

No. 67

1st Session, 14th Legislature, Alberta
8 Elizabeth II

BILL 67

A Bill to Authorize the Use of Sound Recording Machines
in Recording Evidence Given Before Courts

HON. MR. MANNING

Explanatory Note

By section 24 of the Statutes of Canada, 1959, the Criminal Code was amended to permit the evidence on the trial of an accused for an indictable offence to be taken in a province where a sound recording apparatus is authorized by or under provincial legislation for use in civil cases, by the type of apparatus so authorized and in accordance with the requirements of the provincial legislation (section 555(b) of Criminal Code as amended). At the present time Alberta has no such legislation.

This Act will authorize the use of voice or sound recording machines in court-rooms to record the evidence given. At present the evidence given in courts is taken down in shorthand by official court reporters. This Act is intended primarily to provide for the recording of evidence given in Magistrate's Courts where trained reporters are not always available.

2. Interpretation.

3. The taking of evidence by sound-recording machines may be authorized by the Attorney General.

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(Assented to _____, 1960)

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

1. This Act may be cited as "*The Mechanical Recording of Evidence Act*".

2. In this Act,

- (a) "court" means the Supreme Court or the district court or family court or the court of a magistrate, justice of the peace or coroner, or the hearings presided over by a clerk of the court, sheriff, registrar, commissioner, board, arbitrator, referee or other person appointed by law or by order of a court or otherwise, to hear any witnesses or take any evidence, or to make any order, decree, finding, decision or report, or to exercise any judicial or quasi-judicial function;
- (b) "evidence" includes judgments, decisions, opinions, speeches, reports and all other matters done or said by or before any court, including matters relating to procedure;
- (c) "judge" includes any person lawfully presiding in a court;
- (d) "record" means a record made in accordance with section 3;
- (e) "reporter" means an official court reporter appointed in accordance with the Consolidated Rules of the Supreme Court, or a stenographer or typist;
- (f) "sound-recording machine" means any device, machine or system, of a type approved by the Attorney General, that faithfully records speech or other sounds in some permanent form or in a form capable of being transcribed after a period of two years or more.

3. (1) The Attorney General may by order direct that the evidence or any part of the evidence given before a court in a civil action or in an action under *The Summary Convictions Act*, be recorded by means of a sound-recording machine.

4. Certification of record and evidential nature of certificate.

5. A typewritten copy of recorded evidence is to be treated in the same manner as a copy of evidence taken down in shorthand.

6. The records may be played in a court.

7. Records to be filed with the Clerk of the Court.

8. (1) Destruction of record after two years upon order of the court.

(2) Who may apply for the order.

(3) Order may be of general application.

(2) An order under subsection (1) may be of general application or may relate to a specific court or to specific sittings of a court or may be otherwise limited.

4. (1) A record shall be certified, by the judge or by the court official in charge of the sound-recording machine during the proceeding, as being the record made of the evidence or part thereof, as the case may be, in the proceeding.

(2) A certificate made under this section is without proof of the signature of the judge or, where made by the person in charge of the sound-recording machine, without proof of his signature or official character, admissible in evidence as *prima facie* proof that the record is the record of the evidence, or part thereof, as the case may be, in the proceeding.

5. A typewritten copy of the whole or any part of the contents of a record,

(a) reduced to writing by a reporter, and

(b) certified by the reporter to be a true and faithful transcript of the contents of the record,

is admissible in evidence by any court to the same extent and with the same effect as a transcript of shorthand notes prepared by a reporter pursuant to the Consolidated Rules of the Supreme Court.

6. The sounds recorded upon a record may be reproduced in a court by any appropriate machine or device and the reproduction shall be received by the court to the same extent and with the same effect as a typewritten copy prepared pursuant to section 5.

7. All records shall be filed in the office of the official having custody of the records of the court and shall not be removed except as required by an Act or a rule of court or upon the order of a judge of the court or a judge of the Supreme Court or the district court.

8. (1) Any time after two years from the making of a record, the judge who presided at the making of the record or a judge of the Supreme Court may order the record destroyed or the recording thereon erased, cancelled or otherwise destroyed.

(2) An order under subsection (1) may be made without notice to any person, and on the application of any party or of the Attorney General, but the order shall not be made if it appears that the recording is likely to be thereafter required for any purpose.

(3) An order under subsection (1) may be a general order to apply to all or any records made before a date set out in the order.

9. Power to make regulations.

9. The Lieutenant Governor in Council may make such regulations as he deems necessary or advisable for the purpose of carrying out the provisions of this Act and of supplying any deficiency therein.

10. This Act comes into force on the day upon which it is assented to.

No. 67

FIRST SESSION

FOURTEENTH LEGISLATURE

8 ELIZABETH II

1960

BILL

An Act to Authorize the Use of
Sound Recording Machines in Re-
cording Evidence Given Before
Courts

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MANNING
