

IN THE TERRITORIAL COURT  
OF THE  
NORTHWEST TERRITORIES

---

R E G I N A

vs.

PETER APSIMIK

---

Transcript of Proceedings before His Honour Judge  
T.B. Davis, sitting at City Council Chambers, Inuvik,  
in the Northwest Territories, on Thursday, December  
14th, A.D. 1989

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Allan Ferguson, Esq.,

Appeared for the Crown

Thomas McCauley, Esq.,

Appeared for the Defence

W.M. Kiesewetter, CSR(A)

Official Court Reporter

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(Charges under Section 103(1) (a) of the Unemployment  
Insurance Act)

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INFORMATION  
(ON BEHALF OF HER MAJESTY THE QUEEN)

ON & DISPOSITION

COURT NUMBER OR

[Signature]  
JUDGE OR JUSTICE

135762

J.P. or Judge's Number

1339/910

Indictment:   
by Judge:   
by Jury:

THIS IS THE INFORMATION OF Gary Bung, an Officer of the  
(Insert full name, residence and occupation of informant)

Canada Employment and Immigration Commission  
of the City of Yellowknife, Northwest

JUDGE OR JUSTICE  
Not Guilty:

~~Territories~~ HEREINAFTER CALLED THE INFORMANT.

JUDGE OR JUSTICE

THE INFORMANT SAYS THAT He has reasonable and  
(If the informant has not personal knowledge, state that he has reasonable and  
probable grounds to believe and does believe and state the offence)

[Signature]  
JUDGE OR JUSTICE

probable grounds to believe and does believe that:

ALL INFORMATION IS DEALT WITH  
AS CONFIDENTIAL UNLESS OTHERWISE STATED  
ALL BE MADE ON THE REVERSE

Peter Apsimik  
Box 1923  
Inuvik, N.W.T.  
X0E 0T0

POSITION  
Issued:  Withdrawn:

COUNT 1: On or about 13 August, 1988 at or near the Town of Inuvik in the Northwest Territories did in relation to a claim for benefit unlawfully make a statement which he knew to be false; to wit: that he did not work during the weeks commencing 21 February, 1988 and 28 February, 1988 said statement being contrary to Section 103(1)(a) of the Unemployment Insurance Act 1971 and amendments thereto.

COUNT 2: On or about 13 August, 1988 at or near the Town of Inuvik in the Northwest Territories did in relation to a claim for benefit unlawfully make a statement which he knew to be false; to wit: that he did not work during the week commencing 06 March, 1988 said statement being contrary to Section 103(1)(a) of the Unemployment Insurance Act 1971 and amendments thereto.

JUDGE OR JUSTICE  
STAY OF PROCEEDINGS

SUPPLEMENTARY ENDORSEMENTS

On or about 24 March, 1988 at or near the Town of Inuvik in the Northwest Territories did in relation to a claim for benefit unlawfully make a statement which he knew to be false; to wit: that he did not work during the weeks commencing 13 March, 1988 and 20 March, 1988 said statement being contrary to Section 103(1)(a) of the Unemployment Insurance Act 1971 and amendments thereto.

On or about 27 April, 1988 at or near the Town of Inuvik in the Northwest Territories did in relation to a claim for benefit unlawfully make a statement which he knew to be false; to wit: that he did not work during the weeks commencing 27 March, 1988 and 03 April, 1988 said statement being contrary to Section 103(1)(a) of the Unemployment Insurance Act 1971 and amendments thereto.

On or about 27 April, 1988 at or near the Town of Inuvik in the

JUDGE OR JUSTICE
<input type="checkbox"/> STAY OF PROCEEDINGS <input type="checkbox"/>

COUNT 2: On or about 13 August, 1988 at or near the Town of Inuvik in the Northwest Territories did in relation to a claim for benefit unlawfully make a statement which he knew to be false; to wit: that he did not work during the week commencing 06 March, 1988 said statement being contrary to Section 103(1)(a) of the Unemployment Insurance Act 1971 and amendments thereto.

**SUPPLEMENTARY ENDORSEMENTS**

- 3: On or about 24 March, 1988 at or near the Town of Inuvik in the Northwest Territories did in relation to a claim for benefit unlawfully make a statement which he knew to be false; to wit: that he did not work during the weeks commencing 13 March, 1988 and 20 March, 1988 said statement being contrary to Section 103(1)(a) of the Unemployment Insurance Act 1971 and amendments thereto.
- 4: On or about 27 April, 1988 at or near the Town of Inuvik in the Northwest Territories did in relation to a claim for benefit unlawfully make a statement which he knew to be false; to wit: that he did not work during the weeks commencing 27 March, 1988 and 03 April, 1988 said statement being contrary to Section 103(1)(a) of the Unemployment Insurance Act 1971 and amendments thereto.
- 5: On or about 27 April, 1988 at or near the Town of Inuvik in the Northwest Territories did in relation to a claim for benefit unlawfully make a statement which he knew to be false; to wit: that he did not work during the weeks commencing 10 April, 1988 and 17 April, 1988 said statement being contrary to Section 103(1)(a) of the Unemployment Insurance Act 1971 and amendments thereto.

**SUPPLEMENTARY ENDORSEMENTS**

- 6: On or about 16 May, 1988 at or near the Town of Inuvik in the Northwest Territories did in relation to a claim for benefit unlawfully make a statement which he knew to be false; to wit: that he did not work during the weeks commencing 24 April, 1988 and 01 May, 1988 said statement being contrary to Section 103(1)(a) of the Unemployment Insurance Act 1971 and amendments thereto.

- 1 THE CLERK: Peter Apsimik.
- 2 THE COURT: The reading of the six counts on the  
3 Information had been waived, and Defence counsel had indicated  
4 that he was intending to object to anymore than two counts  
5 being on the Information as such?
- 6 MR. McCAULEY: That is correct, Sir.
- 7 THE COURT: Did you wish to just put this matter  
8 over until you have had a chance to speak with other persons  
9 who are present?
- 10 MR. McMAULEY: I don't think that will be necessary,  
11 Sir.
- 12 THE COURT: Very well. What do you wish to do on  
13 this matter?
- 14 MR. McCAULEY: Well, Sir, my position is that there is  
15 one two count Information sworn on the 3rd of November, and  
16 that all other supposed counts attached to that piece of paper  
17 are not properly before you. I am prepared to make submissions  
18 in the hope of persuading you on that position.
- 19 THE COURT: Do you wish to proceed at this moment,  
20 gentlemen, on the matter?
- 21 MR. FERGUSON: Yes, Your Honour.
- 22 THE COURT: If any persons wish to hear what is  
23 being argued, or what is being said, and they want to bring  
24 their chairs up along the side here, they can do so this  
25 afternoon. We are going to have the lawyers make a submission  
26 on the form of document, and it may be that you may want to  
27 hear it, and it may be difficult if you sit behind; so if you

1 wish to do that, bring your chairs up before the lawyers  
2 start, and you will be able to hear better.

3 Mr. McCauley, I will hear you on  
4 your submission, then.

5 MR. McCAULEY: I will be very brief, Sir. The  
6 point is an Information is required of the Criminal Code, and  
7 I'm just trying to find the appropriate section - the number  
8 of which escapes my mind right now, Sir. Yes, it is Section  
9 504 of the Criminal Code, Your Honour.

10 THE COURT: Yes, thank you.

11 MR. McCAULEY: It sets out what is required with  
12 respect to an offense, an indictable offense; and I would  
13 submit that the requirements are the same with respect to  
14 summary conviction matters such as are before you now. What is  
15 required is set out in that provision of the Code, and the  
16 exception that I take to this form is, in my submission there  
17 is nothing on the face of the document to indicate firstly  
18 that there is anymore than two counts. Secondly that what is  
19 labelled as supplementary endorsements, there is nothing to  
20 indicate that those were indeed attached to the form at the  
21 time that the swearing was done. In other words, what I'm  
22 saying is this, in the absence of something to indicate and  
23 to satisfy the Court that what was sworn to included all  
24 counts identified in the paper before you, I say to you that  
25 it is not in proper form. If there had been something on the  
26 face of the document to indicate, either on the extra  
27 endorsements, additional endorsements, or indeed on the two

1 count sheet with the confirmation of the Justice of the  
2 Peace. If there was something to indicate and relate one to  
3 the other, then I would not be making this objection.

4 My concern is this, and I am not  
5 imputing to anyone, ill will, or deceit, or anything of that  
6 sort; but what I am saying is, my concern is that it becomes  
7 rather dangerous with respect to the right of an individual  
8 appearing before the Court, if we can condone and be satisfied  
9 that you can simply affix a piece of paper, call in an  
10 additional endorsement, without specifically referring to its  
11 being sworn, or referring to it with respect to the swearing  
12 and the date thereof.

13 In other words there is nothing to link  
14 the two, and accordingly I say that this document, which  
15 purports to be an Information alleging six counts, is nothing  
16 more than an Information that conforms to the requirements of  
17 the Criminal Code with respect to only two counts; and  
18 accordingly I say to you, Sir, that the additional four counts  
19 are not properly before you. That is my submission.

20 THE COURT: Thank you.

21 MR. McCAULEY: Your Honour, if I might be permitted to  
22 address you on one point that I neglected to bring to your  
23 attention. When I spoke of the requirements of Section 504,  
24 I alluded to the fact that that sets out the requirements with  
25 respect to an indictable offense. The requirements with  
26 respect to a summary conviction matter, which I suggest is  
27 what we are dealing with here by virtue of the charge being

1 under the Unemployment Insurance Act itself. The formalities  
2 are set out in Section 789, but in my submission, with respect  
3 to the argument I'm making, it equally applies with respect to  
4 summary conviction matters. The requirement of Section 789  
5 subsection 1, sub (a): "that it shall be in writing and under  
6 oath"; and my point, to repeat myself very briefly is that  
7 those four counts cannot be demonstrated to be under oath on  
8 the face of the document before you.

9 THE COURT: Thank you. I will hear Crown.

10 MR. FERGUSON: Thank you, Sir. If it pleases the  
11 Court, may the Crown examine the original Information?

12 Your Honour, the Crown alleges that  
13 the form of the Information that is before the Court is in  
14 order, and perhaps as a way of explanation at first, apparently  
15 there have been difficulties in the past with multiple count  
16 Informations, whereby a number of Information forms have been  
17 used, and sometimes they would be sworn on the top, and some-  
18 times they would be sworn on the bottom, and this was causing  
19 difficulties. As a result, the Clerk's Office has come up  
20 with this particular means as a solution to those problems,  
21 and as a result these additional sheets of paper are made  
22 available - there's a glue attachment on the back, and they  
23 are added onto the Information sheet on the face of it,  
24 attached together, and then below those Information sheets, at  
25 the bottom as it were, the jurat appears with the appropriate  
26 signatures.

27 My friend argues that the additional



1 four counts that the Court sees before it today, are not part  
2 of the Information.

3 Quoting from Ewaschuk's Criminal  
4 Pleadings & Practice, Second Edition, I note a paragraph  
5 regarding the approach to criminal pleadings, and I quote  
6 as follows: "The modern approach to criminal jurisprudence  
7 has evolved, especially in relation to procedural matters to  
8 give less weight to technical matters, to look to substantial  
9 compliance, and not petty formalities. Not to sustain  
10 technical objections unless made timely and with allegations  
11 of actual prejudice, and not to burden the administration of  
12 justice with a narrow, technical and legalistic approach."  
13 There are a number of cases cited that confirm this principle  
14 that I have stated in Ewaschuk,

15 With respect to forms in particular.  
16 Section 26(5) of The Interpretation Act, states that: "Where  
17 a form is prescribed, deviations therefore not affecting the  
18 substance, or calculated to mislead, do not invalidate the  
19 form used." The Crown would submit that the provisions of  
20 Section 26(5) of The Interpretation Act, as they apply to  
21 forms, would also apply to the form that is before the Court  
22 today, that being summary Information.

23 There is a case that follows the  
24 principles set down in Ewaschuk, I quote R. v Crawford,  
25 1981, 23 Criminal Reports, Third Edition, at page 83. This  
26 is a decision of the British Columbia Supreme Court. It  
27 basically states that where a form is prescribed, deviations

1 therefrom not affecting substance, or calculated to mislead,  
2 do not invalidate the form itself; and this applies to the  
3 Criminal Code.

4 Finally, Your Honour, I notice in  
5 Martin's Criminal Code, and page CC 777, second paragraph up,  
6 I believe is applicable, and I quote: "An Information  
7 regular on it's face, is presumed to be valid, and if the  
8 Defendant claims a latent defect such that the Informant  
9 did not have reasonable and probable grounds to believe the  
10 alleged offence had been committed, then the onus is upon him  
11 to demonstrate his claim on a balance of probabilities."  
12 I believe that it is up to my friend to prove on a balance of  
13 probabilities that the form that is before the Court today is  
14 invalid, and the Crown submits that this burden has not been  
15 established by my friend.

16 THE COURT: He is arguing that it is invalid  
17 because it is irregular.

18 MR. FERGUSON: Yes, Your Honour, and --

19 THE COURT: He doesn't have to really show me too  
20 much that it is irregular when there's a piece of paper, two  
21 pieces of paper that's attached to it that is blatantly  
22 different from any other information that we see; so there is  
23 something irregular about it. But he's saying that that  
24 being irregular makes it invalid for those sections that have  
25 been attached. I'm not sure that I pick up your point of him  
26 having to prove anything beyond that, when you say it that way.

27 MR. FERGUSON: Well he has to establish on a balance

1 of probabilities that that is irregular; and the Crown is  
2 alleging that that is the standard that has been adopted by  
3 the office of the Territorial Court.

4 THE COURT: Is there anything in Court rules that  
5 says anything about adding pieces of paper that have on them  
6 supplementary endorsements? What does supplementary endorse-  
7 ments mean on an Information? Endorsements are what we add to  
8 an Information. Have these been added to it after it has been  
9 an Information, or are they additional charges, called counts  
10 in the Criminal Code? Any number of counts can be on an  
11 Information, it says; but does it say they are supplementary  
12 endorsements? I don't see anything that authorizes supplemen-  
13 tary endorsements as such, anywhere in the Code. Maybe we had  
14 better look and see what it says under endorsements here.  
15 I'm not saying it's not appropriate. I'm saying that I have  
16 never seen supplementary endorsements to comply with what says,  
17 it can be a number of counts on an Information.

18 MR. FERGUSON: Your Honour, I believe that the  
19 paragraphs that appear on the additional paper, state that  
20 those are in fact counts.

21 THE COURT: Where does it say that?

22 MR. FERGUSON: Count 2, count 3, count 4, count 5,  
23 and count 6.

24 THE COURT: Oh, I see, they are listed as counts.

25 MR. FERGUSON: They are listed as counts; and if it  
26 pleases the Court, with respect to the title at the top, where  
27 that page begins, Supplemental Endorsements, if that was to be

1 struck from the Information sheet itself, then perhaps  
2 that may resolve any problems that the Court may have with  
3 those words.

4 THE COURT: I'm not saying I do have a problem.  
5 What I'm saying is that Defence counsel is saying there is  
6 something wrong with the document. It appears different than  
7 usual, and it shows supplementary endorsements between what's  
8 listed on it as counts number 2 and 3, and again between what's  
9 listed as count number 5 and 6; and all I'm saying is that  
10 that certainly is irregular.

11 MR. FERGUSON: Yes, Your Honour, now whether that is  
12 an irregularity to amounts to a latent defect in form, is a  
13 question that must be ultimately decided by the Court. My  
14 friend does not make argument on that point with respect to  
15 those words,

16 THE COURT: He is saying that anything that is  
17 added on a supplementary piece of paper, that can be glued on,  
18 causes it to be irregular, in that there is no reference -  
19 and his point was - there is no reference in the piece of  
20 paper that has been glued on, to anything to show that the  
21 glued on piece of paper is intended to be or was part of the  
22 original sheet to which it was glued; because it was on the  
23 original sheet that the Affidavit was formed. Now it  
24 would certainly seem to me to be more natural, if it is  
25 required that there are going to be more than a sufficient  
26 number of counts on a piece of paper, and they want to be  
27 attached, whether by the Clerk's Office, or whether it's

1 by the Crown, or anybody else - if they attach, and leave  
2 a space, and put 200 counts on a piece of paper followed by  
3 the ordinary oath, it would seem to me that it would be in  
4 order. I wouldn't expect that Defence would have any objection  
5 if they listed 72,000 counts so long as they are in the usual  
6 form, or followed by an Affidavit to prove that the counts  
7 prior to that Affidavit were in fact part of the Information.  
8 I think that's his point. There's nothing tying these in,  
9 and that's all he is saying, I don't believe he is indicating  
10 that there was any belief that there was any intent to mislead,  
11 or that was inappropriate in any other way.

12 MR. FERGUSON: Your Honour, I believe that that's the  
13 intent that has been made by the Clerk's Office to remedy  
14 that problem, in that the signing, the oath has to be at the  
15 bottom - it has to be after all the counts.

16 THE COURT: That's exactly right. I think you have  
17 hit the nose on the head. The problem is that at least it has  
18 to on the face of it, appear to be that the Affidavit of the  
19 Informant is sworn subsequent to, on the list of counts,  
20 subsequent to listing of those counts.

21 MR, FERGUSON: The Crown alleges that that is what has  
22 been attempted in this case,

23 THE COURT: Yes.

24 MR. FERGUSON: Also, Crown has a suggestion that a  
25 better way would be for those additional counts that are on  
26 the attached piece of paper, that are attached to the original  
27 Information - if each count made reference to how many counts

1 were in the entire Information, then that would necessitate  
2 the swearing and the oath taking afterwards. It couldn't be  
3 added to subsequent to this,

4 THE COURT: Count number 1 of 8. Count number 2  
5 of 8?

6 MR. FERGUSON: Yes, Your Honour; and in that way thus  
7 I believe that that method would resolve the problem that my  
8 friend has with additional Informations being added afterwards,  
9 or additional counts being added after it has been sworn.

10 If you require, we can adjourn this matter, and the Crown would  
11 be in a position to call the Justice of the Peace that swore  
12 this Information and state - but then again that does not  
13 remedy the problem of the form that is before the Court today.

14 THE COURT: No, but it would certainly relieve  
15 Defence counsel's concern that papers can be added. If there's  
16 a form that's out, and has a piece of glue on it, you can add  
17 it and keep adding and keep adding; and if they are not dated,  
18 signed by the Justice of the Peace who swears them, or by the  
19 Judge who swears them, then it's hard for Defence counsel to  
20 be sure that they were on there originally - especially when  
21 there's a second notation made, a supplementary endorsement.  
22 As time goes by do we have additional supplementary endorse-  
23 ments? The one that bothers me the most is this second one  
24 that is shown as count number 6. How many supplementary  
25 endorsements are we going to keep attaching to this thing?  
26 It looks like it could have been attached after the oath was  
27 sworn, because they are listed as under supplementary

endorsements --

1  
2 MR. FERGUSON: But, Your Honour, after it is sworn,  
3 it is my understanding that the entire Information is kept  
4 within the office of the Clerk and the Territorial Court; and  
5 it would be highly irregular that anyone would have the  
6 ability to gain access to that document, and add extra counts  
7 to it at that point.

8 THE COURT: I wonder between the time the Informa-  
9 tion is prepared by an individual, if it's a private prose-  
10 cution, or by the police, or an agent of the police, if it's  
11 a public prosecution, and the time that it is filed with the  
12 Court, it is still not then in the hands of the Court.

13 MR. FERGUSON: If some additional counts were added  
14 on at that point.

15 THE COURT: That could be up to six months.

16 MR. FERGUSON: Yes, Your Honour. Nevertheless, once  
17 it is sworn, it is sworn to the counts that are --

18 THE COURT: It could be sworn here in Inuvik, held  
19 for six months, filed with the Court for five months and thirty  
20 days and still be valid by being filed; and at that point it  
21 has been out in the public for five months. Ordinarily what  
22 you are saying is accurate. It is sworn before the Court and  
23 filed with the Court immediately, but it doesn't have to be  
24 filed immediately. It just looks inappropriate to see  
25 supplementary endorsements, and another supplementary endorse-  
26 ment on a document; because supplementary itself ordinarily,  
27 by definition, means that it is something extra, not necessarily

1 just one of the counts, but is supplementary to the others,  
2 If it weren't that it is intended to mean that, then each one  
3 of them is supplementary to the first, and then the third is  
4 supplementary to the second, and the fourth is supplementary to  
5 the third, and so on.

6 MR. McCAULEY: Your Honour, if I might be permitted to  
7 reply very briefly. I am a little concerned when this is  
8 categorized as a problem of form. When my friend made  
9 reference to Eugene Ewaschuk, and he talks in terms of  
10 differentiating between substance and form. He also made -  
11 I take it that I need not argue the irregularity of the form.  
12 To me this is not a problem of form, although it is on the face  
13 of it a problem of form. I take it from the Court's comments  
14 that the Court is ready to recognize that.

15 THE COURT: It is irregular, but not necessarily  
16 harmful as such. I am not in any way indicating that yet.

17 MR. McCAULEY: Thank you, Sir. Even more important,  
18 though, this goes to the very root of our criminal justice  
19 system. That is to say that Mr. Apsimik, in my submission,  
20 has the right to rely on the law of the land, as reflected in  
21 the Criminal Code. He has the right to be assured that there  
22 is no remote possibility that anything could come before the  
23 Court that could in potential be in contravention of the Code.  
24 That's the risk with the document before you. In my submission  
25 that goes to the very foundation of our criminal justice  
26 system, and that goes to the fundamental rights of every  
27 citizen in Canada. So it's not an issue of form only, in my



1 submission, it is very very much more important than that. I  
2 simply wanted to make that point clear, Sir. The position of  
3 my client is that it is very much more serious than just a  
4 matter of paper, and what it is to the touch and the eye, as it  
5 were.

6 Again the case referred to, and I am  
7 not familiar with that case, but from the argument put  
8 forward by my friend, I would submit that it clearly does not  
9 apply unless you are satisfied that the only problem is one of  
10 form; and the thrust of my submission is that yes, it is a  
11 problem of form, but it is very much more significant than that.

12 Let's take a hypothetical situation-  
13 theoretically, and I'm not suggesting ill will or impropriety  
14 on the part of any individuals; but theoretically it is  
15 possible that such a situation as the following could occur,  
16 That other sheets of paper could be attached alleging any  
17 number of offenses subsequent to the swearing, subsequent to  
18 the swearing. Now clearly that would involve some wrongdoing,  
19 but it could also involve inadvertence. It could also involve  
20 a situation where, through inadvertence, the wrong piece of  
21 paper gets attached to this Information. Well that's not  
22 good enough. It is simply not good enough in my submission.  
23 It is not good enough in terms of the obligation of the Courts  
24 of the land to each individual that comes before it.

25 Thank you, Sir.

26 THE COURT:

Thank you.

27 MR. FERGUSON:

I have nothing further, Sir.

1 THE COURT:

2 The matter before the Court has been  
3 presented by Defence counsel for Mr. Peter Apsimik, because  
4 on the Information that has been presented to the Court, there  
5 are two counts on the first and main sheet, which is the  
6 ordinary Information form, that is a document filed with the  
7 Court. Attached to it below count number 2 is an additional  
8 sheet of paper, on which is printed the heading, Supplementary  
9 Endorsements, and on which are then printed counts number 3,  
10 4 and 5, all typed in the usual form. Attached to that sheet  
11 of paper is another glued sheet of paper, with the heading  
12 Supplementary Endorsements, on which there is a count number 6,  
13 typed in the usual form. The glued additional two sheets of  
14 paper, on which counts number 3, 4, 5, and 6 are typed, is attached  
15 to the original Information sheet, above the location on the  
16 original sheet for the swearing, on the 3rd day of November,  
17 1989, of the first and main sheet, known usually as page number  
18 one of an Information.

19 Defence counsel has pointed out that  
20 nothing on the counts 3 to 6 inclusive, shows that they were  
21 in fact attached to the Information when the Information was  
22 sworn by the Informant before a Justice of the Peace. Defence  
23 counsel says that for the protection of any person coming  
24 before the Court, that the Accused must be able to rely on the  
25 requirements of the Criminal Code, so that through inadvertence,  
26 or by error, or sometimes by intent, there should not be and  
27 cannot be attached additional paper, without it being referred  
to at the time the Affidavit was sworn; that is at the time



1 the original oath was taken.

2 Section 507, subsection 2 of the Code,  
3 restricts the signing of an Information in blank form, which  
4 means that the Informations that are to come before the  
5 Court, and the counts that are to be included on the  
6 Information before the Court, must be on the information  
7 sheet or sheets at the time the Affidavit is sworn. The  
8 Code indicates the form to be used by the Courts, that being  
9 Form No. 2, which shows the form as a document that indicates  
10 the Informant says, or believes on reasonable grounds that an  
11 offense has been committed; following which the form requires  
12 that the signature of the Informant be attached thereto, and  
13 that it be sworn before a Justice of the Peace. Form No. 2,  
14 therefore, requires that all counts, those are individual  
15 charges, must be attached to, and form part of the Information  
16 prior to the oath being taken, or they then do not constitute  
17 part of the charges against an Accused person.

18 It would be preferable if there were  
19 no markings such as appears to be on the Information before  
20 the Court today, that would be supplementary endorsements;  
21 because I see no reference in the Criminal Code, which  
22 authorizes supplementary endorsements; nor do I understand  
23 what the terminology, supplementary endorsements, means on  
24 the Information. In this instance it is somewhat bothersome  
25 to the Court, because there are in fact two supplementary  
26 endorsements, with what appears to be additional counts on  
27 the Information. However, I must recognize that the list of



1 counts from 1 to 6 do show as being part of the original  
2 endorsement, in that they are glued to the paper above the  
3 signature of the Informant and the Justice of the Peace who  
4 swore the Information.

5 The major question, therefore, is  
6 does the form before the Court affect the substance of the  
7 document, or in any way mislead an Accused person, as to what  
8 charges he is subject to. If they do not mislead, or if they  
9 do not affect the substance of the matters before the Court,  
10 in a harmful way, and there has been a case proposed by Crown  
11 Counsel that indicates that they should not be considered  
12 invalid. I might state that my preference for any additional  
13 counts on any Information should show the counts by number.  
14 The Information before the Court does that. I am of the  
15 opinion that it would be more appropriate to show the pages  
16 as page numbers rather than glued attached supplementary  
17 endorsement notations, and on numbered pages any number of  
18 counts could be included, and subsequent to those pages the  
19 then oath and the signature of the Informant, and the signature  
20 of the Judge who takes the oath, should follow the last count  
21 on the Information. That is the form of Affidavit, Statutory  
22 Declaration, and oaths, generally used in the legal field,  
23 and I think it is actually a more appropriate way than  
24 attaching sheets of paper by gluing them to the Information.  
25 However, I am of the opinion that the gluing of the sheets  
26 of paper to this first page Information, can be accepted by  
27 the Court as qualifying under the Criminal Code, and its



1 requirements in this instance, mainly and mostly and  
2 possibly only because the counts are listed as such, even  
3 though they haven't been initialled or have not been shown  
4 in any way to be related to the first two counts except by  
5 having them attached by a strip of glue.

6 I find the submissions made by counsel  
7 to be interesting on the matter today, and I hope that a  
8 somewhat different form can be prepared in the future, so that  
9 there can be no concern by an accused person as to whether or  
10 not additional counts in an Information have been added  
11 subsequent to the oath taking. I am satisfied, however, that  
12 in this instance there is no evidence whatsoever of any intent  
13 to mislead, or that the substance of the Information is such  
14 that it is prejudicial in any way to the Accused, and I feel  
15 that we can deal with the six counts that are listed as such.

16 You may proceed then, gentlemen, at  
17 this time.

18 THE CLERK: Peter Apsimik, you stand charged that  
19 on or about the 13th of August, 1988, at or near the Town of  
20 Inuvik, in the Northwest Territories, did in relation to a  
21 claim for benefit unlawfully make a statement which you knew  
22 to be false; to wit: that he did not work during the weeks  
23 commencing 21 February, 1988, and 28 February, 1988, said  
24 statement being contrary to Section 103(1)(a) of the Unemploy-  
25 ment Insurance Act, 1971 and amendments thereto.

26 Count 2: On or about 13 August, 1988,  
27 at or near the Town of Inuvik, in the Northwest Territories,

1 did in relation to a claim for benefit unlawfully make a  
2 statement which he knew to be false; to wit: that he did not  
3 work during the week commencing 06 March, 1988, said statement  
4 being contrary to Section 103(1)(a) of the Unemployment  
5 Insurance Act 1971 and amendments thereto.

6 Count 3: On or about 24 March, 1988,  
7 at or near the Town of Inuvik in the Northwest Territories,  
8 did in relation to a claim for benefit unlawfully make a  
9 statement which he knew to be false; to wit: that he did not  
10 work during the weeks commencing 13 March, 1988 and 20 March,  
11 1988, said statement being contrary to Section 103(1)(a) of  
12 the Unemployment Insurance Act 1971 and amendments thereto.

13 Count 4: On or about 27 April, 1988,  
14 at or near the Town of Inuvik, in the Northwest Territories,  
15 did in relation to a claim for benefit unlawfully make a  
16 statement which he knew to be false; to wit: that he did not  
17 work during the weeks commencing 27 March, 1988 and 03 April,  
18 1988, said statement being contrary to Section 103(1)(a) of  
19 the Unemployment Insurance Act 1971 and amendments thereto.

20 Count 5: On or about 27 April, 1988, at  
21 or near the Town of Inuvik in the Northwest Territories, did  
22 in relation to a claim for benefit unlawfully make a statement  
23 which he knew to be false; to wit: that he did not work during  
24 the weeks commencing 10 April, 1988 and 17 April, 1988, said  
25 statement being contrary to Section 103(1)(a) of the Unemploy-  
26 ment Insurance Act, 1971 and amendments thereto.

27 Count 6: On or about 16 May, 1988, at

1 or near the Town of Inuvik, in the Northwest Territories, did  
 2 in relation to a claim for benefit, unlawfully make a statement  
 3 which he knew to be false; to wit: that he did not work during  
 4 the weeks commencing 24 April, 1988 and 01 May, 1988, said  
 5 statement being contrary to Section 103(1)(a) of the Unemploy-  
 6 ment Insurance Act 1971 and amendments thereto.

7 MR. McCAULEY: Your Honour, I would like to adjourn  
 8 these matters without plea at this time.

9 THE COURT: Thank you. Madam Clerk, when will we  
 10 be able to deal with these matters on another day?

11 THE CLERK: The 2nd of January, Sir, there's  
 12 another big day, or the 15th of January would be the next date.

13 THE COURT: Mr. McCauley, what is your preference?

14 MR. McCAULEY: Well I think my preference would be  
 15 the 15th of January, Sir.

16 THE COURT: This matter is adjourned to January  
 17 15th, 1990, at 9,30 a.m. Process to continue.

18 MR. McCAULEY: Thank you, Sir.

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20 PROCEEDINGS CONCLUDED

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Certificate of Transcript

I, W.M. Kiesewetter, CSR(A), Official Court Reporter, hereby certify that I attended at the above proceedings and took faithful and accurate shorthand notes, and the foregoing is a true and accurate transcript of my shorthand notes to the best of my skill and ability.

Dated at the City of Edmonton, in the Province of Alberta, this 3rd day of January, A.D. 1990.

W.M. Kiesewetter  
W.M. Kiesewetter, CSR(A)  
Official Court Reporter.

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