (Western)
- Building Contracts (Shared)
- Bulk Sales (Ontario)
- Burial and Cremation (Western)
- Business Corporations (Ontario)
- Business Corporations (Western)
- Carriers (Shared)
- Children (Shared)
- Companies Creditors Arrangement Act (Shared)
- Condominiums (Ontario)
- Conspiracy (Shared)
- Constitutional Law (Shared)
- Construction Liens (Ontario)
- Contracts (Shared)
- Cooperatives (Shared)
- Copyright (Shared)
- Criminal Defences (Shared)
- Criminal Offences (Shared)
- Criminal Procedure (Shared)
- Damages (Shared)
- Devolution of Estates (Ontario)
- Devolution of Estates (Western)
- Distress (Western)
- Education (Ontario)
- Environmental Law (Western)
- Environmental Law (Ontario)
- Equity (Shared)
- Estoppel (Shared)
- Execution (Western)
- Execution (Ontario)
- Executors and Administrators (Western)
- Expropriation (Shared)
- Extradition (Shared)
- Firearms, Weapons and Explosives (Shared)
- Fires (Western)
- Fish and Game (Western)
- Fraud and Misrepresentation (Shared)
- Gaming (Shared)
- Highway Traffic (Ontario)
- Income Tax (Shared)
- Injunctions (Shared)
- Internet (Shared)
- Interpleader (Shared)
- Labour (Ontario)
- Labour – Alberta (Western)
- Labour – Federal (Shared)
- Labour (BC) (Western)
- Labour (Manitoba) (Western)
- Labour (Saskatchewan) (Western)
- Landlord and Tenant (Ontario)
- Landlord and Tenant (Western)
- Limitation of Actions (Shared)
- Mental Incapacity (Ontario)
- Mines and Minerals (Western)
- Mortgages (Ontario)
- Municipal and School Taxation (Ontario)
- Narcotic Control (Shared)
- Negligence (Shared)
- Nuisance (Shared)
- Oil and Gas (Shared)
- Parties (Ontario)
- Partnership (Western)
- Partnerships (Ontario)
- Patents (Shared)
- Perpetuities and Accumulations (Shared)
- Personal Property (Shared)
- Pleadings (Ontario)
- Pledges (Shared)
- Prerogative Remedies (Shared)
- Professions and Occupations (Western)

- Professions and Occupations (Ontario)
- Public Authorities and Public Officers (Ontario)
- Public Health and Welfare (Ontario)
- Public Inquiries (Shared)
- Railways (Shared)
- Real Property (Western)
- Real Property (Ontario)
- Receivers (Shared)
- References and Inquiries (Ontario)
- Sale of Goods (Shared)
- Sale of Land (Shared)
- Secured Transactions (Ontario)
- Secured Transactions (Western)
- Sheriffs and Bailiffs (Western)
- Sheriffs and Bailiffs (Ontario)
- Specific Performance (Shared)
- Sports (Shared)
- Statutes (Shared)
- Telecommunications (Shared)
- Time (Shared)
- Trade Marks (Shared)
- Trusts (Shared)
- Victims of Crime (Shared)
- Wills (Shared)
- Workers Compensation (Western)
- Wrongful Dismissal (Western)

As the remaining CED titles are brought up to date you will notice more and more titles with links to The Canadian Abridgment. All CED titles will be replaced or updated and linked to the Abridgment by the end of 2010 as part of the Fourth Edition of the CED. From that point forward, key CED titles will be updated on a yearly basis and all other titles will be updated at least every three years.

Update on The Canadian Abridgment Print Publishing Program

The Canadian Abridgment is continually updated to maintain its currency, accuracy and readability and we are pleased to update you on the highlights of our 2009 print publishing program.

Reissue of three Case Law Digest titles in 2009

Following the completion of the Third Edition of The Canadian Abridgment in 2007, we resumed our practice of periodically reissuing Abridgment titles when the supplements grow too large, or when the classification is in need of substantial overhaul to meet current research needs. In 2008 we reissued four titles: Aboriginal Law, Administrative Law, Constitutional Law, and Civil Procedure. The following titles will be reissued in 2009:

- Alternative Dispute Resolution (one volume scheduled for September 2009)
- Bankruptcy and Insolvency (four volumes scheduled for September 2009)
- Contracts (five volumes scheduled for December 2009)

Beginning in 2008 we adopted a policy of including relevant case digests copied from other Abridgment titles into the reissued titles where the subject matter is of a broadly applicable

nature. For instance, the reissued Contracts title will include digests from a variety of other titles that contain general contract principles. In 2008 we included digests from other titles in the Administrative Law and Constitutional Law titles. This enhancement will allow users to find relevant digests without having to consult multiple titles of The Canadian Abridgment.

The preparation of the reissues requires the efforts of lawyers from the Legal Writing Group who conduct a thorough, case-by-case review and select relevant case law from other titles. Legal writers are also involved in evaluating and improving the classifications in the reissued volumes.

Completion of the Reconsolidation of the Canadian Case Citations

In September 2009 we will be sending out the third and final instalment of the Reconsolidation of the Canadian Case Citations (C.C.C.), a project we began in 2007. Upon completion of the Reconsolidation, the 22 hardcover volumes containing citations for cases from 1867 to July 1998 will all have been replaced by 30 hardcover volumes containing citations for cases from 1867 to December 2006. The completion of the Reconsolidation means that upkeep costs for the C.C.C. will be lower going forward.

Customers will also benefit from the fact that over the course of preparing the Reconsolidation, our editorial staff has thoroughly reviewed the existing C.C.C. main work and supplements to ensure the integrity and accuracy of the information. A number of significant editorial enhancements have been made since the last reconsolidation of the work in 1998. You will notice that, among other things, duplicate entries have been removed, typos in case names have been corrected, and case names and citations have been increasingly standardized. We have also expanded the scope of “See” references and, for the first time, have included “See also” references, which cross-reference variations and acronyms of common names appearing as parties in the cases referenced.

Reconsolidation of three Canadian Statute Citations jurisdictions

The Canadian Statute Citations (C.S.C.) is periodically reconsolidated when the supplements become too large. The following jurisdictions, which have not been reconsolidated since 2003, will be reconsolidated this year:

- Alberta/Northwest Territories/Nunavut
- British Columbia/Yukon
- Ontario

Over the course of preparing the reconsolidations, our editorial staff consolidates data from C.S.C. updates published subsequent to the hardcover main volumes for each jurisdiction. Among other things, this requires the merging of treatment information for each statute. All decisions in which a given statute has been judicially considered are consolidated and arranged by treatment symbol.

In addition, any incomplete styles of cause or citations are completed, and any inconsistencies in treatment information are researched and corrected. Finally, our editors incorporate corrections and any omissions or errors that have come to our attention are researched and corrected.

.....

We trust that these reconsolidations will enhance the speed and accuracy of your legal research using The Canadian Abridgment.

The Canadian Abridgment Helpline

Since 1992 Carswell has provided a toll-free Helpline to connect you with our Abridgment experts. Our bilingual Helpline representatives can assist you in:

- Using both print and electronic Abridgment editions effectively
- Integrating the various Abridgment components
- Maximizing your research strategies
- Learning more about our upcoming publications

We are proud of our Abridgment Helpline representatives, who are experienced legal researchers. They are part of Carswell’s Customer Relations team, participating in our training and support initiatives, and they will be pleased to assist you with all of your Abridgment needs.

In Toronto, call (416) 298-5140

Outside Toronto, call 1-800-463-4106

or E-mail us at Carswell.Abridgment@thomsonreuters.com

Hours: Mon. - Fri. 9:00 a.m. - 5:00 p.m. Eastern Time

The Canadian Abridgment BULLETIN

The Bulletin is published quarterly and is free of charge. If you would like a copy call us:

Toronto (416) 298-5140

Outside Toronto 1-800-463-4106

Publisher: Rachel Francis, B.A. (Hon.), LL.B.

Editor: Michael Silverstein, M.A., LL.B.

Contributing Editor: Christine Dobby, B.A., LL.B.

Distribution: CUSTOMER RELATIONS
Toronto (416) 609-3800
Elsewhere in Canada/U.S. 1-800-387-5164

Published by: One Corporate Plaza,
2075 Kennedy Road
Toronto, Ontario M1T 3V4