



Provincial Powers of Quarantine Presentation for Roundtable March 25, 2020

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Outline

- Introduction
- Quarantine & isolation
- Arrest and detention
- State of emergency
- Limitations on powers





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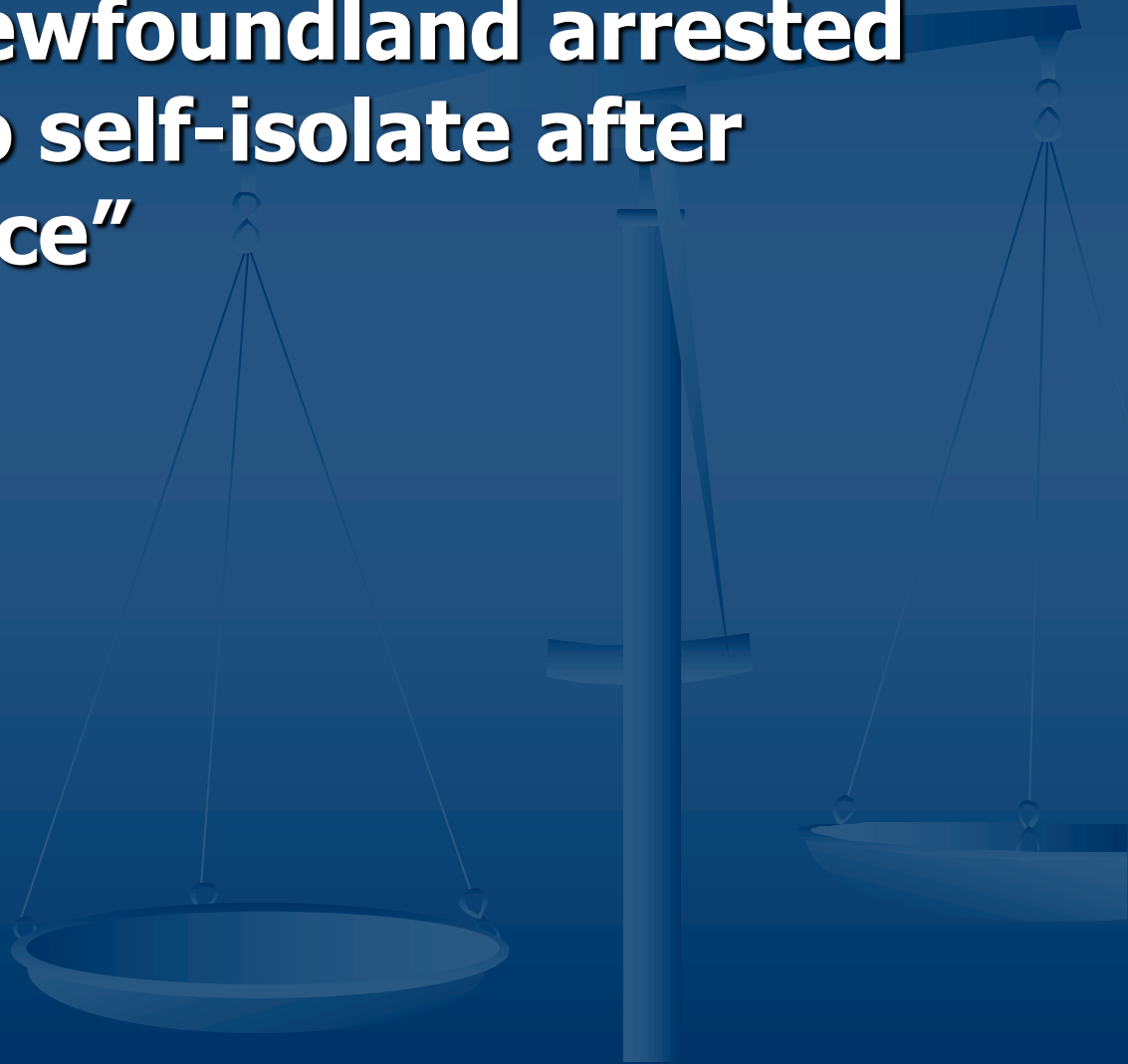
PROFESSOR STEWART BETTER.

It with the deepest of relief that Dalhousians past and present will learn that Professor H. L. Stewart is now out of danger and will soon recover with all physical and mental faculties unimpaired. When, after his fall down a shaft in the post office basement a month ago, Dr. Stewart's life was despaired of for two weeks, and it was hinted that, even should he survive, his brain, his wonderful brain

THE DENNIS FOUNDATION.

As every Dalhousian knows, last winter Senator and Mrs. Dennis endowed a chair of political science in the University in memory of their son Eric, who died in action. This chair is now known as the Dennis Foundation. The faculty of Dalhousie have, after much earnest consideration, decided that, owing to existing conditions, for this year at least it will be impossible to obtain a professor capable of

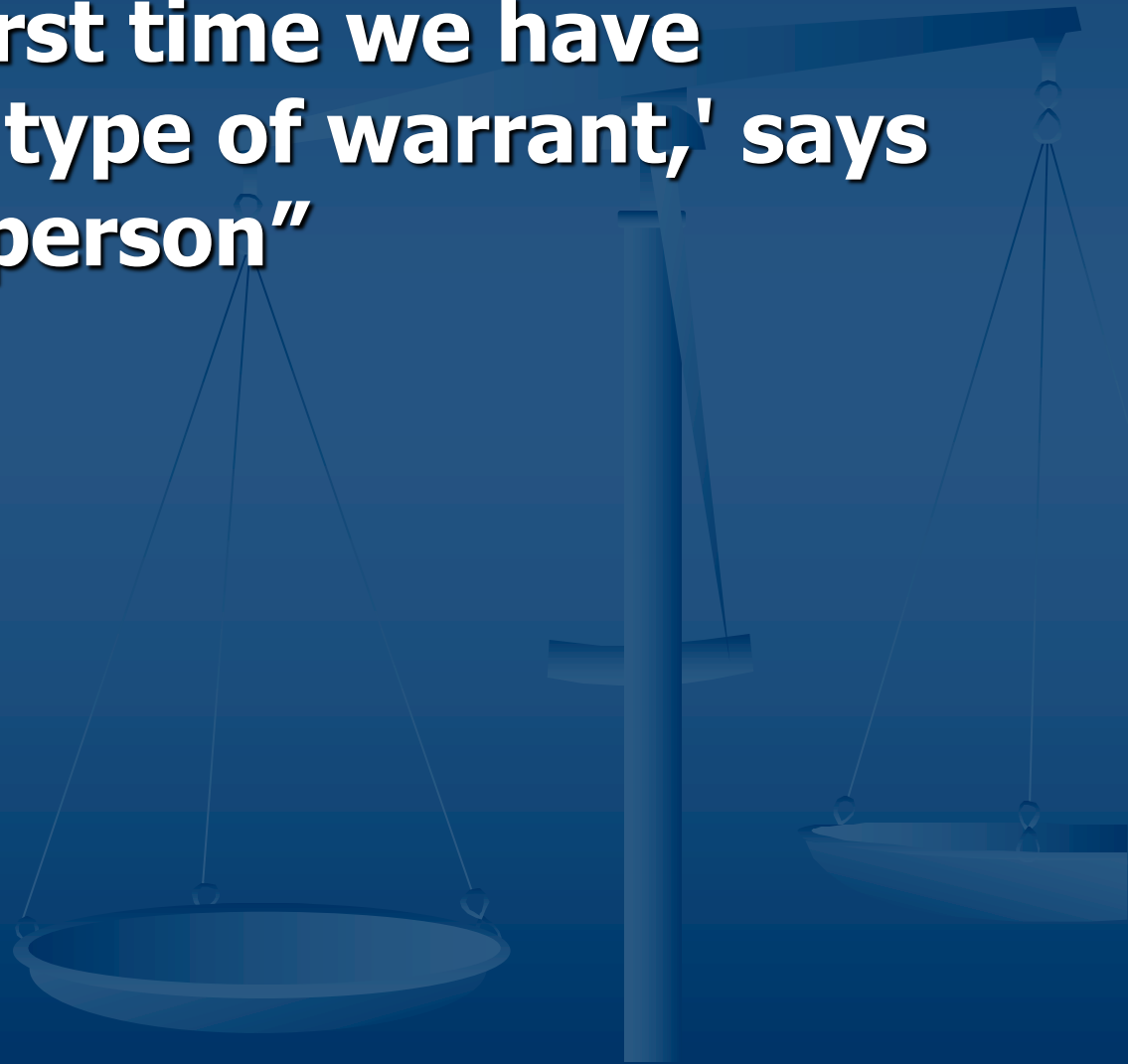
- **“Woman in Newfoundland arrested for refusing to self-isolate after talking to police”**



Quebec City police arrest COVID-19 patient for defying quarantine



- **“'This is the first time we have executed this type of warrant,' says police spokesperson”**



Quarantine

- When person *has been or may have been exposed* to an infectious disease



Isolation

- Person who *has* a communicable disease

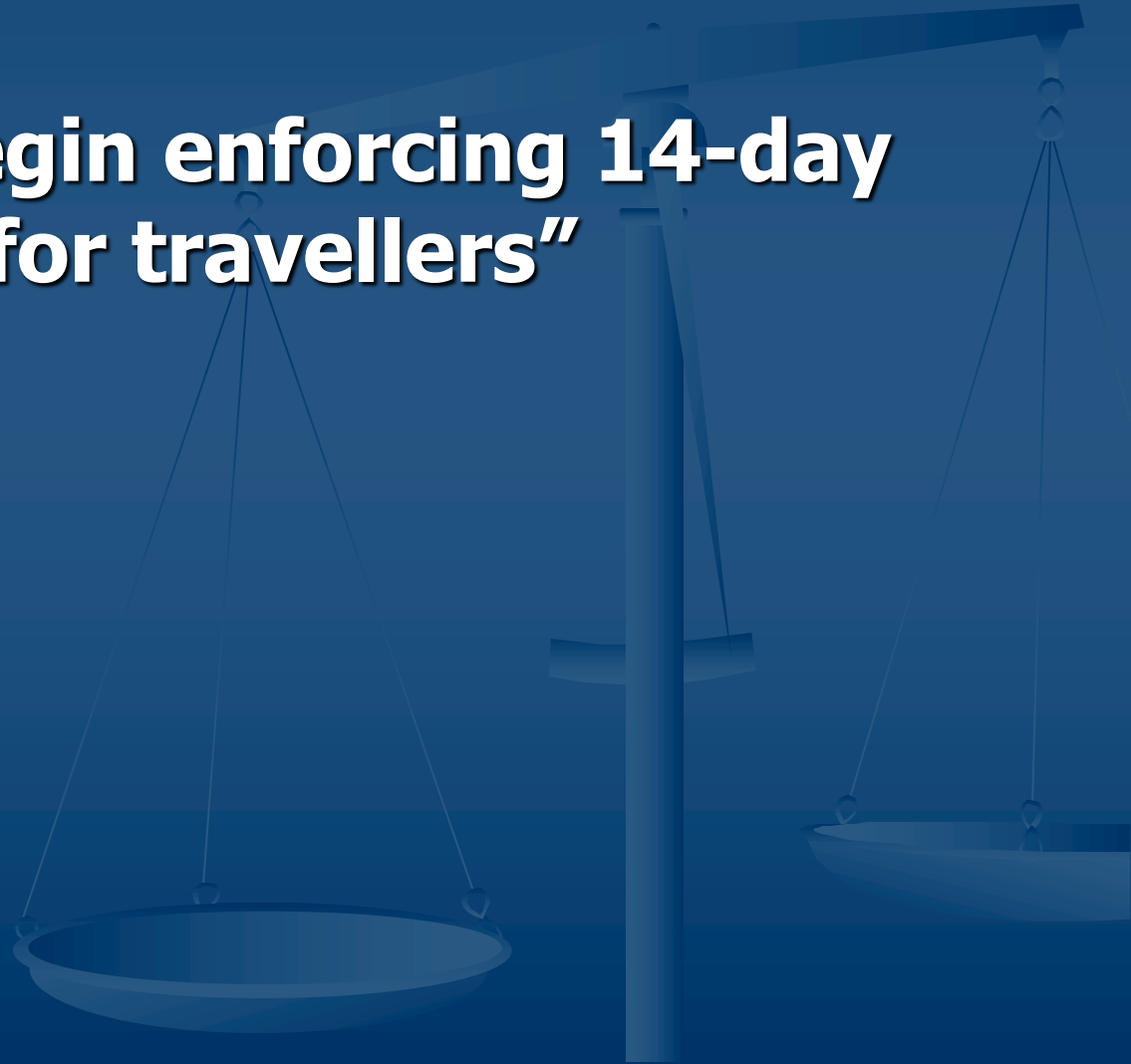


Federal

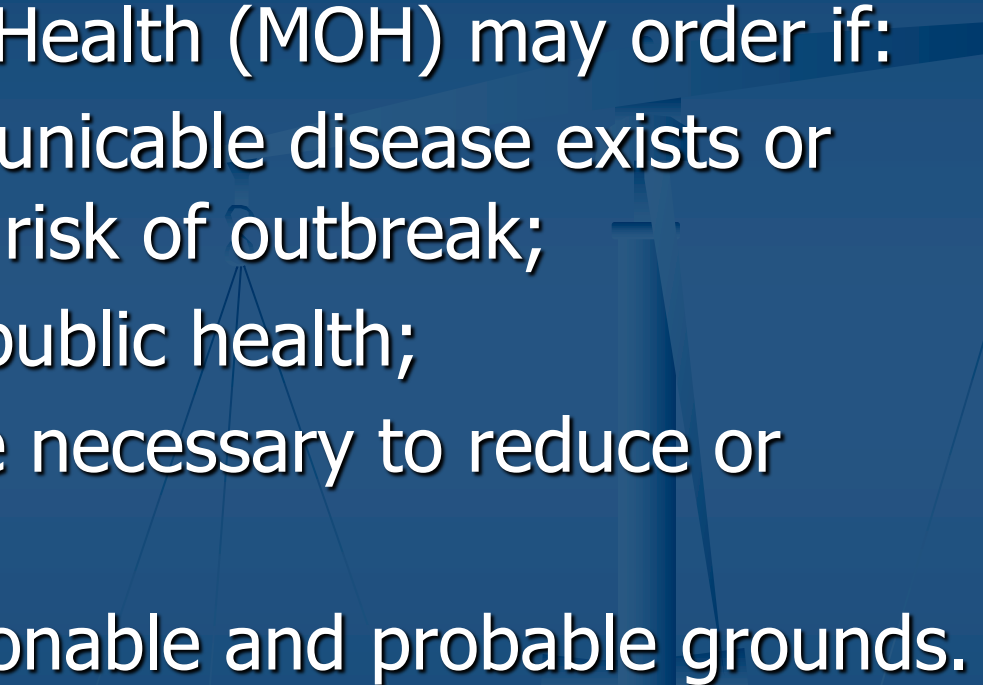
- Quarantine Act – ingress to Canada and egress
- Emergencies Act – not yet invoked



- **“Canada to begin enforcing 14-day self-isolation for travellers”**



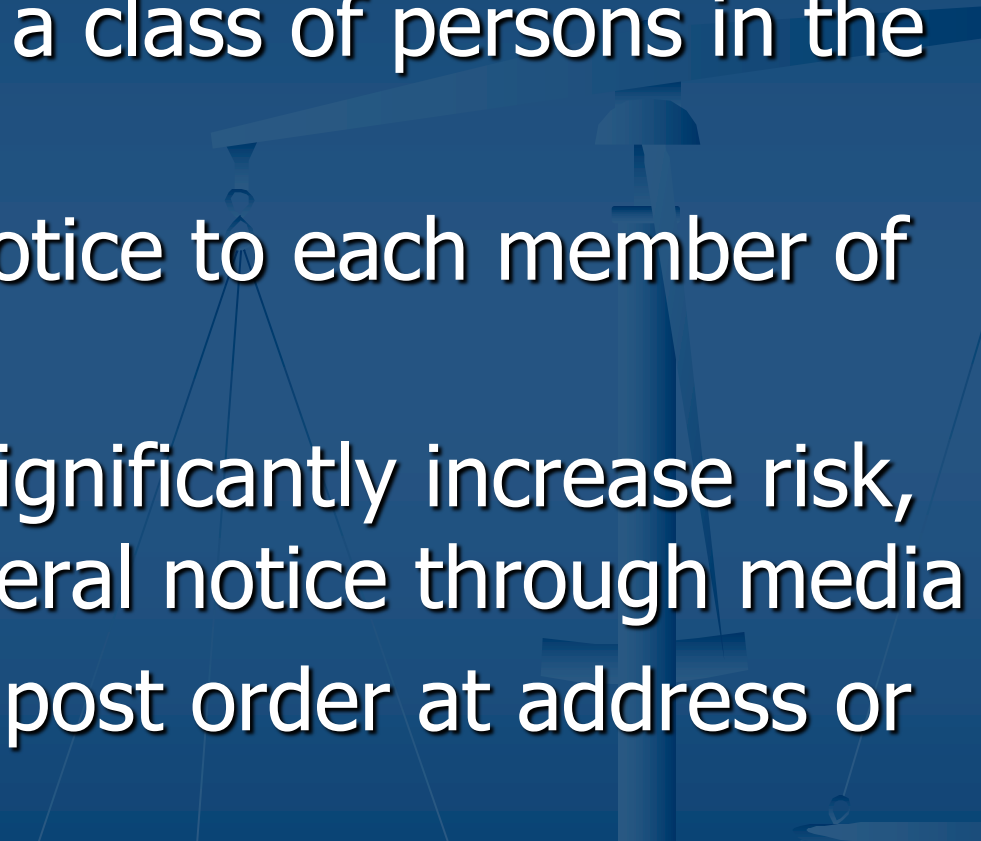
Quarantine & Isolation - NS

- Medical Officer of Health (MOH) may order if:
 - - of opinion communicable disease exists or there's immediate risk of outbreak;
 - - presents risk to public health;
 - - requirements are necessary to reduce or eliminate risk.
 - All subject to reasonable and probable grounds.
- 

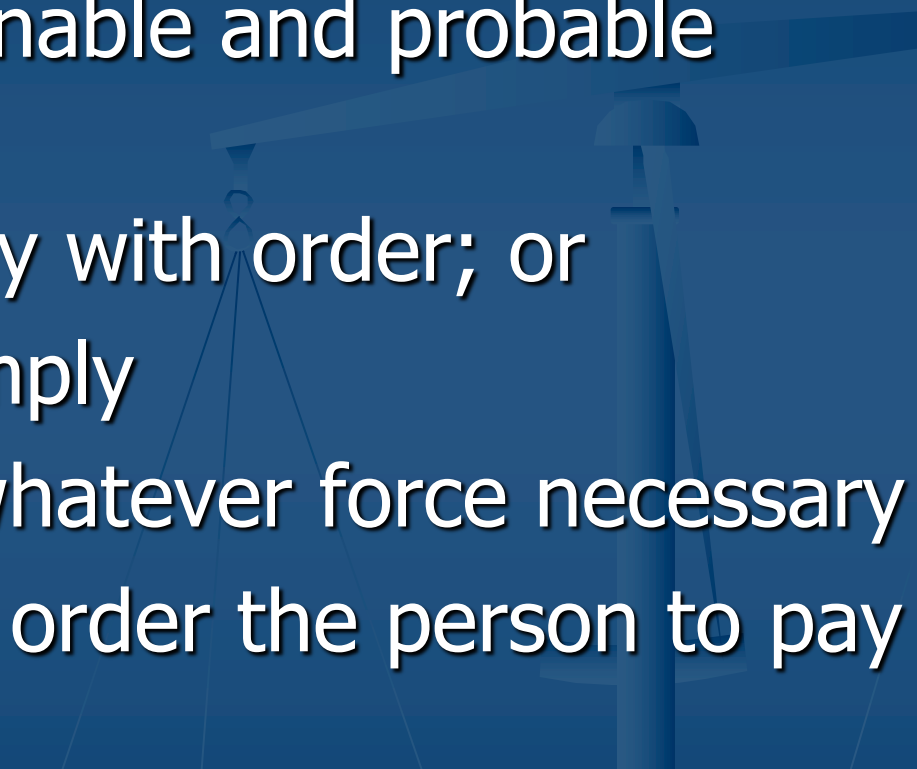
Scope

- May require person to take or refrain from taking any action specified in order
- May require conduct not to expose another to infection
- May require displaying of signage on premises
- May restrict access to premises
- May communicate order to others

Groups

- Order can be to a class of persons in the province
 - If practicable, notice to each member of the class
 - If delay would significantly increase risk, may deliver general notice through media
 - If so, must also post order at address or addresses
- 
- A faint, stylized image of a balance scale is visible in the background, centered behind the text. The scale has two pans hanging from a horizontal beam, which is supported by a central vertical pillar. The image is rendered in a light blue color that blends with the dark blue background.

Arrest and Detention

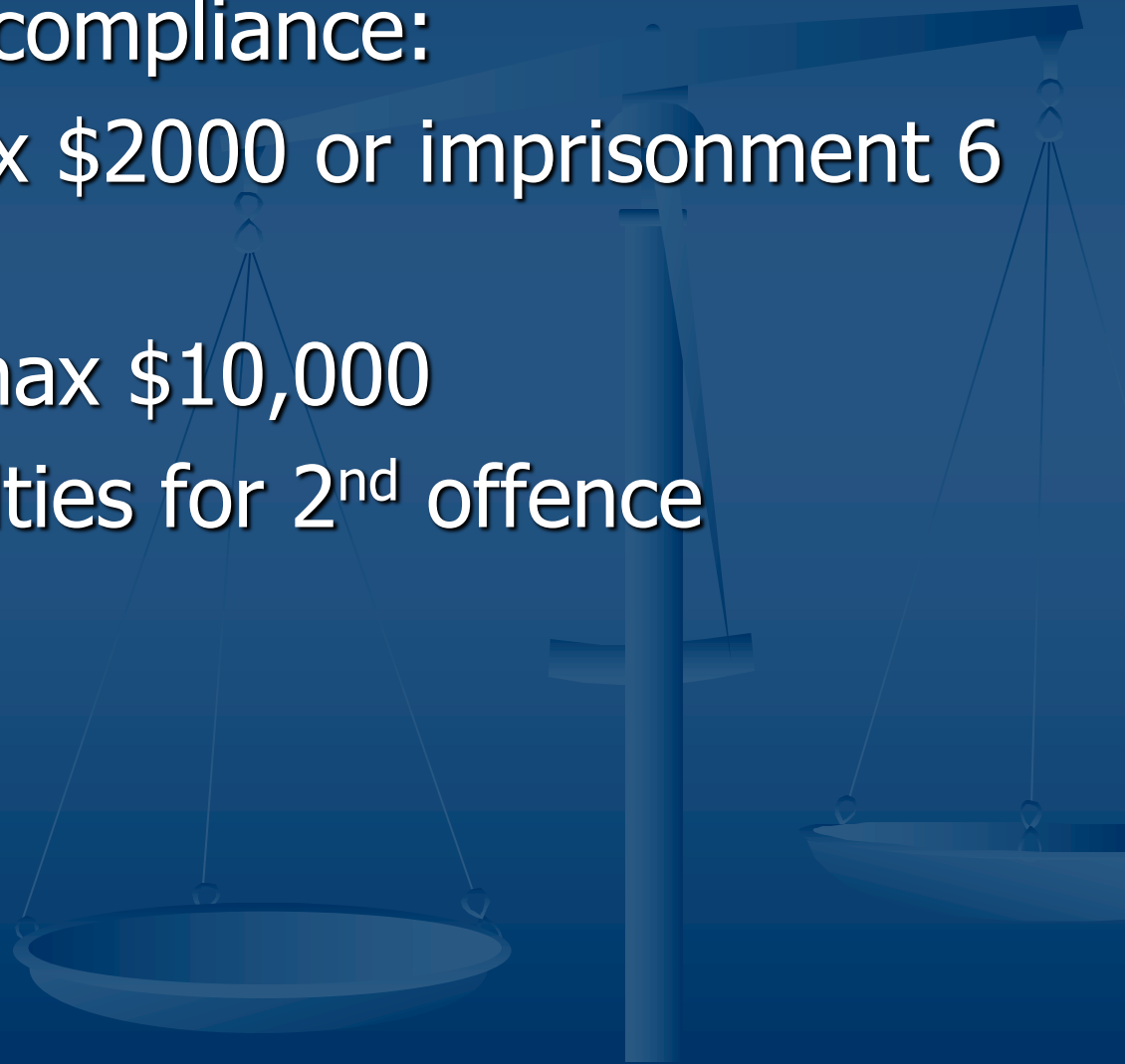
- Where on reasonable and probable grounds:
 - Failure to comply with order; or
 - Not likely to comply
 - MOH may use whatever force necessary
 - (and CMOH can order the person to pay costs)
- 

Application to Court

- Provincial Court
- Failure to comply with order of MOH
- Judge may order person to be detained in facility
- Can only order if satisfied facility is able to provide detention, care and treatment
- Can order police to apprehend
- Max 4 months' detention, renewable

Sanctions

- Per day of non-compliance:
- Individual – max \$2000 or imprisonment 6 months or both
- Corporation – max \$10,000
- Increased penalties for 2nd offence



State of Emergency

- Health Protection Act:
- CMOH recommends to Minister of Health
- Range of special measures CMOH can implement – e.g. closure of schools, providing necessities to person quarantined, any measures CMOH reasonably believes necessary
- Minister may commandeer premises to serve as quarantine facility

State of Emergency

- Emergency Management Act:
- Minister of Municipal Affairs has authority over emergency planning
- Distribution of essential supplies
- No-one can charge higher prices than fair market value before emergency

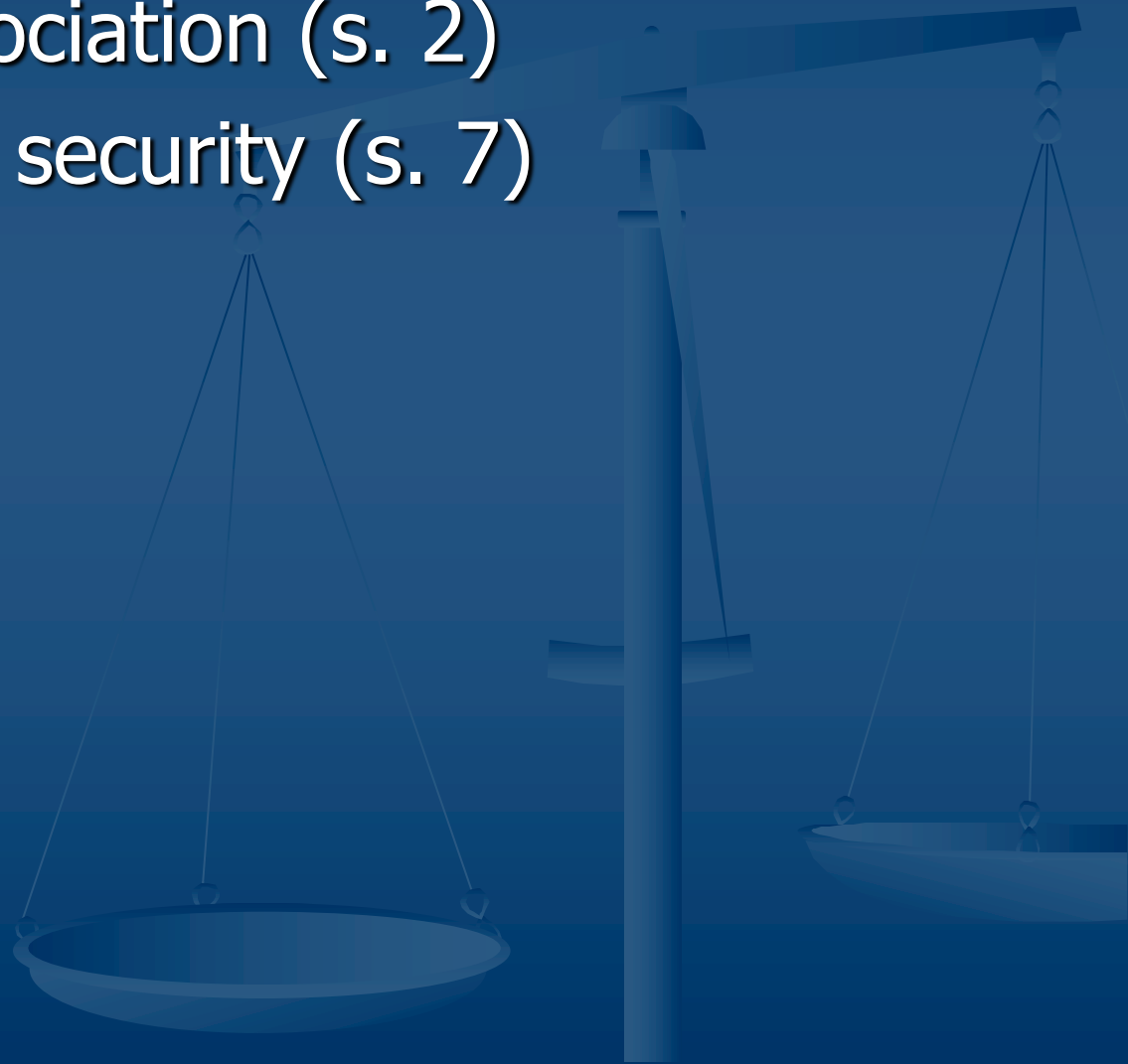
Limitations on Powers

- Outside scope of legislation/common law
- Tortious abuse of power
- Division of powers
- Canadian Charter of Rights and Freedoms



Canadian Charter of Rights and Freedoms

- Freedom of association (s. 2)
- Life, liberty and security (s. 7)
- Equality (s. 15)



Charter S. 1

- Rights and freedoms subject to such reasonable limits prescribed by law as can be demonstrably justified
 - Gov't goal pressing and substantial
 - Rational connection between limit and goal
 - Minimal impairment
 - Benefit and harm proportional

S. 7: Canadian AIDS Society v. Ontario

- "...although due consideration will be given to the privacy rights of individuals, **the state objective of promoting public health for the safety of all will be given great weight.**" (emphasis added)

Ontario Court of Justice (General Division)
Affirmed Ontario C.A.