THE INDIAN ACT

E92
I544

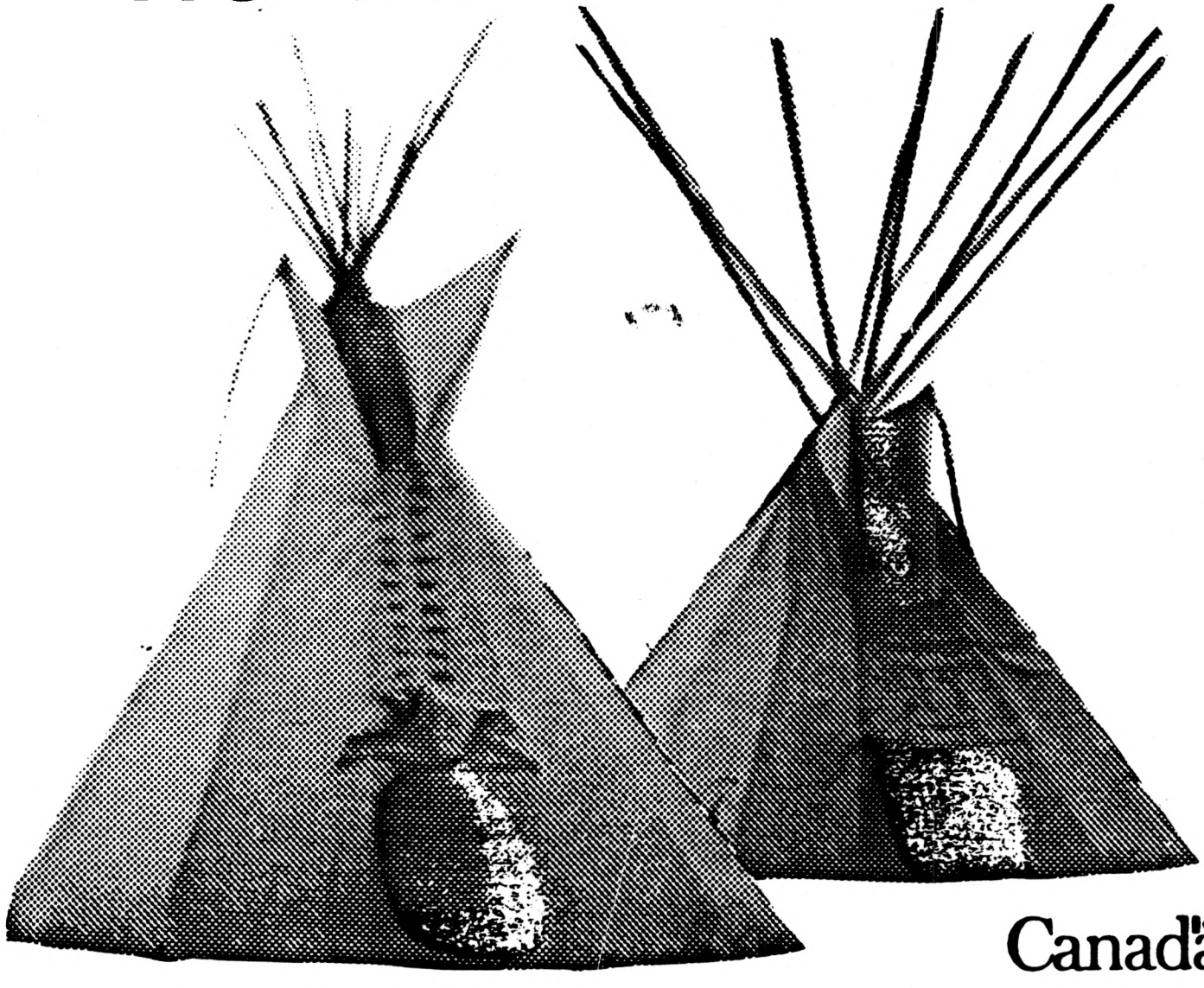
Indian and Northern Affairs Canada
Affaires indiennes et du Nord Canada

Saskatchewan Region
Région de la Saskatchewan

December 1982

THE INDIAN ACT

A SIMPLIFIED VERSION



Canada

THE INDIAN ACT

TABLE OF CONTENTS

SECTION		CHAPTER
1	Name	1
2	Meaning of Certain Words in *Indian Act*	1
3	Administration of *Indian Act*	3
4	Application of the *Indian Act*	3
5–16	Definition and Registration of Indians	3
17	New Bands and Amalgamations of Bands	8
18	Reserves	9
19	Surveys of Reserve Lands	9
20–29	Band Members Legal Rights to Reserve Land	9
30, 31	Trespass on Reserves	11
32, 33	Sale or Barter of Farm Produce (Prairie Provinces only)	12
19, 34, 64, 81	Roads and Bridges on Reserves	9, 12, 23, 31
35	Reserve Land Taken for Public Purposes	13
36	Special Reserves	13
37–41	Surrenders of Reserve Land	13
42–44	Property of Indians Who Have Died	15
45–47	Wills and Appeals	16
48–50	Property of Indians Who Die Without Wills	17
51	Property of Mentally Incompetent Indians	20
52	Guardianship	20
53–59	Management of Reserves and Surrendered Lands	20
60	Band Control of Reserve Land	23
61–69	Management of Indian Moneys	23
70	Loans to Indians	26
71	Farms on Reserves	27
72	Treaty Money	27
73	Regulations the Government Can Make	27
74–80	Election of Chief and Band Councils	28
81–86	Regulations the Band Council Can Make	31
87–90	Taxation and Special Legal Rights	33
91, 92	Trading With Indians	34
93	Removal of Materials from Reserves	35
94–102	Liquor	35
103–108	Confiscated Goods, Legal Procedures and Jurisdictions	38
109–113	Enfranchisement	39
114–123	Schools	42
124	Prior Grants	45

INTRODUCTION

The Indian Act is an Act of the Parliament of Canada. The Indian Act is legislation of Parliament and as in the case of all legislation is written using very precise legal terms and language. Legal language tends to be very precise and as a result may be difficult to understand for those who are unfamiliar with such language.

The purpose of this paper is to set out the Indian Act as it exists at the time of the writing of this paper, and also, to provide an explanation of the legal language, in understandable terms, used in the Indian Act.

The Indian Act at first glance appears to be very long and complicated containing 124 sections and numerous sub-sections. As you read through the Indian Act, you soon realize that the 124 sections are divided into smaller groupings such as "Who is an Indian for the purpose of the Indian Act, What happens when an Indian dies, How are Chiefs and Councillors elected, How do Indians deal with Reserve lands and so on?" These smaller sections are soon set apart and understanding the Act becomes less intimidating.

In this paper, the exact legal wording of the Indian Act appears on the left hand side of the paper and an explanation of that section appears on the right. The explanation is not a legal explanation. For most purposes, the explanation will set out or attempt to set out the meaning of the legal wording used in a manner that can be understood without a legal dictionary.

NOTICE

All persons making reference to this text are reminded that it has no parliamentary sanction; that the Indian Act, the amendments thereto and accompanying interpretation have been embodied only for convenience of reference. The original Act and legislative interpretations should be consulted for all purposes of interpretation and the application of law.

The text does not embody the policies nor does it attempt to set out the existing policies of the Department of Indian and Northern Affairs.

SECTION 1

An Act respecting Indians

NAME

1. This Act may be cited as the *Indian Act*. R.S., c. 149, s. 1.

This is the long name of the Act. The Short Title sets out that the Act can also be called the "Indian Act."

SECTION 2

MEANING OF CERTAIN WORDS IN INDIAN ACT

Definition of certain words that are used in the Act.

2. In this Act

"band" means a body of Indians

(*a*) for whose use and benefit in common, lands, the legal title to which is vested in Her Majesty, have been set apart before, on or after the 4th day of September 1951,

(*b*) for whose use and benefit in common, moneys are held by Her Majesty, or

(*c*) declared by the Governor in Council to be a band for the purposes of this Act;

"band" means

(*a*) a group of Indians who share the use and benefit of Reserve lands,

(*b*) a group of Indians who share monies held by Her Majesty, (in most cases dealing with Indians Her Majesty is represented by the Minister of Indian and Northern Affairs), or

(*c*) a group of Indians which has been declared to be a band by Government;

"child" includes a legally adopted Indian child:

"child" means natural children and those children who have been legally adopted. Illegitimate children are not included by the meaning of child given to the Act. If illegitimate children are to be included, the Act will refer to "illegitimate child";

"council of the band" means

(*a*) in the case of a band to which section 74 applies, the council established pursuant to that section,

(*b*) in the case of a band to which section 74 does not apply, the council chosen according to the custom of the band, or, where there is no council, the chief of the band chosen according to the custom of the band;

"council of the band" means

(*a*) the band council elected under the act, or

(*b*) chosen by custom of the band;

"Department" means the Department of Indian Affairs and Northern Development;

"elector means a person who

(*a*) is registered on a Band List,

(*b*) is of the full age of twenty-one years, and

(*c*) is not disqualified from voting at band elections;

"elector" means a person who is

(*a*) on a Band List; and

(*b*) age 21 or more; and

(*c*) who has not lost his right to vote in band elections;

"estate" includes real and personal property and any interest in land;

"estate" means everything a person owns or has a right to have — land, clothing, leases, money, etc., on and off reserve;

"Indian" means a person who pursuant to this Act is registered as an Indian or is entitled to be registered as an Indian;

"Indian" means a person whose name is on a Band List or General List or has the right to have his name on a Band or General List; (see Sections 11 and 12)

"Indian moneys" means all moneys collected, received or held by Her Majesty for the use and benefit of Indians or bands;

"intoxicant" includes alcohol, alcoholic, spirituous, vinous, fermented malt or other intoxicating liquor or combination of liquors and mixed liquor a part of which is spirituous, vinous, fermented or otherwise intoxicating and all drinks or drinkable

"intoxicant" means anything that people drink that will make them drunk; this includes methylated spirits, Lysol, vanilla extracts, etc.;

liquids and all preparations or mixtures capable of human consumption that are intoxicating;

"member of a band" means a person whose name appears on a Band List or who is entitled to have his name appear on a Band List;

"mentally incompetent Indian" means an Indian who, pursuant to the laws of the province in which he resides, has been found to be mentally defective or incompetent for the purposes of any laws of that province providing for the administration of estates of mentally defective or incompetent persons;

"Minister" means the Minister of Indian Affairs and Northern Development;

"registered" means registered as an Indian in the Indian Register;

"Registrar" means the officer of the Department who is in charge of the Indian Register;

"reserve" means a tract of land, the legal title to which is vested in Her Majesty, that has been set apart by Her Majesty for the use and benefit of a band;

"superintendent" includes a commissioner, regional supervisor, Indian superintendent, assistant Indian superintendent and any other person declared by the Minister to be a superintendent for the purposes of this Act, and with reference to a band or a reserve, means the superintendent for that band or reserve;

"surrendered lands" means a reserve or part of a reserve or any interest therein, the legal title to which remains vested in Her Majesty, that has been released or surrendered by the band for whose use and benefit it was set apart.

(2) The expression "band" with reference to a reserve or surrendered lands means the band for whose use and benefit the reserve or the surrendered lands were set apart.

(3) Unless the context otherwise requires or this Act otherwise provides

(*a*) a power conferred upon a band shall be deemed not to be exercised unless it is exercised pursuant to the consent of a majority of the electors of the band, and

(*b*) a power conferred upon the council of a band shall be deemed not to be exercised unless it is exercised pursuant to the consent of a majority of the councillors of the band present at a meeting of the council duly convened. R.S., c. 149, s. 2; 1966-67, c. 25, s. 40.

"member of a band" means a person whose name is on a Band List or has the right to have his name on a Band List; (see Sections 6, 11 and 12)

"mentally incompetent Indian" means an Indian who does not have the mental ability to look after himself according to the laws of Saskatchewan; (see Section 51)

"registered" means registered as an Indian in the Indian Register; (see Section 5)

"Registrar" means the officer of the Department of Indian Affairs who is in charge of the "Indian Register" and part of whose duties are to decide who will or will not be registered in the Indian Register;

"reserve" means a piece of land which is owned by the Government and has been set aside by Government for the use and benefit of an Indian band;

"superintendent" means a commissioner, regional supervisor, Indian superintendent, etc., and any other person said to be a superintendent by the Minister (Department) of Indian Affairs;

"surrendered lands" means any piece or part of reserve lands that has been given up by a band and the Government still has title to the land.

When the word band is used in connection with a reserve or surrendered land, this means the band for whose use and benefit the reserve or surrendered lands were set apart.

Unless the Act provides otherwise

(*a*) If a band has been given the power by the Indian Act to do something, it can not do it unless a majority of the electors of the band have agreed; and

(*b*) the power can not be used unless a majority of the band councillors agree to do so at a meeting of the band council.

SECTION 3

ADMINISTRATION OF THE INDIAN ACT

3. (1) This Act shall be administered by the Minister of Indian Affairs and Northern Development, who shall be the superintendent general of Indian affairs.

The Minister has the power to allow the Deputy Minister or the person in charge of the branch of the Department to do and use the powers that the Minister has been given by the Indian Act.

(2) The Minister may authorize the Deputy Minister of Indian Affairs and Northern Development or the chief officer in charge of the branch of the Department relating to Indian affairs to perform and exercise any of the duties, powers and functions that may be or are required to be performed or exercised by the Minister under this Act or any other Act of the Parliament of Canada relating to Indian affairs. R.S., c. 149, s. 3; 1966-67, c. 25, s. 40.

SECTION 4

APPLICATION OF THE INDIAN ACT

4. (1) A reference in this Act to an Indian does not include any person of the race of aborigines commonly referred to as Eskimos.

Inuit do not come under the Indian Act.

(2) The Governor in Council may by proclamation declare that this Act or any portion thereof, except sections 37 to 41, shall not apply to

(*a*) any Indians or any group or band of Indians, or

(*b*) any reserve or any surrendered lands or any part thereof,

and may by proclamation revoke any such declaration.

Government can, by proclamation,* say that the Indian Act or any part of it (except for Sections 37 to 41, the surrender sections) do not apply to

(*a*) any Indians or band of Indians, or

(*b*) any reserve or surrendered lands;

the government can also cancel any proclamation it has made.

*Proclamation is one of the ways by which the Government can make laws.

(3) Sections 114 to 123 and, unless the Minister otherwise orders, sections 42 to 52 do not apply to or in respect of any Indian who does not apply to or in respect of any Indian who does not ordinarily reside on a reserve or on lands belonging to Her Majesty in right of Canada or a province. R.S., c. 149, s. 4; 1956, c. 40, s. 1.

Those parts of the Indian Act that deal with education (114-123) and Estates of Indians (42-52) do not apply to those Indians who do not usually live on reserve or Crown lands.

SECTION 5-16

DEFINITION AND REGISTRATION OF INDIANS

Who is an Indian under the Indian Act and how Indians are registered.

5. An Indian Register shall be maintained in the Department, which shall consist of Band Lists and General Lists and in which shall be recorded the name of every person who is entitled to be registered as an Indian. R.S., c. 149, s. 5.

The Department of Indian Affairs has to keep a register (list) of the names of every person who has the right to be registered as an Indian. The Department's register is made up from Band Lists (names of Indians who belong to a band) and the General Lists (names of Indians who do not belong to a band).

6. The name of every person who is a member of a band and is entitled to be registered shall be entered in the Band List for that band, and the name of every person who is not a member of a band and is entitled to be registered shall be entered in a General List. R.S., c. 149, s. 6.

See Section 5 above.

***A proclamation is one of the ways by which the Government can make laws.**

7. (1) The Registrar may at any time add to or delete from a Band List or a General List the name of any person who, in accordance with this Act, is entitled or not entitled, as the case may be, to have his name included in that List.

(2) The Indian Register shall indicate the date on which each name was added thereto or deleted therefrom. R.S., c. 149, s. 7.

The Registrar (see definition of "Registrar") has the power to add or remove the names of persons who have the right or don't have the right to be on Band or General Lists.

When a name is added to or taken off the Indian Register, the Registrar has to show the date of the change.

8. The band lists in existence in the Department on the 4th day of September 1951 shall constitute the Indian Register, and the applicable lists shall be posted in a conspicuous place in the superintendent's office that serves the band or persons to whom the List relates and in all other places where band notices are ordinarily displayed. R.S., c. 149, s. 8.

The band lists that were in effect on September 4, 1951 made up the Indian Register, and those lists had to be posted in the local superintendent's office.

9. (1) Within six months after a list has been posted in accordance with section 8 or within three months after the name of a person has been added to or deleted from a Band List or a General List pursuant to section 7

(*a*) in the case of a Band List, the council of the band, any ten electors of the band, or any three electors if there are less than ten electors in the band,

(*b*) in the case of a posted portion of a General List, any adult person whose name appears on that posted portion, and

(*c*) the person whose name was included in or omitted from the List referred to in section 8, or whose name was added to or deleted from a Band List or a General List,

may, by notice in writing to the Registrar, containing a brief statement of the grounds therefor, protest the inclusion, omission, addition, or deletion, as the case may be, of the name of that person, and the onus of establishing those grounds lies on the person making the protest.

The lists that were in effect on September 4, 1951 could be challenged at any time up to six months after September 1951.

Where a person's name has been added or taken from a Band or General List by the Registrar under Section 7, within three months of the addition or removal,

(*a*) when the name is taken from or added to a Band List, the council of the band, or any ten electors of the band (three electors if there are less than ten electors in the band),

(*b*) when the name is added to or removed from a General List, any adult person on that General List, and

(*c*) the person whose name was added to or taken from the Band or General List,

can protest, in writing to the Registrar. The protest has to contain a brief statement of the reasons why the person's name should not be added to or taken from the list. It is up to the person making the protest to prove the reasons why the person's name should or shouldn't be added to or taken from the list. [Note: see also Section 12(2).]

(2) Where a protest is made to the Registrar under this section he shall cause an investigation to be made into the matter and shall render a decision, and subject to a reference under subsection (3), the decision of the Registrar is final and conclusive.

(2) When a protest is made to the Registrar, he has to look into the matter and give his decision. The Registrar's decision is final unless an application is made to have the courts look into the case.

(3) Within three months from the date of a decision of the Registrar under this section,

(*a*) the council of the band affected by the Registrar's decision, or

(*b*) the person by or in respect of whom the protest was made,

may, by notice in writing, request the Registrar to refer the decision to a judge for review, and thereupon the Registrar shall refer the decision, together with all material considered by the Registrar in making his decision,

(3) After a protest to the Registrar has been made, and the Registrar has looked into the matter and within three (3) months after the date the Registrar made his decision,

(*a*) the band council who was affected by the Registrar's decision, or

(*b*) the person whose status was affected by the decision of the Registrar,

can apply to the Registrar to have the court look into the case. The application is to be in writing. After the Registrar has received the application to have the case go to the courts, he has to refer his decision to the courts and supply to the court all the documents, papers and other materials that he used to make his decision.

(c) in the Province of Prince Edward Island, to a judge of the Supreme Court,

(d) in the Province of Quebec, to a judge of the Superior Court for the district in which the band is situated or in which the person in respect of whom the protest was made resides, or for such other district as the Minister may designate, or

(e) in any other province, to a judge of the county or district court of the county or district in which the band is situated or in which the person in respect of whom the protest was made resides, or of such other county or district as the Minister may designate.

(4) The judge of the Supreme Court, Superior Court, county or district court, as the case may be, shall inquire into the correctness of the Registrar's decision, and for such purposes may exercise all the powers of a commissioner under Part I of the *Inquiries Act*; the judge shall decide whether the person in respect of whom the protest was made is, in accordance with this Act, entitled or not entitled, as the case may be, to have his name included in the Indian Register, and the decision of the judge is final and conclusive.

(4) The Court in looking over the decision of the Registrar has the power to have a hearing to allow people to give their stories to the Court, if the Court considers it necessary. The Court after looking into the decision of the Registrar has the power to decide if a person has the right to be registered or not registered in the Indian Register. The decision of the Court is final.

(5) Not more than one reference of a Registrar's decision in respect of a protest may be made to a judge under this section.

(5) The Registrar's decision can only be referred to the Court one time.

(6) Where a decision of the Registrar has been referred to a judge for review under this section, the burden of establishing that the decision of the Registrar is erronious is on the person who requested that the decision be so referred. R.S., c. I-6, s. 9; 1974-75-76, c. 48, s. 25.

(6) When a decision of the Registrar has been taken before the Courts for review, it is up to the person challenging the decision of the Registrar to prove to the Court that the Registrar's decision was wrong.

10. Where the name of a male person is included in, omitted from, added to or deleted from a Band List or a General List, the names of his wife and his minor children shall also be included, omitted, added or deleted, as the case may be. R.S., c. 149, s. 10.

10. Where a man's name is added to or taken from a Band or General List, the names of his wife and children under the age of 21 are also added or removed. [See also s. 109(3).]

11. (1) Subject to section 12, a person is entitled to be registered if that person

(a) on the 26th day of May 1874 was, for the purposes of *An Act providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands*, being chapter 42 of the Statutes of Canada, 1868, as amended by section 6 of chapter 6 of the Statutes of Canada, 1869, and section 8 of chapter 21 of the Statutes of Canada, 1874, considered to be entitled to hold, use or enjoy the lands and other immovable property belonging to or appropriated to the use of the various tribes, bands or bodies of Indians in Canada;

(b) is a member of a band

(i) for whose use and benefit, in common, lands have been set apart or since the 26th day of May 1874, have been agreed by treaty to be set apart, or

(ii) that has been declared by the Governor in Council to be a band for the purposes of this Act;

11. (1) A person has the right to be registered as an Indian under the Indian Act if he

(a) under the laws in effect on May 26, 1874 had the right to live on Indian lands;

(b) (i) is a member of a band which has had land set aside for it by Government, or is a member of a band which has been promised land by treaty; or

(ii) is a member of a band which has been said to be a band by the Government.

(*c*) is a male person who is a direct descendant in the male line of a male person described in paragraph (*a*) or (*b*);

(*d*) is the legitimate child of

(i) a male person described in paragraph (*a*) or (*b*), or

(ii) a person described in paragraph (*c*);

(*e*) is the illegitimate child of a female person described in paragraph (*a*), (*b*) or (*d*); or

(*f*) is the wife or widow of a person who is entitled to be registered by virtue of paragraph (*a*), (*b*), (*c*), (*d*) or (*e*).

(2) Paragraph (1)(*e*) applies only to persons born after the 13th day of August 1956. R.S., c. 149, s. 11; 1956, c. 40, s. 3.

12. (1) The following persons are not entitled to be registered, namely,

(*a*) a person who

(i) has received or has been allotted half-breed lands or money scrip,

(ii) is a descendant of a person described in subparagraph (i),

(iii) is enfranchised, or

(iv) is a person born of a marriage entered into after the 4th day of September 1951 and has attained the age of twenty-one years, whose mother and whose father's mother are not persons described in paragraph 11(1)(*a*), (*b*) or (*d*) or entitled to be registered by virtue of paragraph 11(1)(*e*),

unless, being a woman, that person is the wife or widow of a person described in section 11, and

(*b*) a woman who married a person who is not an Indian, unless that woman is subsequently the wife or widow of a person described in section 11.

(2) The addition to a Band List of the name of an illegitimate child described in paragraph 11(1)(*e*) may be protested at any time within twelve months after the addition, and if upon the protest it is decided that the father of the child was not an Indian, the child is not entitled to be registered under that paragraph.

(3) The Minister may issue to any Indian to whom this Act ceases to apply, a certificate to that effect.

(4) Subparagraphs (1)(*a*)(i) and (ii) do not apply to a person who

(*a*) pursuant to this Act is registered as an Indian on the 13th day of August 1958, or

(*b*) is a descendant of a person described in paragraph (*a*) of this subsection.

(5) Subsection (2) applies only to persons born after the 13th day of August 1956. R.S., c. 149, s. 12; 1956, c. 40, ss. 3, 4; 1958, c. 19, s. 1.

(*c*) is a male person whose ancestors on his father's side of the family were persons who qualified under (*a*) or (*b*) above;

(*d*) is the legitimate child of a person who qualified under (*a*), (*b*) or (*c*) above;

(*e*) is the illegitimate child of a female person who would qualify under (*a*), (*b*) or (*d*); or

(*f*) is the wife or widow of a person who is qualified to be registered under (*a*), (*b*), (*c*), (*d*) or (*e*).

(2) Illegitimate children of Indian women are only entitled to be registered as Indians if they were born after the 13th of August 1956.

12. (1) There are a number of persons who would have the right to be registered under Section 11 who have lost the right to be registered as Indians if

(*a*) (i) that person has received or had half breed lands or money script set aside for him,

(ii) that person or his ancestors received half breed lands or script set aside for them,

(iii) that person has enfranchised,

(iv) that person's parents were married after September 4, 1951 and his mother was not an Indian under the Indian Act before she married his father, and that person's grandmother on his father's side (father's mother) was not an Indian under the Indian Act before she married; this person is entitled to be registered and at age 21, loses his status. This paragraph is usually called the "double mother rule."

(*b*) an Indian woman loses her status upon marriage to a non-Indian.

(2) An illegitimate child of an Indian woman, who was born after August 13, 1956 has the right to be put on the Band List. If there is no protest made within 12 months after the name is put on the list, the name stays. If there is a protest within 12 months and it is decided that the child's father was not an Indian, that child can not be registered.

(3) The Minister (through the Department) has the power to give a certificate to any Indian who is no longer a status Indian, saying that the Indian Act no longer applies to him. [See also Section 10 and 109.]

(4) If a person who

(*a*) was registered as an Indian on August 13, 1958, or

(*b*) is a descendant of a person described in (*a*),

and that person had received or been allotted half breed lands or money script or was a descendant of such a person, Section 12(1)(*a*)(i) and 12(1)(*a*)(ii) do not apply to him. He is still entitled to be registered.

[See subsection 2.]

NOTICE

PORTIONS OF SECTIONS 11 AND 12 MAY BE THE SUBJECT OF CHANGE IN THE NEAR FUTURE IN LIGHT OF THE SEXUAL EQUALITY PROVISIONS OF THE CONSTITUTION ACT, 1981. AT THE TIME OF WRITING, NO CHANGES HAD BEEN ANNOUNCED.

13. Subject to the approval of the Minister and, if the Minister so directs, to the consent of the admitting band,

(*a*) a person whose name appears on a General List may be admitted into membership of a band with the consent of the council of the band, and

(*b*) a member of a band may be admitted into membership of another band with the consent of the council of the latter band. 1956, c. 40, s. 5.

13. The Minister (Department) may with or without the agreement of the band council,

(*a*) take the name of a person on a General List, adding that name to a Band List, and

(*b*) take the name of a person on one Band List, adding that name to another Band List.

14. A woman who is a member of a band ceases to be a member of that band if she marries a person who is not a member of that band, but if she marries a member of another band, she thereupon becomes a member of the band of which her husband is a member. R.S., c. 149, s. 14.

14. An Indian woman stops being a member of her band if she marries a man who does not belong to her band. If she marries a man who is a member of another band, she becomes a member of her husband's band.

15. (1) Subject to subsection (2), an Indian who becomes enfranchised or who otherwise ceases to be a member of a band is entitled to receive from Her Majesty

(*a*) one per capita share of the capital and revenue moneys held by Her Majesty on behalf of the band, and

(*b*) an amount equal to the amount that in the opinion of the Minister he would have received during the next succeeding twenty years under any treaty then in existence between the band and Her Majesty if he had continued to be a member of the band.

15. (1) An Indian who enfranchises or who is no longer a member of a band has the right to receive from the Government

(*a*) one per capita share of the capital and revenue monies held by Government for the band, and

(*b*) if he had remained a member of his band and had the right to receive treaty money, 20 years of his treaty payment in one lump sum. The Minister (Department) has the right to decide the value of 20 years of treaty payments.

(2) A person is not entitled to receive any amount under subsection (1)

(*a*) if his name was removed from the Indian register pursuant to a protest made under section 9, or

(*b*) if he is not entitled to be a member of a band by reason of the application of paragraph 11(1)(*e*) or subparagraph 12(1)(*a*)(iv).

(2) A person is not entitled to receive any monies under Section 15(1) if

(*a*) his name was taken off the Indian Register because of a protest, or

(*b*) if he was not entitled to be registered because he was the illegitimate child of an Indian woman and was born before August 13, 1956 or lost his status at age 21 because of the "double mother rule" — see Section 12.

(3) Where by virtue of this section moneys are payable to a person who is under the age of twenty-one, the Minister may

(*a*) pay the moneys to the parent, guardian or other person having the custody of that person or to the public trustee, public administrator or other like official for the province in which that person resides, or

(*b*) cause payment of the moneys to be withheld until that person reaches the age of twenty-one.

(3) If the monies that are to be paid under Section 15(1) are to be paid to a person who is less than 21 years old, the Minister (Department) may

(*a*) pay the money to the person's parents, guardian or the Public Trustee of the Province where that person lives, or

(*b*) hold the money until such time as the person becomes 21.

(4) Where the name of a person is removed from the Indian Register and he is not entitled to any payment under subsection (1), the Minister shall, if he considers it equitable to do so, authorize payment, out of moneys appropriated by Parliament, of such compensation as the Minister may determine for any permanent improvements made by that person on lands in a reserve.

(4) When an Indian loses or gives up his status under Section 15, and he is not entitled to receive any money under Section 15(1), the Minister (Department) if he thinks it is fair to do so, can pay him for improvements (buildings, dug-outs, fences, etc.) that he may have placed on reserve lands. The money to pay him comes from Government funds.

(5) Where, prior to the 4th day of September 1951, any woman became entitled, under section 14 of the *Indian Act*, chapter 98 of the Revised Statutes of Canada, 1927, or any prior provisions to the like effect, to share in the distribution of annuities, interest moneys or rents, the Minister may, in lieu thereof, pay to such woman out of the moneys of the band an amount equal to ten times the average annual amounts of such payments made to her during the ten years last preceding or, if they were paid for less than ten years, during the years they were paid. R.S., c. 149, s. 15; 1956, c. 40, s. 6.

(5) If a woman, status or non-status, had the right, before September 4, 1951, under the *Indian Act* that applied at that time, to share in any interest moneys, rents, etc., the Minister (Department) may pay her a lump sum equal to 10 times the average yearly payments she had been paid over the last ten years.

16. (1) Section 15 does not apply to a person who ceases to be a member of one band by reason of his becoming a member of another band, but, subject to subsection (3), there shall be transferred to the credit of the latter band the amount to which that person would, but for this section, have been entitled under section 15.

16. (1) If a person is no longer a member of one band because he has joined another band then the money he would have received under Section 15 is transferred to his new band.

(2) A person who ceases to be a member of one band by reason of his becoming a member of another band is not entitled to any interest in the lands or moneys held by Her Majesty on behalf of the former band, but he is entitled to the same interest in common in lands and moneys held by Her Majesty on behalf of the latter band as other members of that band.

(2) When a person leaves his band to join another, that person no longer has any rights to the lands or moneys held by Government for his old band. The person is entitled to have the same rights in the lands and moneys held by the Government for his new band, as other members of that band.

(3) Where a woman who is a member of one band becomes a member of another band by reason of marriage, and the per capita share of the capital and revenue moneys held by Her Majesty on behalf of the first-mentioned band is greater than the per capita share of such moneys so held for the second-mentioned band, there shall be transferred to the credit of the second-mentioned band an amount equal to the per capita share held for that band, and the remainder of the money to which the woman would, but for this section, have been entitled under section 15 shall be paid to her in such manner and at such times as the Minister may determine. R.S., c. 149, s. 16.

(3) When a woman who is a member of a band marries a member of another band, her per capita share of the capital and revenue funds held by Government are transferred to her new band. If her per capita share from her old band is worth more than the per capita share of the band she is joining, she is entitled to have the difference sent to her by cheque.

Example: Band A's per capita value is $500.00. Band B's per capita value is worth $200.00. On joining her new band, the woman would be entitled to the difference (500 – 200 = 300) sent to her and her new band would receive the value of its own share ($200.00).

SECTION 17

NEW BANDS AND AMALGAMATIONS OF BANDS

17. (1) The Minister may, whenever he considers it desirable,

(*a*) constitute new bands and establish Band Lists with respect thereto from existing Band Lists or General Lists, or both,

(*b*) amalgamate bands that, by a vote of a majority of their electors, request to be amalgamated, and,

(*c*) where a band has applied for enfranchisement, remove any name from the Band List and add it to the General List.

17. (1) The Minister (Department) may, when he considers it to be wise,

(*a*) create new bands and establish new Band Lists,

(*b*) join bands together that by a majority of their electors, ask to be joined,

(*c*) where a whole band applies for enfranchisement, take any name from the Band List, adding it to a General List.

(2) Where pursuant to subsection (1) a new band has been established from an existing band or any part thereof, such portion of the reserve lands and funds of the existing band as the Minister determines shall be held for the use and benefit of the new band.

(2) Where a new band has been created under Section 17(1) from an existing band, the lands and funds of the band can be divided in whatever way the Minister decides.

(3) No protest may be made under section 9 in respect of the deletion from or addition to a list consequent upon the exercise by the Minister of any of his powers under subsection (1). R.S., c. 149, s. 17; 1956, c. 40, s. 7.

(3) No protest under Section 9 can be made against the membership of a new Band List which has come about by the Minister using his power to create new bands or join bands.

SECTION 18

RESERVES

18. (1) Subject to this Act, reserves are held by Her Majesty for the use and benefit of the respective bands for which they were set apart; and subject to this Act and to the terms of any treaty or surrender, the Governor in Council may determine whether any purpose for which lands in a reserve are used or are to be used is for the use and benefit of the band.

18. (1) Reserve lands which have been set aside by Government for the use and benefit of bands are owned by Government. The legal title remains in the name of the Crown. The Government has the power to decide how reserve lands are to be used. The decision as to how lands are to be used must follow the guidelines set out in the *Indian Act* and the terms of any treaty or surrender.

(2) The Minister may authorize the use of lands in a reserve for the purpose of Indian schools, the administration of Indian affairs, Indian burial grounds, Indian health projects or, with the consent of the council of the band, for any other purpose for the general welfare of the band, and may take any lands in a reserve required for such purposes, but where an individual Indian, immediately prior to such taking, was entitled to the possession of such lands, compensation for such use shall be paid to the Indian, in such amount as may be agreed between the Indian and the Minister, or, failing agreement, as may be determined in such manner as the Minister may direct. R.S., c. 149, s. 18; 1956, c. 40, s. 8.

(2) The Minister has the power to allow bands on a reserve to be used for Indian schools, Indian burial grounds, Indian affairs offices and Indian health projects without the consent of the band. With the consent of the band, the Minister has the power to use lands on reserve for any purpose if it will be for the general good of the band.

The Minister has the power to take any reserve lands that may be required for the purposes mentioned above. Where the property taken has an Indian occupier who has the legal right to occupy the lands taken, that person is entitled to receive compensation for his loss of use of the land. Where the person can't agree on a figure, the Minister has the power to decide how much the person will receive.

SECTION 19

SURVEYS OF RESERVE LANDS

19. The Minister may

(*a*) authorize surveys of reserves and the preparation of plans and reports with respect thereto,

(*b*) divide the whole or any portion of a reserve into lots or other subdivisions, and

(*c*) determine the location and direct the construction of roads in a reserve. R.S., c. 149, s. 19.

19. The Minister has the power to

(*a*) allow surveys of reserves,

(*b*) divide the reserve into lots or subdivisions, and

(*c*) decide where roads are going to be located and construct roads on reserves.

[See also Sections 34, 81 and 64.]

SECTION 20–29

BAND MEMBERS LEGAL RIGHTS TO RESERVE LAND

20. (1) No Indian is lawfully in possession of land in a reserve unless, with the approval of the Minister, possession of the land has been allotted to him by the council of the band.

20. (1) No Indian has the legal right to use or occupy lands on a reserve unless that right has been given to him by the band council and approved by the Minister.

(2) The Minister may issue to an Indian who is lawfully in possession of land in a reserve a certificate, to be called a Certificate of Possession, as evidence of his right to possession of the land described therein.

(2) The Minister may give a "Certificate of Possession" to an Indian who has been given the right to use and occupy lands on a reserve. This certificate would be used to show that the Indian has a right to possess those lands on the reserve.

(3) For the purposes of this Act, any person who, on the 4th day of September 1951, held a valid and subsisting Location Ticket issued under *The Indian Act, 1880*, or any statute relating to the same subject-matter, shall be deemed to be lawfully in possession of the land to which the location ticket relates and to hold a Certificate of Possession with respect thereto.

(3) A person who had been given a "location ticket" before September 4, 1951 is said by law to be legally entitled to the possession of the lands shown on his location ticket.

(4) Where possession of land in a reserve has been allotted to an Indian by the council of the band, the Minister may, in his discretion, withhold his approval and may authorize the Indian to occupy the land temporarily and may prescribe the conditions as to use and settlement that are to be fulfilled by the Indian before the Minister approves of the allotment.

(5) Where the Minister withholds approval pursuant to subsection (4), he shall issue a Certificate of Occupation to the Indian, and the Certificate entitles the Indian, or those claiming possession by devise or descent, to occupy the land in respect of which it is issued for a period of two years from the date thereof.

(6) The Minister may extend the term of a Certificate of Occupation for a further period not exceeding two years, and may, at the expiration of any period during which a Certificate of Occupation is in force

(*a*) approve the allotment by the council of the band and issue a Certificate of Possession if in his opinion the conditions as to use and settlement have been fulfilled, or

(*b*) refuse approval of the allotment by the council of the band and declare the land in respect of which the Certificate of Occupation was issued to be available for re-allotment by the council of the band. R.S., c. 149, s. 20.

21. There shall be kept in the Department a register, to be known as the Reserve Land Register, in which shall be entered particulars relating to Certificates of Possession and Certificates of Occupation and other transactions respecting lands in a reserve. R.S., c. 149, s. 21.

22. Where an Indian who is in possession of lands at the time they are included in a reserve, made permanent improvements thereon before that time, he shall be deemed to be in lawful possession of such lands at the time they are so included. R.S., c. 149, s. 22.

23. An Indian who is lawfully removed from lands in a reserve upon which he has made permanent improvements may, if the Minister so directs, be paid compensation in respect thereof in an amount to be determined by the Minister, either from the person who goes into possession or from the funds of the band, at the discretion of the Minister. R.S., c. 149, s. 23.

24. An Indian who is lawfully in possession of lands in a reserve may transfer to the band or to another member of the band the right to possession of the land, but no transfer or agreement for the transfer of the right to possession of lands in a reserve is effective until it is approved by the Minister. R.S., c. 149, s. 24.

25. (1) An Indian who ceases to be entitled to reside on a reserve may, within six months or such further period as the Minister may direct, transfer to the band or another member of the band the right to possession of any lands in the reserve of which he was lawfully in possession.

(4) Where a band council has given an Indian the right to use lands on a reserve, the Minister has the power to refuse his approval and may give that Indian the right to occupy the lands for a short time and set out a number of conditions that have to be met by the person before the Minister agrees to the band council's decision.

(5) Where the Minister holds back his approval under subsection (4) above, the Minister must give that person a "Certificate of Occupation" which gives that person the right to occupy the land for two years.

(6) The Minister at the end of the two year term mentioned in subsection (5) above, can extend the Certificate for another two years. Also at any time during the two years or during an extension of the two years, the Minister may

(*a*) approve the band council's decision letting the person have the Certificate of Possession, or

(*b*) refuse to give his permission and declare that the land is available once again to be given out by the band council.

21. A register (list) is to be kept in the Department which sets out all the details of Certificates of Possession, Certificates of Occupation and all other transactions which affect lands on reserve.

22. Where an Indian was in possession of lands at the time his lands became a part of the reserve, and he made permanent improvements (house, buildings, fences, etc.) before it became a part of the reserve, he has the right to remain in possession of those lands after it has become a part of the reserve.

23. An Indian who was lawfully in possession of land on a reserve and his land is taken away from him legally (see Section 18) and he made permanent improvements to his lands, may receive compensation. The compensation to be paid is decided upon by the Minister and may be paid from band funds or the new person taking over the land.

24. An Indian who has the legal right to possess lands on reserve (Certificate of Occupation or Certificate of Possession) can transfer his rights to the band or another band member. The transfer is not in effect until approved by the Minister.

25. (1) An Indian who loses his right to live on a reserve may within 6 months (or longer if the Minister orders) transfer his right to possess lands to another band member or to the band.

(2) Where an Indian does not dispose of his right of possession in accordance with subsection (1), the right to possession of the land reverts to the band, subject to the payment to the Indian who was lawfully in possession of the land, from the funds of the band, of such compensation for permanent improvements as the Minister may determine. R.S., c. 149, s. 25.

(2) Where a person in 25(1) who has lost his right to possess land on a reserve does not transfer his right to possess lands on reserve, the right returns to the band who must pay that person, from band funds, for any permanent improvements on the lands. The Minister has the power to decide how much is to be paid.

26. Whenever a Certificate of Possession or Occupation or a Location Ticket issued under *The Indian Act, 1880*, or any statute relating to the same subject-matter was, in the opinion of the Minister, issued to or in the name of the wrong person, through mistake, or contains any clerical error or misnomer, or wrong description of any material fact therein, the Minister may cancel the Certificate or Location Ticket and issue a corrected Certificate in lieu thereof. 1956, c. 40, s. 9.

26. When the Minister believes that a Certificate of Possession, Certificate of Occupation or a Location Ticket was given to the wrong person by mistake or there is a mistake on the document, the Minister can order that a new one take the place of the old one, cancelling the one containing the mistake.

27. The Minister may, with the consent of the holder thereof, cancel any Certificate of Possession or Occupation or Location Ticket referred to in section 26, and may cancel any Certificate of Possession or Occupation or Location Ticket that in his opinion was issued through fraud or in error. 1956, c. 40, s. 9.

27. The Minister may, with the consent of the person who has the document mentioned in Section 26, cancel that document. If the Minister is of the belief that the document was given out because of a mistake or because of fraud (a trick) then he may cancel the document without the consent of the person who has the document.

28. (1) Subject to subsection (2), a deed, lease, contract, instrument, document or agreement of any kind whether written or oral, by which a band or a member of a band purports to permit a person other than a member of that band to occupy or use a reserve or to reside or otherwise exercise any rights on a reserve is void.

28. (1) Any document, deed, lease or contract by a band or band member which allows a person who is not a member of that band to use, occupy, reside or have any rights on a reserve has no effect in law.

(2) The Minister may by permit in writing authorize any person for a period not exceeding one year, or with the consent of the council of the band for any longer period, to occupy or use a reserve or to reside or otherwise exercise rights on a reserve. R.S., c. 149, s. 28; 1956, c. 40, s. 10.

(2) The Minister may allow any person, by written permit, to live on or use reserve lands for up to one year without the approval of the band council. The permission may be for a period longer than one year if the band council agrees.

29. Reserve lands are not subject to seizure under legal process. R.S., c. 149, s. 29.

29. Reserve lands can not be taken and sold to pay a court judgment.

SECTION 30, 31

TRESPASS ON RESERVES

30. A person who trespasses on a reserve is guilty of an offence and is liable on summary conviction to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding one month, or to both. R.S., c. 149, s. 30.

30. A person who is on reserve lands without a right to be there or without permission to be there can be fined $50.00 or jailed for up to one month or both.

31. (1) Without prejudice to section 30, where an Indian or a band alleges that persons other than Indians are or have been

(*a*) unlawfully in occupation or possession of,

(*b*) claiming adversely the right to occupation or possession of, or

(*c*) trespassing upon

a reserve or part of a reserve, the Attorney General

31. (1) In addition to Section 30, when an Indian or band accuses a person (other than an Indian) of being unlawfully on reserve lands, the Government may go before the Federal Court of Canada to have that person removed from the reserve.

of Canada may exhibit an Information in the Federal Court of Canada claiming, on behalf of the Indian or the band, the relief or remedy sought.

(2) An Information exhibited under subsection (1) shall, for all purposes of the *Federal Court Act*, be deemed to be a proceeding by the Crown within the meaning of that Act.

(3) Nothing in this section shall be construed to impair, abridge or otherwise affect any right or remedy that, but for this section, would be available to Her Majesty or to an Indian or a band. R.S., c. I-6, s. 31; R.S., c. 10(2nd Supp.), s. 65.

(3) This section does not take away any other legal rights that the Government, an Indian or a band may have against trespassers.

SECTION 32, 33

SALE OR BARTER OF FARM PRODUCE
(PRAIRIE PROVINCES ONLY)

32. (1) A transaction of any kind whereby a band or a member thereof purports to sell, barter, exchange, give or otherwise dispose of cattle or other animals, grain or hay, whether wild or cultivated, or root crops or plants or their products from a reserve in Manitoba, Saskatchewan or Alberta, to a person other than a member of that band, is void unless the superintendent approves the transaction in writing.

32. (1) In Manitoba, Saskatchewan and Alberta, any agreement or deal made to sell, exchange, trade, etc., cattle, animals or produce to a non-band member must first be approved by the superintendent, in writing.

(2) The Minister may at any time by order exempt a band and the members thereof or any member thereof from the operation of this section, and may revoke any such order. R.S., c. 149, s. 32.

(2) The Minister can at any time order that Section 32 does not apply to a band or Indian. The Minister can also cancel the order made under Section 32(2).

33. Every person who enters into a transaction that is void under subsection 32(1) is guilty of an offence. R.S., c. 149, s. 33.

SECTION 34

ROADS AND BRIDGES ON RESERVES

34. (1) A band shall ensure that the roads, bridges, ditches and fences within the reserve occupied by that band are maintained in accordance with instructions issued from time to time by the superintendent.

34. (1) The band has an obligation to look after roads, bridges, ditches and fences on reserve in accordance with the instructions of the Superintendent.

(2) Where, in the opinion of the Minister, a band has not carried out the instructions of the superintendent given under subsection (1), the Minister may cause the instructions to be carried out at the expense of the band or any member thereof and may recover the cost thereof from any amounts that are held by Her Majesty and are payable to the band or such member. R.S., c. 149, s. 34.

(2) Where the Minister is of the opinion that a band is not looking after its roads, bridges, etc. according to the instructions received by the band, then he can arrange to have the work done and pay for the costs of the work from band funds.

[See also Sections 19, 64 and 81.]

SECTION 35

RESERVE LAND TAKEN FOR PUBLIC PURPOSES

35. (1) Where by an Act of the Parliament of Canada or a provincial legislature, Her Majesty in right of a province, a municipal or local authority or a corporation is empowered to take or to use lands or any interest therein without the consent of the owner, the power may, with the consent of the Governor in Council and subject to any terms that may be prescribed by the Governor in Council, be exercised in relation to lands in a reserve or any interest therein.

35. (1) Where, under Federal or Provincial law, a province, a municipal or local authority or a corporation has the power to take or use land without the consent of the owner, that power can be used on reserve lands if the Government agrees. The Government can also set conditions that will have to be met before, at the time of and after the reserve lands have been taken.

(2) Unless the Governor in Council otherwise directs, all matters relating to compulsory taking or using of lands in a reserve under subsection (1) are governed by the statute by which the powers are conferred.

(2) Unless the government makes conditions as to how the lands will be taken, the law under which the power to take land will apply.

(3) Whenever the Governor in Council has consented to the exercise by a province, authority or corporation of the powers referred to in subsection (1), the Governor in Council may, in lieu of the province, authority or corporation taking or using the lands without the consent of the owner, authorize a transfer or grant of such lands to the province, authority or corporation, subject to any terms that may be prescribed by the Governor in Council.

(3) When the Government agrees to let a province, etc. take or use reserve land, then instead of the province, etc. taking the land without the consent of the owner, the Government can give the land to the province with conditions set out.

(4) Any amount that is agreed upon or awarded in respect of the compulsory taking or using of land under this section or that is paid for a transfer or grant of land pursuant to this section shall be paid to the Receiver General for the use and benefit of the band or for the use and benefit of any Indian who is entitled to compensation or payment as a result of the exercise of the powers referred to in subsection (1). R.S., c. 149, s. 35.

(4) Any money paid by the province, etc. for using or taking land under this section is to be paid to the band or the Indians who have had their land taken away or used without his consent.

SECTION 36

SPECIAL RESERVES

36. Where lands have been set apart for the use and benefit of a band and legal title thereto is not vested in Her Majesty, this Act applies as though the lands were a reserve within the meaning of this Act. R.S., c. 149, s. 36.

36. Where lands have been set apart for the use and benefit of a band and the Government does not have the legal title to those lands, the lands are considered as reserves for the purposes of the *Indian Act*.

SECTION 37-41

SURRENDERS OF RESERVE LAND

37. Except where this Act otherwise provides, lands in a reserve shall not be sold, alienated, leased or otherwise disposed of until they have been surrendered to Her Majesty by the band for whose use and benefit in common the reserve was set apart. R.S., c. 149, s. 37.

37. Reserve lands can not be sold, leased or otherwise disposed of until they have been surrendered to the Government by the band for whom the lands have been set apart, except when the *Indian Act* allows for lands to change hands without a surrender. [See Section 35.]

38. (1) A band may surrender to Her Majesty any right or interest of the band and its members in a reserve.

38. (1) A band can surrender any interest it and its band members may have in a reserve. Example: It can surrender land to allow a power line to go through or

(2) A surrender may be absolute or qualified, conditional or unconditional. R.S., c. 149, s. 38.

39. (1) A surrender is void unless

(*a*) it is made to Her Majesty,

(*b*) it is assented to by a majority of the electors of the band

(i) at a general meeting of the band called by the council of the band,

(ii) at a special meeting of the band called by the Minister for the purpose of considering a proposed surrender, or

(iii) by a referendum as provided in the regulations, and

(*c*) it is accepted by the Governor in Council.

(2) Where a majority of the electors of a band did not vote at a meeting or referendum called pursuant to subsection (1) of this section or pursuant to section 51 of the *Indian Act*, chapter 98 of the Revised Statutes of Canada, 1927, the Minister may, if the proposed surrender was assented to by a majority of the electors who did vote, call another meeting by giving thirty days notice thereof or another referendum as provided in the regulations.

(3) Where a meeting is called pursuant to subsection (2) and the proposed surrender is assented to at the meeting or referendum by a majority of the electors voting, the surrender shall be deemed, for the purpose of this section, to have been assented to by a majority of the electors of the band.

(4) The Minister may, at the request of the council of the band or whenever he considers it advisable, order that a vote at any meeting under this section shall be by secret ballot.

(5) Every meeting under this section shall be held in the presence of the superintendent or some other officer of the Department designated by the Minister. R.S., c. 149, s. 39; 1956, c. 40, s. 11.

40. When a proposed surrender has been assented to by the band in accordance with section 39, it shall be certified on oath by the superintendent or other officer who attended the meeting and by the chief or a member of the council of the band, and shall then be submitted to the Governor in Council for acceptance or refusal. R.S., c. 149, s. 40.

41. A surrender shall be deemed to confer all rights that are necessary to enable Her Majesty to carry out the terms of the surrender. R.S., c. 149, s. 41.

it can surrender the lands so that the land can be sold

(2) A surrender can be absolute (everything forever) or qualified (a twenty year lease), have conditions attached to it or no conditions.

39. (1) A surrender will not be good in law unless

(*a*) it is made to the Government,

(*b*) it is agreed to by a majority of the electors of the band

(i) at a general meeting of the band called by the band council,

(ii) at a special meeting called by the Minister to consider the surrender,

(iii) by a referendum, and

(*c*) the surrender is accepted by Government.

(2) A majority of all the electors is needed — not just a majority of those who attended the meeting. If a majority of the electors didn't vote at the meeting or referendum, but a majority of those who voted, voted in favour of the surrender, the Minister may call another meeting by giving 30 days notice, or another referendum as provided in the regulations.

(3) If a majority of the electors who vote at the meeting called by the Minister under Section 39(2) vote in favour of the surrender, then the surrender is said to be passed and has the same effect in law as if a majority of the electors of the band were in favour.

(4) If the band asks or the Minister thinks that it would be wise, a vote on the surrender shall be done by secret ballot.

(5) When a surrender meeting is called, the superintendent or other Department officer who has been designated by the Minister must be at the meeting.

40. When a surrender has been agreed to by the band under Section 39, then the Department official who attended the meeting and the chief or a councillor must certify under oath that the surrender was agreed to by the band. The documents are then submitted to Government for acceptance or refusal.

41. A surrender gives the Government all the legal powers that may be needed to carry out the terms of the surrender.

[See definitions "surrendered lands," "band."

SECTION 42–44

PROPERTY OF INDIANS WHO HAVE DIED

42. (1) Unless otherwise provided in this Act, all jurisdiction and authority in relation to matters and causes testamentary, with respect to deceased Indians, is vested exclusively in the Minister, and shall be exercised subject to and in accordance with regulations of the Governor in Council.

(2) The Governor in Council may make regulations for providing that a deceased Indian who at the time of his death was in possession of land in a reserve shall, in such circumstances and for such purposes as the regulations prescribe, be deemed to have been at the time of his death lawfully in possession of that land.

(3) Regulations made under this section may be made applicable to estates of Indians who died before, on or after the 4th day of September 1951. R.S., c. 149, s. 42; 1956, c. 40, s. 12.

43. Without restricting the generality of section 42, the Minister may

(*a*) appoint executors of wills and administrators of estates of deceased Indians, remove them and appoint others in their stead;
(*b*) authorize executors to carry out the terms of the wills of deceased Indians;
(*c*) authorize administrators to administer the property of Indians who die intestate;
(*d*) carry out the terms of wills of deceased Indians and administer the property of Indians who die intestate; and
(*e*) make or give any order, direction or finding that in his opinion it is necessary or desirable to make or give with respect to any matter referred to in section 42. R.S., c. 149, s. 43.

44. (1) The court that would have jurisdiction if the deceased were not an Indian may, with the consent of the Minister, exercise, in accordance with this Act, the jurisdiction and authority conferred upon the Minister by this Act in relation to testamentary matters and causes and any other powers, jurisdiction and authority ordinarily vested in that court.

(2) The Minister may direct in any particular case that an application for the grant of probate of the will or letters of administration shall be made to the court that would have jurisdiction if the deceased were not an Indian, and the Minister may refer to such court any question arising out of any will or the administration of any estate.

(3) A court that is exercising any jurisdiction or authority under this section shall not without the consent in writing of the Minister enforce any order relating to real property on a reserve. R.S., c. 149, s. 44.

42. (1) The Department has the power to deal with the property of deceased Indians and all other matters that arise concerning the property of an Indian who has died.

(2) The Federal Government has the power to make regulations to provide that an Indian who was in possession of lands on a reserve at the time of his death is said to have been lawfully in possession of those reserve lands for the purpose of such regulations.

(3) The regulations made under this section apply to those Indians who died before, on or after September 4, 1951.

43. The Department under section 42 above, has the power to deal with the property of Indians who have died and any other matters that may arise concerning the property of a deceased Indian and may

(*a*) appoint executors (individuals who are to carry out the terms of a deceased person's will), administrators (individuals who gather together a deceased person's property and take care of it until instructed what to do with it by the Department, in those cases where a person has died without a will) to remove these individuals and replace them with others;
(*b*) give the executor the right and power to carry out the terms of a deceased person's will;
(*c*) give the administrator the right and power to collect and take care of the property of a person who died without a will;
(*d*) may itself be the executor or administrator;
(*e*) make any decision, order or instruction that in the opinion of the Department may be necessary in respect of the property of a deceased Indian.

44. (1) The courts in the province that would normally have the power to deal with the property of deceased persons and would be called upon if the deceased person were not an Indian are permitted to deal with the property of a deceased Indian if the Minister gives his consent.

(2) The Department can ask the court to decide upon any question that may arise from the will or administration of the property of an Indian who has died.

(3) When a question has been referred to a court for decision, that court has no authority to force an order to be carried out when it refers to land on reserve unless the Minister (Department) has given his consent to the order, in writing.

SECTION 45-47

WILLS AND APPEALS

45.(1) Nothing in this Act shall be construed to prevent or prohibit an Indian from devising or bequeathing his property by will.

(2) The Minister may accept as a will any written instrument signed by an Indian in which he indicates his wishes or intention with respect to the disposition of his property upon his death.

(3) No will executed by an Indian is of any legal force or effect as a disposition of property until the Minister has approved the will or a court has granted probate thereof pursuant to this Act. R.S., c. 149, s. 45.

46. (1) The Minister may declare the will of an Indian to be void in whole or in part if he is satisfied that

(*a*) the will was executed under duress or undue influence;
(*b*) the testator at the time of execution of the will lacked testamentary capacity;
(*c*) the terms of the will would impose hardship on persons for whom the testator had a responsibility to provide;
(*d*) the will purports to dispose of land in a reserve in a manner contrary to the interest of the band or contrary to this Act;
(*e*) the terms of the will are so vague, uncertain or capricious that proper administration and equitable distribution of the estate of the deceased would be difficult or impossible to carry out in accordance with this Act; or
(*f*) the terms of the will are against the public interest.

(2) Where a will of an Indian is declared by the Minister or by a court to be wholly void, the person executing the will shall be deemed to have died intestate, and where the will is so declared to be void in part only, any bequest or devise affected thereby, unless a contrary intention appears in the will, shall be deemed to have lapsed. R.S., c. 149, s. 46.

47. (1) A decision of the Minister made in the exercise of the jurisdiction or authority conferred upon him by section 42, 43 or 46 may, within two months from the date thereof, be appealed by any person affected thereby to the Federal Court of Canada, if the amount in controversy in the appeal exceeds five hundred dollars or if the Minister consents to an appeal. R.S., c. I-6, s. 47; R.S., c. 10(2nd Supp.), s. 65.

45. (1) The *Indian Act* does not prevent an India from making a will.

(2) The Minister can accept as a will any writte document signed by an Indian in which he sets ou what is to be done with his property after he dies.

(3) A will made and signed by an Indian has n power in law and it does allow anyone to take th property of an Indian who has died until it has bee approved by the Minister or a court of law.

46. (1) The Minister (Department) has the powe to decide that the whole or a part of an Indian's wi may be invalid if he is satisfied that

(*a*) the person was forced to sign the will agains his wishes or was talked into doing somethin against his wishes;
(*b*) the person at the time of the signing his wi did not have the mental ability to make a will;
(*c*) if the will were to be followed it would be har on the person's family;
(*d*) the will tries to give away land on reserve in way that will not be for the good of the band o against the *Indian Act*;
(*e*) it is difficult to understand the will or it woul be difficult or impossible to deal with the propert fairly and in a manner that is allowed by the Act
(*f*) the terms of the will are against the publi good.

(2) When the Minister (Department) or a court de cides that a will is not legal, the person who signed the will is said to have died with no will (intestate). I only a part of the will is decided not to be legal, ther any property mentioned in that part is dealt with as i the person had no will unless the will mentions i somewhere else.

47. (1) Any decision made by the Minister in the exercise of the powers given to him by Sections 42, 43 or 46 may be appealed, within two months of the date of his decision, by any person who may be affected by the decision, to the Federal Court of Canada, if the amount being argued about is more than $500.00 or if the Minister agrees to have the question go to the court.

SECTION 48-50

DISTRIBUTION OF A PERSON'S PROPERTY
WHEN HE DIES WITH NO WILL

48. (1) Where the net value of the estate of an intestate does not, in the opinion of the Minister, exceed in value two thousand dollars, the estate shall go to the widow.

(2) Where the net value of the estate of an intestate, in the opinion of the Minister, is two thousand dollars or more, two thousand dollars shall go to the widow, and the remainder shall go as follows, namely:

(*a*) if the intestate left no issue, the remainder shall go to the widow;

(*b*) if the intestate left one child, one-half of the remainder shall go to the widow; and

(*c*) if the intestate left more than one child, one-third of the remainder shall go to the widow;

and where a child has died leaving issue and such issue is alive at the date of the intestate's death, the widow shall take the same share of the estate as if the child had been living at that date.

(3) Notwithstanding subsections (1) and (2),

(*a*) where in any particular case the Minister is satisfied that any children of the deceased will not be adequately provided for, he may direct that all or any part of the estate that would otherwise go to the widow shall go to the children, and

(*b*) the Minister may direct that the widow shall have the right, during her widowhood, to occupy any lands on a reserve that were occupied by her deceased husband at the time of his death.

(4) Where an intestate dies leaving issue his estate shall be distributed, subject to the rights of the widow, if any, *per stirpes* among such issue.

48. (1) Where the value of a person's estate (see definition "estate") is, in the opinion of the Minister, less than $2,000.00, the whole of the estate goes to the widow.

(2) Where the value of the estate, is in the opinion of the Minister more than $2,000.00, the first $2,000.00 goes to the widow and the remaining part is divided as follows:

(*a*) if the deceased person had no children (see definition of "child") the whole of the estate goes to the widow;

(*b*) if there is one child, one-half to the widow and one-half to the child;

(*c*) if there was more than one child, the wife receives one-third and the rest is divided among the children;

if there was a child of the deceased who had died before him, but, who had a child of his own who is alive at the time of the date of death of the intestate person, the widow will receive the same share of the estate if the child had been alive at that date.

(3) (*a*) Despite what is said in Subsections (1) and (2) above, in any particular case where the Minister believes that the deceased person's children will not be properly looked after, then he can order that all or any part of the estate that would usually go to the widow will go to the children instead;

(*b*) The Minister may order that the widow is entitled to occupy any reserve lands that were occupied by her husband at the time of his death, so long as she remains a widow.

(4) When a person dies without a will and leaving children, his estate shall be divided, subject to the widow's rights among his children "per stirpes."

"Per stirpes" is a legal term meaning sharing equally among ranks.

Example: *X* is an Indian who has a wife - *W* and three children, *A*, *B* and *C*.

***X* has died and his estate is valued at $14,000.00.**

***W* - *X*'s widow will receive the widow's share ($2,000.00) and because there is more than one child she will receive one-third of the remainder ($12,000.00 ÷ 3 = $4,000.00). *W* - the widow will receive $6,000.00. The children *A*, *B* and *C* will divide the remaining $8,000.00 between them in equal portions.**

If child *A* had died before *X* had died, and had two children of his own, *A*'s children would be entitled to receive *A*'s share only.

This means that *X*'s children *A*, *B* and *C* share "per stirpes" — equally among each other. *A*'s children if he were dead would share equally with each other but not equally with *B* and *C*.

"Per capita" is another legal term meaning the sharing in equal portions.

If the same example above were used, where the

(5) Where an intestate dies leaving no widow or issue his estate shall go to his father and mother in equal shares if both are living, but if either of them is dead the estate shall go to the survivor.

(6) Where an intestate dies leaving no widow or issue or father or mother his estate shall go to his brothers and sisters in equal shares, and if any brother or sister is dead the children of the deceased brother or sister shall take the share their parent would have taken if living, but where the only persons entitled are children of deceased brothers and sisters, they shall take per capita.

(7) Where an intestate dies leaving no widow, issue, father, mother, brother or sister, and no children of any deceased brother or sister, his estate shall go to his next-of-kin.

(8) Where the estate goes to the next-of-kin it shall be distributed equally among the next-of-kin of equal degree of consanguinity to the intestate and those who legally represent them, but in no case shall representation be admitted after brothers' and sisters' children, and any interest in land in a reserve shall vest in Her Majesty for the benefit of the band if the nearest of kin of the intestate is more remote than a brother or sister.

(9) For the purposes of this section, degrees of kindred shall be computed by counting upward from the intestate to the nearest common ancestor and then downward to the relative, and the kindred of the half-blood shall inherit equally with those of the whole-blood in the same degree.

(10) Descendants and relatives of the intestate begotten before his death but born thereafter shall inherit as if they had been born in the lifetime of the intestate and had survived him.

(11) All such estate as is not disposed of by will shall be distributed as if the testator had died intestate and had left no other estate.

(12) No widow is entitled to dower in the land of her deceased husband dying intestate, and no husband is entitled to an estate by curtesy in the land of his deceased wife so dying, and there is no community of real or personal property situated on a reserve.

(13) Illegitimate children and their issue shall inherit from the mother as if the children were legitimate, and shall inherit as if the children were legitimate, through the mother, if dead, any real or personal property that she would have taken, if living, by gift, devise or descent from any other person.

estate were to be shared on a per capita basis, the widow and each child would receive one quarter of the estate. If *A* were deceased, the estate would then be split among five, each receiving one-fifth.

(5) When an Indian dies leaving no widow and no children, his estate goes to his mother and father in equal shares. If one of his parents is dead, then the whole of the estate goes to the one who is still alive.

(6) When an Indian dies leaving no will, no widow, no children, and no parents, his estate is to be divided between his brothers and sisters in equal shares. If any brother or sister is dead, the children of that deceased brother or sister take the share that their parent would have taken if they were alive. If the only persons who are left alive are the children of deceased brothers and sisters, they shall take "per capita."

(7) When an Indian dies leaving no widow, children, father, mother, brother or sister, or children of any brother or sister who has died then his estate shall go to his next-of-kin (next closest relative).

(8) When the estate goes to the next-of-kin it is divided up equally among the next-of-kin who are equally close blood relatives to the Indian who has died. Where one of the next-of-kin has died, then his share goes to whoever has the legal right to it provided they are not more distantly related than brothers' or sisters' children. Any land goes back to the band if the nearest kin is more distant than a brother or sister's children.

(9) For the purposes of this section how closely related a person was to the Indian who has died is worked out by counting upward to the nearest person who was a blood ancestor to them both and then down to the relative.

(10) Descendants and relatives of the Indian who were conceived but not born when he died shall inherit as if they had been born during the Indian's lifetime.

(11) If an Indian's will does not cover his whole estate, what is left is distributed as if the Indian had died without a will and had no other estate.

(12) The English custom of dower under which a widow has the right to one-third of her husband's land for the rest of her life if he dies without a will does not apply to Indians.

The English custom of curtesy under which a husband has the right to one-third of his wife's land for the rest of his life if she dies without a will does not apply to Indians.

The property of an Indian married couple is not communally owned by both of them: it belongs to either one or the other — not both.

(13) Illegitimate children and their children inherit through their mother and are to be treated as legitimate children and are entitled to share in any property their mother would have been entitled to receive if she were alive.

(14) Where an intestate, being an illegitimate child, dies leaving no widow or issue, his estate shall go to his mother, if living, but if the mother is dead his estate shall go to the other children of the same mother in equal shares, and where any child is dead the children of the deceased child shall take the share their parent would have taken if living; but where the only persons entitled are children of deceased children of the mother, they shall take per capita.

(15) This section applies in respect of an intestate woman as it applies in respect of an intestate male, and for the purposes of this section the word "widow" includes "widower."

(16) In this section "child" includes a legally adopted child and a child adopted in accordance with Indian custom. R.S., c. 149, s. 48; 1956, c. 40, s. 13.

49. A person who claims to be entitled to possession or occupation of lands in a reserve by devise or descent shall be deemed not to be in lawful possession or occupation of that land until the possession is approved by the Minister. R.S., c. 149, s. 49.

50. (1) A person who is not entitled to reside on a reserve does not by devise or descent acquire a right to possession or occupation of land in that reserve.

(2) Where a right to possession or occupation of land in a reserve passes by devise or descent to a person who is not entitled to reside on a reserve, that right shall be offered for sale by the superintendent to the highest bidder among persons who are entitled to reside on the reserve and the proceeds of the sale shall be paid to the devisee or descendant, as the case may be.

(3) Where no tender is received within six months or such further period as the Minister may direct after the date when the right to possession or occupation is offered for sale under subsection (2), the right shall revert to the band free from any claim on the part of the devisee or descendant, subject to the payment, at the discretion of the Minister, to the devisee or descendant, from the funds of the band, of such compensation for permanent improvements as the Minister may determine.

(4) The purchaser of a right to possession or occupation of land under subsection (2) shall be deemed not to be in lawful possession or occupation of the land until the possession is approved by the Minister. R.S., c. 149, s. 50.

(14) Where an Indian who was illegitimate dies and leaves no widow or children then his whole estate shall go to his mother. If his mother is dead his estate shall go to all the children of his mother in equal shares. Where any child is dead, the children of the deceased child shall take the share their parents would have taken if he had been alive. If the only people alive to take shares are the children's children, then the whole estate shall be divided up among them on a per capita basis.

(15) This section applies to a woman as well as a man and the word "widow" could be changed to "widower."

(16) In this section "child" includes a legally adopted child and a child adopted under Indian custom.

49. A person who claims that he has a right to possess or occupy lands on a reserve because of his share in the estate of an Indian who has died will not be allowed to possess or occupy those lands legally until his interest is approved by the Minister.

50. (1) A person who does not have the right to live on a reserve can not receive a right to possess or occupy land on reserve from the estate of an Indian who has died.

(2) Where a right to possess or occupy lands on a reserve is given to a person who is not entitled to live on a reserve, the superintendent must offer to sell that right to the highest bidder from among those who are entitled to live on that reserve and money received from the sale are to be paid to the person who had received that right from the estate of a deceased Indian.

(3) Where no one bids on the lands mentioned in Section 50(2) within six months (or longer if so ordered by the Minister), the land then is returned to the band. The Minister may order that compensation be paid to the person, who was given the right to the land but did not have the right to live on reserve, from band funds for any permanent improvements on the land.

(4) The person who bids on lands put up for sale under Section 50(2) does not receive any legal rights to that land until the sale is approved by the Minister.

(3) No person who is appointed to manage, sell, lease or otherwise dispose of surrendered lands or who is an officer or servant of Her Majesty employed in the Department may, except with the approval of the Governor in Council, acquire directly or indirectly any interest in surrendered lands. R.S., c. 149, s. 53.

(3) No person who works for the Department can buy or lease surrendered land unless the Government agrees.

54. Where surrendered lands have been agreed to be sold or otherwise disposed of and letters patent relating thereto have not issued, or where surrendered lands have been leased, the purchaser, lessee or other person having an interest in the surrendered lands may, with the approval of the Minister, assign his interest in the surrendered lands or a part thereof to any other person. R.S., c. 149, s. 54.

54. Where a person has arranged to buy or lease surrendered land he can sell his rights to buy or lease the land to somebody else with the approval of the Minister.

55. (1) There shall be kept in the Department a register, to be known as the Surrendered Lands Register, in which shall be entered particulars in connection with any lease or other disposition of surrendered lands by the Minister or any assignment thereof.

55. (1) There is to be a register (list) known as the "Surrendered Lands Register" kept in the Department. In this register the details of all dealings with surrendered lands are to be recorded.

(2) A conditional assignment shall not be registered.

(2) Dealings that depend on conditions to take place before the deal goes through can not be registered in this register.

(3) Registration of an assignment may be refused until proof of its execution has been furnished.

(3) Registration of a document can be refused if there is no proof that it was properly signed.

(4) An assignment registered under this section is valid against an unregistered assignment or an assignment subsequently registered. R.S., c. 149, s. 55.

(4) In the case of a conflict, documents which are registered take priority against documents which have not been registered.

56. Where an assignment is registered there shall be endorsed on the original copy thereof a certificate of registration signed by the Minister or by an officer of the Department authorized by him to sign such certificates. R.S., c. 149, s. 56.

56. Where a document is registered, the original copy will be marked with a certificate of registration. The certificate is to be signed by the Minister or an officer of the Department who has been appointed to sign such certificates.

57. The Governor in Council may make regulations

(*a*) authorizing the Minister to grant licences to cut timber on surrendered lands, or, with the consent of the council of the band, on reserve lands;

(*b*) imposing terms, conditions and restrictions with respect to the exercise of rights conferred by licences granted under paragraph (*a*);

(*c*) providing for the disposition of surrendered mines and minerals underlying lands in a reserve;

(*d*) prescribing the penalty not exceeding one hundred dollars or imprisonment for a term of three months, or both, that may be imposed on summary conviction for violation of any regulation made under this section; and

(*e*) providing for the seizure and forfeiture of any timber or minerals taken in violation of any regulation made under this section. R.S., c. 149, s. 57.

57. The Government can make regulations that

(*a*) give the Minister power to grant timber licences on surrendered lands (without the consent of the band) and that give the Minister power to grant timber licences on reserve lands with the consent of the band council;

(*b*) give instructions on how the timber licences can be used and how long they are good for;

(*c*) provide for the sale and mining of surrendered minerals under reserve land; (See Indian Oil and Gas Regulations, P.C. 1966-1271; Indian Mining Regulations P.C. 1968-1865)

(*d*) give the punishment for breaking the regulations. The punishment not to be more than $100.00 fine or three months jail or both;

(*e*) provide for the confiscation of timber or minerals taken against the law or an agreement made under this section.

58. (1) Where land in a reserve is uncultivated or unused, the Minister may, with the consent of the council of the band,

(*a*) improve or cultivate such land and employ persons therefor, and authorize and direct the expenditure of so much of the capital funds of the band as he considers necessary for such improve-

58. (1) Where land on a reserve is not being used or not being cultivated, the Minister with the consent of the band council may,

(*a*) improve or cultivate such land, employ people to do the work and use as much of the capital funds of the band as he considers necessary to cover the costs of improvements, cultivation and paying employees;

SECTION 51

PROPERTY OF MENTALLY INCOMPETENT INDIANS

51. (1) Subject to this section, all jurisdiction and authority in relation to the property of mentally incompetent Indians is vested exclusively in the Minister.

(2) Without restricting the generality of subsection (1), the Minister may

(*a*) appoint persons to administer the estates of mentally incompetent Indians;

(*b*) order that any property of a mentally incompetent Indian shall be sold, leased, alienated, mortgaged, disposed of or otherwise dealt with for the purpose of

(i) paying his debts or engagements,

(ii) discharging encumbrances on his property,

(iii) paying debts or expenses incurred for his maintenance or otherwise for his benefit, or

(iv) paying or providing for the expenses of future maintenance; and

(*c*) make such orders and give such directions as he considers necessary to secure the satisfactory management of the estates of mentally incompetent Indians.

(3) The Minister may order that any property situated off a reserve and belonging to a mentally incompetent Indian shall be dealt with under the laws of the province in which the property is situated. R.S., c. 149, s. 51.

51. (1) The Minister has all the powers necessar to deal with the property of a mentally incompeten Indian.

(2) The Minister may

(*a*) appoint persons to take care of the propert of a mentally incompetent Indian;

(*b*) order that the mentally incompetent person' property be sold, leased, mortgaged or dealt wit in any other way for the purpose of

(i) paying his debts,

(ii) paying mortgages on the property,

(iii) paying the costs of looking after him,

(iv) paying for the future costs of his care;

(*c*) make any other orders as he considers neces sary to make sure that the Indian's property i looked after.

These powers under 51(2) are only part of the gen eral powers given to the Minister under Section 51(1)

(3) The Minister may order that any property, be longing to a mentally incompetent Indian, located of reserve is to be dealt with under the province's laws

SECTION 52

GUARDIANSHIP

52. The Minister may administer or provide for the administration of any property to which infant children of Indians are entitled, and may appoint guardians for such purpose. R.S., c. 149, s. 52.

52. If an Indian is under the age of 21 and is en titled to have some property, the Minister may pro vide for its care or appoint a guardian to take care o such property until such time as the person is of th full age of 21 years.

SECTION 53–59

MANAGEMENT OF RESERVES AND SURRENDERED LANDS

53. (1) The Minister or a person appointed by him for the purpose may manage, sell, lease or otherwise dispose of surrendered lands in accordance with this Act and the terms of the surrender.

(2) Where the original purchaser of surrendered lands is dead and the heir, assignee or devisee of the original purchaser applies for a grant of the lands, the Minister may, upon receipt of proof in such manner as he directs and requires in support of any claim for the grant and upon being satisfied that the claim has been equitably and justly established, allow the claim and authorize a grant to issue accordingly.

53. (1) The Minister or a person appointed by th Minister for that purpose, has the power to manage sell, lease or otherwise deal with surrendered lands a set out in the *Indian Act* or in the terms of the sur render.

(2) When the person who first arranged to buy sur rendered lands dies, the Minister may grant the land to his heir, if satisfied that he has established a lawfu claim to the land.

ment or cultivation including the purchase of such stock, machinery or material or for the employment of such labour as the Minister considers necessary;

(*b*). where the land is in the lawful possession of any individual, grant a lease of such land for agricultural or grazing purposes or for any purpose that is for the benefit of the person in possession; and

(*c*) where the land is not in the lawful possession of any individual, grant for the benefit of the band a lease of such land for agricultural or grazing purposes.

(*b*) where the land is in the lawful possession of an individual, the Minister has the power to lease out the land for agricultural or grazing or for any other purpose that is for the benefit of the person in possession of the land;

(*c*) where the land is not in the legal possession of anyone, the Minister may lease the land for agriculture or grazing for the benefit of the band.

(2) Out of the proceeds derived from the improvement or cultivation of lands pursuant to paragraph (1)(*b*), a reasonable rent shall be paid to the individual in lawful possession of the lands or any part thereof, and the remainder of the proceeds shall be placed to the credit of the band, but if improvements are made on the lands occupied by an individual, the Minister may deduct the value of such improvements from the rent payable to such individual under this subsection.

(2) The money made from the farming shall be used to pay rent the Indian who owns the land. The value of any improvements that have been made to the land are taken out of the rent. What is left over after this rent has been paid is paid into the band's funds.

(3) The Minister may lease for the benefit of any Indian upon his application for that purpose, the land of which he is lawfully in possession without the land being surrendered.

(3) If it is asked to do so by the Indian, the Minister can lease out reserve land which that Indian possesses without the land being surrendered.

(4) Notwithstanding anything in this Act, the Minister may, without a surrender

(*a*) dispose of wild grass or dead or fallen timber, and

(*b*) with the consent of the council of the band, dispose of sand, gravel, clay and other non-metallic substances upon or under lands in a reserve, or, where such consent cannot be obtained without undue difficulty or delay, may issue temporary permits for the taking of sand, gravel, clay and other non-metallic substances upon or under lands in a reserve, renewable only with the consent of the council of the band,

and the proceeds of such transactions shall be credited to band funds or shall be divided between the band and the individual Indians in lawful possession of the lands in such shares as the Minister may determine. R.S., c. 149, s. 58; 1956, c. 40, s. 14.

(4) The Minister may, without taking a surrender

(*a*) get rid of wild grass or dead or fallen timber, and

(*b*) with the consent of the band council, sell sand, gravel, clay and other non-metallic materials. If the band council consent would be difficult to get, or take too long, the Minister can issue short term permits. These permits can only be renewed if the band council agrees.

The money from these sales goes to the band fund or can be given to the Indian who had rights to that land.

59. The Minister may, with the consent of the council of a band,

(*a*) reduce or adjust the amount payable to Her Majesty in respect of a sale, lease or other disposition of surrendered lands or a lease or other disposition of lands in a reserve or the rate of interest payable thereon, and

(*b*) reduce or adjust the amount payable to the band by an Indian in respect of a loan made to the Indian from band funds. R.S., c. 149, s. 59.

(*a*) If the band council agrees to it, the Minister can alter the amount to be paid for the sale or lease of reserve land.

(*b*) Also, if the band council agrees, the Minister can alter the amount to be paid to the band by an Indian who has borrowed money from his band's funds.

SECTION 60

BAND CONTROL OF RESERVE LAND

60. (1) The Governor in Council may at the request of a band grant to the band the right to exercise such control and management over lands in the reserve occupied by that band as the Governor in Council considers desirable.

(2) The Governor in Council may at any time withdraw from a band a right conferred upon the band under subsection (1). R.S., c. 149, s. 60.

60. (1) If a band asks for it, the Government can give the band the right to the amount of control over its lands that the Government thinks is desirable.

(2) The Government can also cancel any rights it gives under this section.

SECTION 61-69

MANAGEMENT OF INDIAN MONEYS

61. (1) Indian moneys shall be expended only for the benefit of the Indians or bands for whose use and benefit in common the moneys are received or held, and subject to this Act and to the terms of any treaty or surrender, the Governor in Council may determine whether any purpose for which Indian moneys are used or are to be used is for the use and benefit of the band.

(2) Interest upon Indian moneys held in the Consolidated Revenue Fund shall be allowed at a rate to be fixed from time to time by the Governor in Council. R.S., c. 149, s. 61.

61. (1) Indian moneys shall be spent only for the benefit of the band they belong to and the Government decides what is for the benefit of the band.

(2) The Government shall fix the interest rate to be paid on Indian moneys held by it.

62. All Indian moneys derived from the sale of surrendered lands or the sale of capital assets of a band shall be deemed to be capital moneys of the band and all Indian moneys other than capital moneys shall be deemed to be revenue moneys of the band. R.S., c. 149, s. 62.

62. All Indian moneys from the sale of reserve land or the sale of capital assets (for example, a building) shall be called the capital moneys of the band and all other Indian moneys shall be called the revenue moneys of the band.

63. Notwithstanding the *Financial Administration Act*, where moneys to which an Indian is entitled are paid to a superintendent under any lease or agreement made under this Act, the superintendent may pay the moneys to the Indian. R.S., c. 149, s. 63.

63. The *Financial Administration Act* is a Act which states how civil servants are to handle money given to them because they are employees of the Government. Where monies are paid to a superintendent under a lease or agreement made under the *Indian Act*, the superintendent can pay the moneys to the Indian who is entitled to receive the money. The superintendent in those cases must follow the *Indian Act*, not the *Financial Administration Act*.

64. With the consent of the council of a band, the Minister may authorize and direct the expenditure of capital moneys of the band

(*a*) to distribute per capita to the members of the band an amount not exceeding fifty per cent of the capital moneys of the band derived from the sale of surrendered lands;

(*b*) to construct and maintain roads, bridges, ditches and water courses on the reserves or on surrendered lands;

(*c*) to construct and maintain outer boundary fences on reserves;

(*d*) to purchase land for use by the band as a reserve or as an addition to a reserve;

(*e*) to purchase for the band the interest of a member of the band in lands on a reserve;

64. With the consent of the band council the Minister can spend the capital moneys of the band in any of the following ways:

(*a*) up to half the money can be equally given to band members;

(*b*) to build roads, bridges and ditches on reserves or surrendered lands;

(*c*) to build a boundary fence around the reserve;

(*d*) to buy a reserve or extra reserve land for the band;

(*e*) to buy for the band a piece of reserve land owned by a band member;

(*f*) to purchase livestock and farm implements, farm equipment, or machinery for the band;

(*g*) to construct and maintain on or in connection with a reserve such permanent improvements or works as in the opinion of the Minister will be of permanent value to the band or will constitute a capital investment;

(*h*) to make to members of the band, for the purpose of promoting the welfare of the band, loans not exceeding one-half of the total value of

(i) the chattels owned by the borrower, and

(ii) the land with respect to which he holds or is eligible to receive a Certificate of Possession,

and may charge interest and take security therefor;

(*i*) to meet expenses necessarily incidental to the management of lands on a reserve, surrendered lands and any band property;

(*j*) to construct houses for members of the band, to make loans to members of the band for building purposes with or without security and to provide for the guarantee of loans made to members of the band for building purposes; and

(*k*) for any other purpose that in the opinion of the Minister is for the benefit of the band. R.S., c. 149, s. 64; 1956, c. 40, s. 15.

(*f*) to buy livestock and farm equipment for th band;

(*g*) to build such long-lasting works (for example a water dam) as the Minister thinks will be o long-lasting value to the band or will be a goo investment;

(*h*) for the good of the band the Minister ca make loans to band members. The loan to a ban member must not be more than the value of ½ o all his belongings and ½ of his piece of reserv land. The Minister can charge interest on the loa and use the band member's belongings and lan as security to make sure he repays the money;

(*i*) to pay the cost of managing reserve land, sur rendered land or band property;

(*j*) to build houses for members of the band. T also make loans to band members so they ca build houses or to guarantee any loans made t members of the band for building purposes;

(*k*) finally the Minister can spend the band's cap ital moneys for any purpose that he thinks is fo the benefit of the band.

65. The Minister may pay from capital moneys

(*a*) compensation to an Indian in an amount that is determined in accordance with this Act to be payable to him in respect of land compulsorily taken from him for band purposes, and

(*b*) expenses incurred to prevent or suppress grass or forest fires or to protect the property of Indians in cases of emergency. R.S., c. 149, s. 65.

65. The Minister may use the capital moneys of a band to:

(*a*) pay an Indian who has had his land taker from him for band purposes, without his consent

(*b*) pay the cost of preventing or fighting grass o forest fires; pay the cost of looking after the prop erty of Indians in cases of emergency.

66. (1) With the consent of the council of a band, the Minister may authorize and direct the expenditure of revenue moneys for any purpose that in his opinion will promote the general progress and welfare of the band or any member of the band.

(2) The Minister may make expenditures out of the revenue moneys of the band to assist sick, disabled, aged or destitute Indians of the band and to provide for the burial of deceased indigent members of the band and to provide for the payment of contributions under the *Unemployment Insurance Act* on behalf of employed persons who are paid in respect of their employment out of moneys of the band.

(3) The Minister may authorize the expenditure of revenue moneys of the band for all or any of the following purposes, namely:

(*a*) for the destruction of noxious weeds and the prevention of the spreading or prevalence of insects, pests or diseases that may destroy or injure vegetation on Indian reserves;

(*b*) to prevent, mitigate and control the spread of diseases on reserves, whether or not the diseases are infectious or communicable;

(*c*) to provide for the inspection of premises on reserves and the destruction, alteration or renovation thereof;

66. (1) With the consent of the band council the Minister may spend the revenue moneys of the banc for any purpose it thinks will be for the good of the band or any member of it.

(2) The Minister may spend the revenue moneys of the band to help sick, old or needy Indians of the band and to bury penniless members of the band. The Minister may make payments for unemployment insurance for people who are employed and paid by the band.

(3) The Minister may allow the band council to spend the band's revenue money for any of the following purposes:

(*a*) to destroy weeds and "pests" on reserves;

(*b*) to fight the spread of diseases on reserves;

(*c*) for the inspection of buildings on reserves and their destruction or repair;

(*d*) to prevent overcrowding of premises on reserves used as dwellings;

(*e*) to provide for sanitary conditions in private premises on reserves as well as in public places on reserves; and

(*f*) for the construction and maintenance of boundary fences. R.S., c. 149, s. 66; 1956, c. 40, s. 16.

67. Where money is expended by Her Majesty for the purpose of raising or collecting Indian moneys, the Minister may authorize the recovery of the amount so expended from the moneys of the band. 1956, c. 40, s. 17.

68. (1) Where the Minister is satisfied that a male Indian

(*a*) has deserted his wife or family without sufficient cause,

(*b*) has conducted himself in such a manner as to justify the refusal of his wife or family to live with him, or

(*c*) has been separated by imprisonment from his wife and family,

he may order that payments of any annuity or interest money to which that Indian is entitled shall be applied to the support of the wife or family or both the wife and family of that Indian.

(2) Where the Minister is satisfied that a female Indian has deserted her husband or family, he may order that payments of any annuity or interest money to which that Indian is entitled shall be applied to the support of her family.

(3) Where the Minister is satisfied that one or both of the parents of an illegitimate child is an Indian, he may stop payments out of any annuity or interest moneys to which either or both of the parents would otherwise be entitled and apply the moneys to the support of the child, but not so as to prejudice the welfare of any legitimate child of either Indian. R.S., c. 149, s. 67.

69. (1) The Governor in Council may by order permit a band to control, manage and expend in whole or in part its revenue moneys and may amend or revoke any such order.

(2) The Governor in Council may make regulations to give effect to subsection (1) and may declare therein the extent to which this Act and the *Financial Administration Act* shall not apply to a band to which an order made under subsection (1) applies. R.S., c. 149, s. 68.

(*d*) to stop overcrowding of reserve houses;

(*e*) to provide for clean and hygienic conditions in houses and public places on reserves;

(*f*) for boundary fences.

67. When the Government has to spend money to collect Indian moneys it can get back the money it has spent from the band's moneys.

68. (1) When the Minister believes that an Indian man has

(*a*) left his wife or family without a good reason,

(*b*) carried on in such a way that his wife or family cannot be expected to live with him, or

(*c*) been separated from his wife and family because he is in jail,

the Minister can order that any money to which that Indian is entitled shall be used to look after his wife and family.

(2) When the Minister believes an Indian woman has left her husband or family he can order that any money to which she is entitled be used to look after her family.

(3) If the Minister believes that at least one parent of an illegitimate child is an Indian he can use money which that parent has a right to, to look after the child. However, the Minister will not do this if it means that a legitimate child of that Indian is not going to be looked after properly.

69. (1) The Government can allow a band to have control of its revenue money. It can also take away the control from the band.

(2) The Government can make regulations dealing with the situation where a band has control of its revenue moneys and can say in them to what extent the *Indian Act* and the *Financial Administration Act* doesn't apply.

(See "Indian Bands Revenue Moneys Regulations" P.C. 1973-24.)

SECTION 70

LOANS TO INDIANS

70. (1) The Minister of Finance may from time to time authorize advances to the Minister out of the Consolidated Revenue Fund of such sums of money as the Minister may require to enable him

(*a*) to make loans to bands, groups of Indians or individual Indians for the purchase of farm implements, machinery, livestock, motor vehicles, fishing equipment, seed grain, fencing materials, materials to be used in native handicrafts, any other equipment, and gasoline and other petroleum products, or for the making of repairs or the payment of wages, or for the clearing and breaking of land within reserves,

(*b*) to expend or to lend money for the carrying out of cooperative projects on behalf of Indians, or

(*c*) to provide for any other matter prescribed by the Governor in Council.

(2) The Governor in Council may make regulations to give effect to subsection (1).

(3) Expenditures that are made under subsection (1) shall be accounted for in the same manner as public moneys.

(4) The Minister shall pay to the Receiver General all moneys that he receives from bands, groups of Indians or individual Indians by way of repayments of loans made under subsection (1).

(5) The total amount of outstanding advances to the Minister under this section shall not at any one time exceed six million and fifty thousand dollars.

(6) The Minister shall within fifteen days after the termination of each fiscal year or, if Parliament is not then in session, within fifteen days after the commencement of the next ensuing session, lay before Parliament a report setting out the total number and amount of loans made under subsection (1) during that year. R.S., c. 149, s. 69; 1952-53, c. 41, s. 4; 1956, c. 40, s. 18; 1968-69, c. 28, s. 105; 1969-70, c. 2, Sch. vote L50a [*See* 1969-70, c. 24, Sch. vote L53b.]

70. (1) The Minister of Finance may permit monies to be advanced to the Minister of Indian Affairs and Northern Development from the Consolidated Revenue Fund so that the Minister of Indian and Northern Affairs may

(*a*) make loans to bands, groups of Indians or individual Indians for farming, fishing or handicraft purposes,

(*b*) either spend or loan money to carry out cooperative projects on behalf of Indians, or

(*c*) provide for any matter that the Government thinks should be provided for.

(2) The Government can make regulations about all the matters listed above. (See "Indian Fisherman's Loan Order" - P.C. 1971-1519; "Indian Economic Development Fund Interim Regulations" - P.C. 1971-6912.)

(3) Money that is spent under this section must be accounted for as public moneys.

(4) All money paid to the Minister in repayment of loans made under this section shall be paid to the Receiver General.

(5) The total amount of money advanced by the Minister of Finance will never be more than six million and fifty thousand dollars.

SECTION 71

FARMS ON RESERVES

71. (1) The Minister may operate farms on reserves and may employ such persons as he considers necessary to instruct Indians in farming and may purchase and distribute without charge, pure seed to Indian farmers.

(2) The Minister may apply any profits that result from the operation of farms pursuant to subsection (1) on reserves to extend farming operations on the reserves or to make loans to Indians to enable them to engage in farming or other agricultural operations or he may apply such profits in any way that he considers to be desirable to promote the progress and development of the Indians. R.S., c. 149, s. 70.

71. (1) The Minister may operate farms on reserves and it can hire people to teach Indians farming.

(2) The Minister may spend the profits from farms on reserves in any way that it thinks will help the "progress and development" of the Indians.

SECTION 72

TREATY MONEY

72. Moneys that are payable to Indians or to Indian bands under a treaty between Her Majesty and the band and for the payment of which the Government of Canada is responsible, may be paid out of the Consolidated Revenue Fund. R.S., c. 149, s. 71.

72. Treaty moneys shall be paid out of the Consolidated Revenue Fund.

SECTION 73

REGULATIONS THE GOVERNMENT CAN MAKE

73. (1) The Governor in Council may make regulations

(*a*) for the protection and preservation of fur-bearing animals, fish and other game on reserves;
(*b*) for the destruction of noxious weeds and the prevention of the spreading or prevalence of insects, pests or diseases that may destroy or injure vegetation on Indian reserves;
(*c*) for the control of the speed, operation and parking of vehicles on roads within reserves;
(*d*) for the taxation, control and destruction of dogs and for the protection of sheep on reserves;
(*e*) for the operation, supervision and control of pool rooms, dance halls and other places of amusement on reserves;
(*f*) to prevent, mitigate and control the spread of diseases on reserves, whether or not the diseases are infectious or communicable;
(*g*) to provide medical treatment and health services for Indians;
(*h*) to provide compulsory hospitalization and treatment for infectious diseases among Indians;
(*i*) to provide for the inspection of premises on reserves and the destruction, alteration or renovation thereof;
(*j*) to prevent overcrowding of premises on reserves used as dwellings;
(*k*) to provide for sanitary conditions in private premises on reserves as well as in public places on reserves;

73. (1) The Government can make regulations about any of the following matters:

(*a*) hunting, fishing and trapping on reserves;
(*b*) the destruction of weeds and insect "pests" or diseases that might hurt plants and trees on reserves;
(*c*) the control of traffic on reserves; (see "Indian Reserve Traffic Regulations" P.C. 1945-1368)
(*d*) the taxation, control, and destruction of dogs and the protection of sheep on reserves; (see "Indian Reserve Dog Regulations" P.C. 1954-856)
(*e*) the control of pool rooms and dance halls on reserves; (see "Places of Amusement Regulations" P.C. 1960-1531)
(*f*) the stopping of diseases on reserves;
(*g*) health services for Indians;
(*h*) the forced hospitalization and treatment for infectious diseases among Indians;
(*i*) the inspection of buildings on reserves and their destruction or repair;
(*j*) the stopping of overcrowding in houses on reserves;
(*k*) clean and hygienic conditions in buildings on reserves;

(*l*) for the construction and maintenance of boundary fences; and

(*m*) for empowering and authorizing the council of a band to borrow money for band projects or housing purposes and providing for the making of loans out of moneys so borrowed to members of the band for housing purposes.

(2) The Governor in Council may prescribe the penalty, not exceeding a fine of one hundred dollars or imprisonment for a term not exceeding three months, or both, that may be imposed on summary conviction for violation of a regulation made under subsection (1).

(3) The Governor in Council may make orders and regulations to carry out the purposes and provisions of this Act. R.S., c. 149, s. 72; 1956, c. 40, s. 19.

(*l*) building of boundary fences;

(*m*) providing for band councils being give power to borrow money for band projects or hou: ing and also for the band council to make loans t band members so that they can build or repai houses. (See "Indian Band Council Borrowin Regulations" P.C. 1969-2069.)

(2) The Government can say in the regulation what the punishment is to be for breaking the regula tions. The punishment cannot be more than $100.0 or three months in jail (or both).

(3) The Government may make orders and regula tions to carry out the purposes of the *Indian Act*. (Se "Tariff of Fees for Administrative Services" P.C 1954-2024.)

SECTION 74-80

ELECTION OF CHIEF AND BAND COUNCILS

74. (1) Whenever he deems it advisable for the good government of a band, the Minister may declare by order that after a day to be named therein the council of the band, consisting of a chief and councillors, shall be selected by elections to be held in accordance with this Act.

(2) Unless otherwise ordered by the Minister, the council of a band in respect of which an order has been made under subsection (1) shall consist of one chief, and one councillor for every one hundred members of the band, but the number of councillors shall not be less than two nor more than twelve and no band shall have more than one chief.

(3) The Governor in Council may, for the purposes of giving effect to subsection (1), make orders or regulations to provide

(*a*) that the chief of a band shall be elected by

(i) a majority of the votes of the electors of the band, or

(ii) a majority of the votes of the elected councillors of the band from among themselves, but the chief so elected shall remain a councillor; and

(*b*) that the councillors of a band shall be elected by

(i) a majority of the votes of the electors of the band, or

(ii) a majority of the votes of the electors of the band in the electoral section in which the candidate resides and that he proposes to represent on the council of the band.

(4) A reserve shall for voting purposes consist of one electoral section, except that where the majority of the electors of a band who were present and voted at a referendum or a special meeting held and called for the purpose in accordance with the regulations have decided that the reserve should for voting purposes be divided into electoral sections and the Minis-

74. (1) When the Minister thinks it will be advisable for a band he can say in an order that after a certain date the chief and councillors of a band shall be chosen by elections held according to the *Indian Act*.

(2) Unless the Minister orders otherwise the elected council shall be

(*a*) only one chief,

(*b*) one councillor for every 100 band members but not less than two or more than twelve.

(3) The Government can make election regulations which provide

(*a*) (i) that the chief can be elected either by a majority of the electors of the band who vote; or

(ii) by a majority of votes of the elected council, if elected by council, the chief remains a councillor; and

(*b*) (i) the band councillors can be elected by the majority of the electors who voted, or

(ii) the majority of the electors in the electoral section in which the candidate lives and which he will represent on the council. (See "Band Council Election Regulations.")

(4) For the purpose of voting, a reserve consists of one section, except when a special meeting of the band was called or a referendum held and a majority of the electors of the band wished to have the reserve divided into electoral sections. If the Minister agrees, Government may pass regulations dividing the reserve into six electoral sections or less. Each sec-

ter so recommends, the Governor in Council may make orders or regulations to provide that the reserve shall for voting purposes be divided into not more than six electoral sections containing as nearly as may be an equal number of Indians eligible to vote and to provide for the manner in which electoral sections so established shall be distinguished or identified. R.S., c. 149, s. 73; 1956, c. 40, s. 20.

tion shall have roughly the same number of electors and how each electoral section will be named.

75. (1) No person other than an elector who resides in a section may be nominated for the office of councillor to represent that section on the council of the band.

75. (1) Only an elector who lives in a section can be nominated for councillor to represent that section.

(2) No person may be a candidate for election as chief or councillor unless his nomination is moved and seconded by persons who are themselves eligible to be nominated. R.S., c. 149, s. 74.

(2) No person can put himself forward to be elected as chief or councillor unless his nomination is moved and seconded by people who could stand for these offices themselves.

76. (1) The Governor in Council may make orders and regulations with respect to band elections and, without restricting the generality of the foregoing, may make regulations with respect to

(*a*) meetings to nominate candidates;
(*b*) the appointment and duties of electoral officers;
(*c*) the manner in which voting shall be carried out;
(*d*) election appeals; and
(*e*) the definition of residence for the purpose of determining the eligibility of voters.

76. (1) The Government can make regulations about band elections. The regulations can deal with the following matters in particular:

(*a*) meetings to nominate people to stand for chief and council;
(*b*) people to look after the voting;
(*c*) the way in which the voting is to be done — especially secret voting;
(*d*) appeals against elections;
(*e*) rules for deciding who usually lives on the reserve. (See "Band Council Election Regulations.")

Government can in addition to the items mentioned above may make other regulations affecting band elections.

(2) The regulations made under paragraph (1)(*c*) shall make provision for secrecy of voting. R.S., c. 149, s. 75.

(2) The regulations made under paragraph (1)(*c*) have to provide for secret ballots.

77. (1) A member of a band who is of the full age of twenty-one years and is ordinarily resident on the reserve is qualified to vote for a person nominated to be chief of the band, and where the reserve for voting purposes consists of one section, to vote for persons nominated as councillors.

77. (1) Any member of the band who is at least 21 years old and usually lives on the reserve can vote in the election of a chief. He can also vote in the election of the councillor to represent his section. If the whole reserve is one section then he can vote for the people nominated as councillors.

(2) A member of a band who is of the full age of twenty-one years and is ordinarily resident in a section that has been established for voting purposes is qualified to vote for a person nominated to be councillor to represent that section. R.S., c. 149, s. 76.

(2) Any member of the band who is at least 21 years old and usually lives on the reserve, can vote in the election of a new councillor to represent their section.

78. (1) Subject to this section, chiefs and councillors hold office for two years.

78. (1) Chiefs and councillors hold office for two years unless one or more of the items mentioned below takes place.

(2) The office of chief or councillor becomes vacant when

(*a*) the person who holds that office
(i) is convicted of an indictable offence,
(ii) dies or resigns his office, or
(iii) is or becomes ineligible to hold office by virtue of this Act; or

(2) A chief or councillor loses his place as a chief or councillor if one of the following things happen:

(*a*) (i) a court finds him guilty of a serious crime,
(ii) he resigns or dies,
(iii) under some other section of this Act he loses the right to hold office (for example — if

(*b*) the Minister declares that in his opinion the person who holds that office

(i) is unfit to continue in office by reason of his having been convicted of an offence,

(ii) has been absent from meetings of the council for three consecutive meetings without being authorized to do so, or

(iii) was guilty, in connection with an election, of corrupt practice, accepting a bribe, dishonesty or malfeasance.

(3) The Minister may declare a person who ceases to hold office by virtue of subparagraph (2)(*b*)(iii) to be ineligible to be a candidate for chief or councillor for a period not exceeding six years.

(4) Where the office of chief or councillor becomes vacant more than three months before the date when another election would ordinarily be held, a special election may be held in accordance with this Act to fill the vacancy. R.S., c. 149, s. 77.

79. The Governor in Council may set aside the election of a chief or a councillor on the report of the Minister that he is satisfied that

(*a*) there was corrupt practice in connection with the election;

(*b*) there was a violation of this Act that might have affected the result of the election; or

(*c*) a person nominated to be a candidate in the election was ineligible to be a candidate. R.S., c. 149, s. 78.

80. The Governor in Council may make regulations with respect to band meetings and council meetings and, without restricting the generality of the foregoing, may make regulations with respect to

(*a*) presiding officers at such meetings;

(*b*) notice of such meetings;

(*c*) the duties of any representative of the Minister at such meetings; and

(*d*) the number of persons required at the meeting to constitute a quorum. R.S., c. 149, s. 79.

he or she loses status through enfranchisement or marriage),

(*b*) the Minister believes that he is not fit to hold the office because

(i) a court has found him guilty of a minor crime,

(ii) he has not gone to three council meetings in a row (without permission),

(iii) he did something dishonest in connection with an election.

(3) Where the Minister has stated that a person has been guilty of dishonesty in connection with an election, the Minister can order that that person be removed from office and is not allowed to stand for chief or councillor for up to six years.

(4) If it happens that a new chief or councillor is needed more than three months before the time when another election would usually be held then a special election can be held just for the one position.

79. The Government can say the election of a chief or councillor is not valid if the Department thinks that

(*a*) somebody did something dishonest in connection with the election (e.g. gave a bribe);

(*b*) there was a breach of the Indian Act that might have affected the result of the election (for example, if the election was close and a lot of people who do not usually live on the reserve voted);

(*c*) a person who stood for office in the election did not have the right to stand for office.

80. The Government may make regulations regarding band and council meetings. In addition to its power to make regulations regarding band and council meetings, the Government may make regulations concerning

(*a*) the chairman of such meetings;

(*b*) the types of notices of meetings that have to be given;

(*c*) the duties of any representative of the Minister at the meetings;

(*d*) the number of people who have to be at the meeting before it will be a valid meeting.

SECTION 81-86

REGULATIONS THE BAND COUNCIL CAN MAKE

81. The council of a band may make by-laws not inconsistent with this Act or with any regulation made by the Governor in Council or the Minister, for any or all of the following purposes, namely:

(*a*) to provide for the health of residents on the reserve and to prevent the spreading of contagious and infectious diseases;

(*b*) the regulation of traffic;

(*c*) the observance of law and order;

(*d*) the prevention of disorderly conduct and nuisances;

(*e*) the protection against and prevention of trespass by cattle and other domestic animals, the establishment of pounds, the appointment of pound-keepers, the regulation of their duties and the provision for fees and charges for their services;

(*f*) the construction and maintenance of water courses, roads, bridges, ditches, fences and other local works;

(*g*) the dividing of the reserve or a portion thereof into zones and the prohibition of the construction or maintenance of any class of buildings or the carrying on of any class of business, trade or calling in any such zone;

(*h*) the regulation of the construction, repair and use of buildings, whether owned by the band or by individual members of the band;

(*i*) the survey and allotment of reserve lands among the members of the band and the establishment of a register of Certificates of Possession and Certificates of Occupation relating to allotments and the setting apart of reserve lands for common use, if authority therefor has been granted under section 60;

(*j*) the destruction and control of noxious weeds;

(*k*) the regulation of bee-keeping and poultry raising;

(*l*) the construction and regulation of the use of public wells, cisterns, reservoirs and other water supplies;

(*m*) the control and prohibition of public games, sports, races, athletic contests and other amusements;

(*n*) the regulation of the conduct and activities of hawkers, peddlers or others who enter the reserve to buy, sell or otherwise deal in wares or merchandise;

(*o*) the preservation, protection and management of fur-bearing animals, fish and other game on the reserve;

(*p*) the removal and punishment of persons trespassing upon the reserve or frequenting the reserve for prescribed purposes;

(*q*) with respect to any matter arising out of or ancillary to the exercise of powers under this section; and

(*r*) the imposition on summary conviction of a fine not exceeding one hundred dollars or imprisonment for a term not exceeding thirty days, or both, for violation of a by-law made under this section. R.S., c. 149, s. 80.

81. The band council can make by-laws (rules) for the following purposes so long as they do not go against the *Indian Act* or any regulations made by the Government or the Minister:

(*a*) the health of people who live on the reserve and to stop the spread of diseases;

(*b*) the regulation of traffic;

(*c*) keeping law and order;

(*d*) stopping people from behaving roughly and doing things that are a nuisance to other people;

(*e*) to set up pounds where cattle and other animals that stray can be looked after;

(*f*) to build and look after roads, bridges, ditches, fences, water courses and so on;

(*g*) to divide the reserve into building zones and business zones;

(*h*) to control the way in which buildings are built, repaired and used;

(*i*) the dividing of the reserve among members of the band with some land kept for everybody's use, the survey of the lots, and the keeping of a register of Certificates of Possession and Occupation. This can only be done if the Department has given the band the power to do it under Section 60;

(*j*) the control of weeds;

(*k*) the control of bee-keeping and poultry farming;

(*l*) the construction and use of the band water supply;

(*m*) the control or stopping of sports days, shows and so on;

(*n*) the control of salesmen who come into the reserve to buy or sell;

(*o*) the control of hunting, fishing and trapping;

(*p*) to stop and punish people who trespass on the reserve or who come onto it to do things that are not allowed;

(*q*) anything else that needs to be done in order to do the things listed above;

(*r*) to provide that if anyone breaks the by-laws he can be punished in court by a fine of not more than $100.00 or one month in jail (or both).

82. (1) A copy of every by-law made under the authority of section 81 shall be forwarded by mail by the chief or a member of the council of the band to the Minister within four days after it is made.

(2) A by-law made under section 81 comes into force forty days after a copy thereof is forwarded to the Minister pursuant to subsection (1), unless it is disallowed by the Minister within that period, but the Minister may declare the by-law to be in force at any time before the expiration of that period. R.S., c. 149, s. 81.

83. (1) Without prejudice to the powers conferred by section 81, where the Governor in Council declares that a band has reached an advanced stage of development, the council of the band may, subject to the approval of the Minister, make by-laws for any or all of the following purposes, namely:

(*a*) the raising of money by
(i) the assessment and taxation of interests in land in the reserve of persons lawfully in possession thereof, and
(ii) the licensing of businesses, callings, trades and occupations;
(*b*) the appropriation and expenditure of moneys of the band to defray band expenses;
(*c*) the appointment of officials to conduct the business of the council, prescribing their duties and providing for their remuneration out of any moneys raised pursuant to paragraph (*a*);
(*d*) the payment of remuneration, in such amount as may be approved by the Minister, to chiefs and councillors, out of any moneys raised pursuant to paragraph (*a*);
(*e*) the imposition of a penalty for non-payment of taxes imposed pursuant to this section, recoverable on summary conviction, not exceeding the amount of the tax or the amount remaining unpaid;
(*f*) the raising of money from band members to support band projects; and
(*g*) with respect to any matter arising out of or ancillary to the exercise of powers under this section.

(2) No expenditure shall be made out of moneys raised pursuant to paragraph (1)(*a*) except under the authority of a by-law of the council of the band. R.S., c. 149, s. 82; 1956, c. 40, s. 21.

84. Where a tax that is imposed upon an Indian by or under the authority of a by-law made under section 83 is not paid in accordance with the by-law, the Minister may pay the amount owing together with an amount equal to one-half of one per cent thereof out of moneys payable out of the funds of the band to the Indian. R.S., c. 149, s. 83.

85. The Governor in Council may revoke a declaration made under section 83 whereupon that section no longer applies to the band to which it formerly applied, but any by-law made under the authority of that section and in force at the time the declaration is

82. (1) A copy of every by-law made under Section 81 must be sent to the Minister by the chief or a council member within four days after it is made.

(2) A by-law made under Section 81 comes into force 40 days after a copy has been sent to the Minister, unless the Minister disallows the by-law. The Minister after he has received a copy of the by-law can declare it to be in force without waiting for the full 40 days to go by.

83. (1) As well as the powers given in Section 81, the Government can give a band council the right to make by-laws about the following matters if the Government thinks the band has reached an "advanced stage of development." However, the Minister must agree with the by-laws before they are any good. The by-laws can be about the following matters:

(*a*) (i) the taxation of legal rights to band land — for example, Certificates of Possession or Occupation, leases and so on;
(ii) licenses for businesses or occupations;
(*b*) the setting aside and spending of band moneys for band expenses;
(*c*) band council employees — what they are to do and how they are to be paid out of tax moneys collected under (1) above;
(*d*) the payment of wages to chief and councillor out of the tax moneys collected under (1) above;
(*e*) the penalties to be imposed who do not pay their taxes. The penalty can not be more than the tax or amount owing;
(*f*) the raising of money from band members to support band projects;
(*g*) finally, they can make by-laws about anything that might happen as a result of making by-laws about the above matters.

(2) Money raised by taxes under (1) above can only be spent with the permission of a by-law of the band council.

84. When an Indian doesn't pay the tax put on his right to his land by the band councl, then the Minister can pay it out of moneys due to him out of the band funds.

85. Even though the Government has given the band council the power to make these by-laws, the Government can still take this power away when it wants to. If the Government decides to take the power away any by-laws that the band council had

revoked shall be deemed to continue in force until it is revoked by the Governor in Council. R.S., c. 149, s. 84.

made are good until the Government orders them to be revoked.

86. A copy of a by-law made by the council of a band under this Act, if it is certified to be a true copy by the superintendent, is evidence that the by-law was duly made by the council and approved by the Minister, without proof of the signature or official character of the superintendent, and no such by-law is invalid by reason of any defect in form. R.S., c. 149, s. 85.

86. A copy of a by-law made by the band council on which the superintendent has written saying that it is a true copy is proof that the by-law has been properly made. No by-law is made invalid just because it isn't written in the proper way, or the wrong term was used.

SECTION 87-90

TAXATION AND SPECIAL LEGAL RIGHTS

87. Notwithstanding any other Act of the Parliament of Canada or any Act of the legislature of a province, but subject to subsection (2) and to section 83, the following property is exempt from taxation, namely:

(*a*) the interest of an Indian or a band in reserve or surrendered lands; and

(*b*) the personal property of an Indian or band situated on a reserve;

and no Indian or band is subject to taxation in respect of the ownership, occupation, possession or use of any property mentioned in paragraph (*a*) or (*b*) or is otherwise subject to taxation in respect of any such property; and no succession duty, inheritance tax or estate duty is payable on the death of any Indian in respect of any such property or the succession thereto if the property passes to an Indian, nor shall any such property be taken into account in determining the duty payable under the *Dominion Succession Duty Act*, being chapter 89 of the Revised Statutes of Canada, 1951, or the tax payable under the *Estate Tax Act*, on or in respect of other property passing to an Indian. R.S., c. 149, s. 86; 1958, c. 29, s. 59; 1960, c. 8, s. 1.

87. Regardless of any other federal or provincial legislation but subject to the provisions in Subsection (2) and Section 83 (band taxes), the following property is not taxable:

(*a*) the interest of an Indian or band in reserve or surrendered lands; and

(*b*) the personal property (clothing, vehicles, furniture, etc.) of an Indian or a band on reserve;

and an Indian or band can not be taxed for the use, occupation or possession of the items mentioned in (*a*) or (*b*), as well no death taxes are payable when an Indian dies and items in (*a*) and (*b*) are transferred to another Indian. If the items are on reserve, they are not to be included when calculating the value of a person's estate for the purpose of death taxes.

NOTE

THIS SECTION OF THE *INDIAN ACT* IS NOW BEFORE THE SUPREME COURT OF CANADA FOR A CONSIDERATION OF THE *INCOME TAX ACT*. A DECISION MAY BE EXPECTED IN THE NEAR FUTURE.

88. Subject to the terms of any treaty and any other Act of the Parliament of Canada, all laws of general application from time to time in force in any province are applicable to and in respect of Indians in the province, except to the extent that such laws are inconsistent with this Act or any order, rule, regulation or by-law made thereunder, and except to the extent that such laws make provision for any matter for which provision is made by or under this Act. R.S., c. 149, s. 87.

88. All provincial laws that apply to everyone in the province, that are presently in effect, apply to Indians in that province except when those provincial laws

(*a*) do not agree with the terms of a treaty;

(*b*) do not agree with a provision of the *Indian Act*, an order, rule, regulation or by-law properly made under the *Indian Act*;

(*c*) do not agree with any other Act of the Government of Canada.

89. (1) Subject to this Act, the real and personal property of an Indian or a band situated on a reserve is not subject to charge, pledge, mortgage, attachment, levy, seizure, distress or execution in favour or at the instance of any person other than an Indian.

89. (1) The real and personal property of an Indian or a band which is on reserve can not be seized (taken) to pay debts by anyone, except as allowed by the *Indian Act*, or the debt is owing to an Indian or an Indian is asking that the property be taken to pay the debt.

(2) A person who sells to a band or a member of a band a chattel under an agreement whereby the right of property or right of possession thereto remains wholly or in part in the seller, may exercise his rights under the agreement notwithstanding that the chattel is situated on a reserve. R.S., c. 149, s. 88.

(2) If a person sells to a band or a band member a chattel (for example, a car, TV, fridge, etc.) under an instalment plan agreement and the instalments are not paid then that person can take back the chattel even though it is situated on a reserve.

90. (1) For the purposes of sections 87 and 89, personal property that was

(*a*) purchased by Her Majesty with Indian moneys or moneys appropriated by Parliament for the use and benefit of Indians or bands, or
(*b*) given to Indians or to a band under a treaty or agreement between a band and Her Majesty,

shall be deemed always to be situated on a reserve.

90. (1) For the purposes of Sections 87 (taxation) and 89 (seizure of goods) any personal property that was

(*a*) purchased by Government with Indian moneys or moneys that have been set aside by Government for the use and benefit of Indians, or
(*b*) was given to a band or an Indian under the terms of a treaty or an agreement between the band and the Government,

are said to be located on reserve (in law).

Example: A road grader purchased with band funds is always located on reserve — legally — only for the purposes of Sections 87 and 89.

(2) Every transaction purporting to pass title to any property that is by this section deemed to be situated on a reserve, or any interest in such property, is void unless the transaction is entered into with the consent of the Minister or is entered into between members of a band or between the band and a member thereof.

(2) Any deal, under which property which this section says is always situated on a reserve, is sold or given away, is not valid unless

(*a*) the Minister agrees beforehand, or
(*b*) the deal is between band members or the band and a band member.

(3) Every person who enters into any transaction that is void by virtue of subsection (2) is guilty of an offence, and every person who, without the written consent of the Minister, destroys personal property that is by this section deemed to be situated on a reserve, is guilty of an offence. R.S., c. 149, s. 89.

(3) It is an offence for anybody, Indian or non-Indian, to make a deal that is not valid because of this paragraph. It is an offence to destroy any property which under the above sections is said to be always situated on a reserve.

SECTION 91, 92

TRADING WITH INDIANS

91. (1) No person may, without the written consent of the Minister, acquire title to any of the following property situated on a reserve, namely:

(*a*) an Indian grave house;
(*b*) a carved grave pole;
(*c*) a totem pole;
(*d*) a carved house post; or
(*e*) a rock embellished with paintings or carvings.

91. (1) If the Minister agrees in writing, a person can get the ownership of the following property situated on a reserve:

(*a*) an Indian grave house;
(*b*) a carved grave pole;
(*c*) a totem pole;
(*d*) a carved house post;
(*e*) a rock with paintings or carvings on it.

(2) Subsection (1) does not apply to chattels referred to therein that are manufactured for sale by Indians.

(2) Subsection 91(1) does not apply when the items or objects are made for sale by Indians.

(3) No person shall remove, take away, mutilate, disfigure, deface or destroy any chattel referred to in subsection (1) without the written consent of the Minister.

(3) No one can take away, disfigure, mutilate or destroy any of the items mentioned in Subsection 91(1) (historical and religious artifacts) unless he has received the permission, in writing of the Minister. This means that before any historical or religious artifacts mentioned in 91(1) can be moved, destroyed or studied in any way that will damage them, the Minister must approve such action.

(4) A person who violates this section is guilty of an offence and is liable on summary conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding three months. R.S., c. 149, s. 90.

(4) Anybody who does these things without the agreement of the Department commits an offence and is liable to a fine of up to $200.00 or three months imprisonment.

92. (1) No person who is

(*a*) an officer or employee in the Department,

(*b*) a missionary engaged in mission work among Indians, or

(*c*) a school teacher on a reserve,

shall, without a licence from the Minister or his duly authorized representative, trade for profit with an Indian or sell to him directly or indirectly goods or chattels, but no such licence shall be issued to a full-time officer or employee in the Department.

(2) The Minister or his duly authorized representative may at any time cancel a licence given under this section.

(3) A person who violates subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars.

(4) Without prejudice to subsection (3), an officer or employee in the Department who contravenes subsection (1) may be dismissed from office. R.S., c. 149, s. 91.

92. (1) Any person who is

(*a*) an officer or employee of the Department,

(*b*) a missionary working with Indians,

(*c*) a teacher on reserve,

can not trade for profit with an Indian unless he has a licence from the Minister. No licence will be given to a full-time employee of the Department.

(2) The licence can be cancelled by the Minister at any time.

(3) A person who violates Subsection 91(1) (trades without a licence) is guilty of an offence and may receive a fine of $500.00.

(4) If the person is a Department employee, he can also lose his job.

SECTION 93

REMOVAL OF MATERIALS FROM RESERVES

93. A person who, without the written permission of the Minister or his duly authorized representative,

(*a*) removes or permits anyone to remove from a reserve

(i) minerals, stone, sand, gravel, clay or soil, or

(ii) trees, saplings, shrubs, underbrush, timber, cordwood or hay, or

(*b*) has in his possession anything removed from a reserve contrary to this section,

is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months, or to both. 1956, c. 40, s. 22.

93. The Minister can give permission in writing for someone to take minerals, stone, sand, gravel, clay, trees, saplings, shrubs, underbrush, timber, cordwood or hay from a reserve. Anybody who takes these things from a reserve or tells somebody else they can take them without permission in writing from the Minister breaks the law.

Anybody who has any of these things after they have been taken from a reserve without the Minister's permission breaks the law also.

The punishment is a fine of up to $500.00 or jail for not more than three months, or both.

SECTION 94-102

LIQUOR

94. A person who directly or indirectly by himself or by any other person on his behalf knowingly

(*a*) sells, barters, supplies or gives an intoxicant to

(i) any person on a reserve, or

(ii) an Indian outside a reserve,

(*b*) opens or keeps or causes to be opened or kept on a reserve a dwelling-house, building, tent, or place in which intoxicants are sold, supplied or given to any person, or

(*c*) makes or manufactures intoxicants on a reserve,

is guilty of an offence and is liable on summary conviction to a fine of not less than fifty dollars and not more than three hundred dollars or to imprisonment for a term of not less than one month and not more than six months, with or without hard labour, or to both fine and imprisonment. R.S., c. 149, s. 93.

94. Any person who directly or indirectly through another person on his behalf knowingly

(*a*) sells, supplies or gives an intoxicant to (see definition of "intoxicant")

(i) any person on a reserve, or

(ii) an Indian outside a reserve,

(*b*) keeps or opens a building, house, tent or other place on reserve where intoxicants are sold, supplied or given to any person, or

(*c*) makes or manufactures intoxicants on a reserve,

is guilty of an offence and can be given a fine of not less than $50.00 and no more than $300.00 or imprisonment for not less than one month and no more than six months or both a jail term and a fine.

95. An Indian who

(*a*) has intoxicants in his possession,

(*b*) is intoxicated, or

(*c*) makes or manufactures intoxicants,

off a reserve, is guilty of an offence and is liable on summary conviction to a fine of not less than ten dollars and not more than fifty dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment. R.S., c. 149, s. 94.

95. An Indian who

(*a*) has intoxicants on him,

(*b*) *this section has been declared invalid by the courts*, or

(*c*) makes or has intoxicants,

off reserve is guilty of an offence and can be fined not less than $10.00 and not more than $50.00 or a jail term of not more than three months or both jail and a fine.

96. (1) Subsection (2) or subsection (3) comes into force, or ceases to be in force, in a province or in a part thereof only if a proclamation declaring it to be in force, or to cease to be in force, as the case may be, in the province or part thereof is issued by the Governor in Council at the request of the lieutenant governor in council of the province.

96. (1) The provincial Government can ask the federal Government for a proclamation that 96(2) or 96(3) are in force or are canceled in the province or a part of that province.

(2) No offence is committed against subparagraph 94(*a*)(ii) or paragraph 95(*a*) if intoxicants are sold to an Indian for consumption in a public place in accordance with the law of the province where the sale takes place.

(2) If this section has been proclaimed in force, it is not an offence

(*a*) to supply, sell or give intoxicants off reserve, or

(*b*) for an Indian to have intoxicants in his possession,

if they are sold to an Indian for consumption in a public place (such as a hotel) if the law of the province dealing with intoxicants is followed.

(3) No offence is committed against subparagraph 94(*a*)(ii) or paragraph 95(*a*) if intoxicants are sold to or had in possession by an Indian in accordance with the law of the province where the sale takes place or the possession is had. 1956, c. 40, s. 23.

(3) There is no offence, if there is a proclamation in effect, under Sections 94(*a*)(ii) and 95(*a*) if the intoxicants are sold or in the possession of an Indian and the laws of that province dealing with the sale and possession of intoxicants have been followed.

97. A person who is found

(*a*) with intoxicants in his possession, or

(*b*) intoxicated,

on a reserve, is guilty of an offence and is liable on summary conviction to a fine of not less than ten dollars and not more than fifty dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment. R.S., c. 149, s. 96.

97. Anybody (Indian or non-Indian) who is found either with intoxicants on him or intoxicated (drunk) on a reserve, breaks the law.

The punishment is a fine of not less than $10.00 and not more than $50.00 or jail for not more than three months, or both.

98. (1) Subsection (2) comes into force, or ceases to be in force, in a reserve only if a proclamation declaring it to be in force, or to cease to be in force, as the case may be, in the reserve, is issued by the Governor in Council.

98. (1) Subsection 98(2) comes into force or stops being in force on reserve when the proclamation by Government says it is in force or no longer in force.

(2) No offence is committed against paragraph 97(*a*) if intoxicants are had in possession by any person in accordance with the law of the province where the possession is had.

(2) Government may pass a proclamation saying that it is not an offence under Section 97(*a*) to have intoxicants on reserve if the provincial laws on the possession of intoxicants are followed.

(3) A proclamation in respect of a reserve shall not be issued under subsection (1) except in accordance with the wishes of the band, as expressed at a referendum of the electors of the band by a majority of the electors who voted thereat.

(3) The Government will not make a proclamation under 98(1) except when a majority of the electors of the band vote in favour of the proclamation at a referendum.

(4) The Governor in Council may make regulations

(*a*) respecting the taking of votes and the holding of a referendum for the purposes of this section, and

(4) Government may make regulations

(*a*) as to how the referendum will be held, and

(*b*) defining a reserve for the purposes of subsection (1) to consist of one or more reserves or any part thereof.

(5) No proclamation bringing subsection (2) into force in a reserve shall be issued unless the council of the band has transmitted to the Minister a resolution of the council requesting that subsection (2) be brought into force in the reserve, and either

(*a*) the reserve is situated in a province or part thereof in which subsection 96(3) is in force, or

(*b*) the Minister has communicated the contents of the resolution to the attorney general of the province in which the reserve is situated, the lieutenant governor in council of the province has not, within sixty days after such communication, objected to the granting of the request, and the Governor in Council has directed that the wishes of the band with respect thereto be ascertained by a referendum of the electors of the band.

(6) Where subsection (2) is in force in a reserve no offence is committed against subparagraph 94(*a*)(ii) or paragraph 95(*a*) if intoxicants are sold to or had in possession by a member of the band in accordance with the law of the province in which the reserve is situated. 1956, c. 40, s. 23.

99. The provisions of this Act relating to intoxicants do not apply where the intoxicant is used or is intended to be used in cases of sickness or accident. R.S., c. 149, s. 97.

100. In any prosecution under this Act the burden of proof that an intoxicant was used or was intended to be used in a case of sickness or accident is upon the accused. R.S., c. 149, s. 98.

101. In every prosecution under this Act a certificate of analysis furnished by an analyst employed by the Government of Canada or by a province shall be accepted as evidence of the facts stated therein and of the authority of the person giving or issuing the certificate, without proof of the signature of the person appearing to have signed the certificate or his official character, and without further proof thereof. R.S., c. 149, s. 99.

102. Every person who is guilty of an offence against any provision of this Act or any regulation made by the Governor in Council or the Minister for which a penalty is not provided elsewhere in this Act or the regulations, is liable on summary conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding three months, or to both. R.S., c. 149, s. 100.

(*b*) as to how the reserve will be defined for the purpose of the referendum.

(5) No proclamation made bringing Section 98(2) into force will be made unless the band council requests him to do so and

(*a*) the reserve is located in a province where there has already been a proclamation under Section 96(3), or

(*b*) the provincial Government of the province where the reserve is located does not object after the contents of the resolution have been made known to the provincial Government.

(6) Where there is a proclamation under Section 98(2) on a reserve, it is not an offence to sell, give or supply intoxicants to an Indian off reserve 94(*a*)(ii) or for an Indian to have intoxicants in his possession off reserve if the intoxicants were sold to a member of that band and the provincial laws were followed.

99. The laws under the *Indian Act* as to intoxicants do not apply where that intoxicant is used or is intended to be used in the case of sickness or accident.

100. If somebody who is being prosecuted for having an intoxicant claims that it was meant for use as a medicine, it is up to that person to prove that.

101. In any prosecution under this Act, a certificate of analysis supplied by a federal or provincial analyst is to be accepted by the court as evidence of what is said in the certificate and the analyst does not have to be present to prove he signed the certificate.

102. Anyone who does anything that goes against any provision of the *Indian Act* or regulations and there is no punishment provided for breaking that regulation or section of the Act set out in the Act, may be fined up to $200.00 or jailed for up to three months or be sentenced to both jail and a fine.

SECTION 103–108

CONFISCATED GOODS

103. (1) Whenever a peace officer or a superintendent or a person authorized by the Minister believes on reasonable grounds that an offence against section 33, 90, 93, 94, 95 or 97 has been committed, he may seize all goods and chattels by means of or in relation to which he reasonably believes the offence was committed.

103. (1) Whenever a peace officer (a police officer or a person who has been given the powers of a police officer), a superintendent or any person who has been authorized by the Minister has a good reason to believe that an offence against Sections 33 (trespass), 90 (selling band property), 93 (taking gravel, sand, trees off reserve without a permit), 94, 95 or 97 (intoxicants), that person has the power to confiscate all the goods by means of or in relation to which he reasonably believes to have been used in breaking the law.

Example: If a car were being used by a bootlegger to get liquor onto a reserve, the liquor and the car could be confiscated.

(2) All goods and chattels seized pursuant to subsection (1) may be detained for a period of three months following the day of seizure unless during that period proceedings under this Act in respect of such offence are undertaken, in which case the goods and chattels may be further detained until such proceedings are finally concluded.

(2) Where anything has been confiscated under Section 103(1), they can be kept for up to three months from the day that they were taken, unless court proceedings have started, then the goods confiscated can be kept until the court proceedings are over.

(3) Where a person is convicted of an offence against the sections mentioned in subsection (1), the convicting court or judge may order that the goods and chattels by means of or in relation to which the offence was committed, in addition to any penalty imposed, are forfeited to Her Majesty and may be disposed of as the Minister directs.

(3) Where court proceedings were started against a person for breaking one of the sections mentioned in Section 103(1), and is found guilty and goods were confiscated, the court, in addition to any other penalty (fine, jail) may order that the person has lost all his rights to have the goods returned to him and that the goods are now the property of the Government.

(4) A justice who is satisfied by information upon oath that there is reasonable ground to believe that there are upon a reserve or in any building, receptacle or place any goods or chattels by means of or in relation to which an offence against any of the sections mentioned in subsection (1) has been, is being or is about to be committed, may at any time issue a warrant under his hand authorizing a person named therein or a peace officer at any time to search the reserve, building, receptacle or place for any such goods or chattels. R.S., c. 149, s. 101; 1952–53, c. 41, s. 5; 1956, c. 40, s. 24.

(4) A justice can give peace officers permission to search any place, building on or off reserve for goods when it is shown to him that there are good reasons to believe that Sections 33, 90, 93, 94, 95 or 97 are being broken by someone or are about to be broken.

104. Every fine, penalty or forfeiture imposed under this Act belongs to Her Majesty for the benefit of the band with respect to which or to one or more members of which the offence was committed or to which the offender, if an Indian, belongs, but the Governor in Council may from time to time direct that the fine, penalty or forfeiture shall be paid to a provincial, municipal or local authority that bears in whole or in part the expense of administering the law under which the fine, penalty or forfeiture is imposed, or that the fine, penalty or forfeiture shall be applied in the manner that he considers will best promote the purposes of the law under which the fine, penalty or forfeiture is imposed, or the administration of that law. R.S., c. 149, s. 102.

104. When a person breaks the law of the *Indian Act* any fine he pays or any goods which are confiscated are held by the Government for the benefit of the band in respect of whom the law was broken. If the person who broke the law was an Indian then it is held by the Government for the use of his band. However, the Government can say that fines or the confiscated goods are to go to the local law enforcement authority to help pay its costs. The Government can also say that the fines or confiscated goods can be used for the purpose of upholding the law which was broken.

105. In any order, writ, warrant, summons or proceeding issued under this Act it is sufficient if the name of the person or Indian referred to therein is the

105. In any court document or proceeding under the Act, it is permitted by law to refer to the Indian by his given name, the name that he uses, the name he

name given to, or the name by which the person or Indian is known by, the person who issues the order, writ, warrant, summons or proceedings, and if no part of the name of the person is given to or known by the person issuing the order, writ, warrant, summons or proceedings, it is sufficient if the person or Indian is described in any manner by which he may be identified. R.S., c. 149, s. 103.

is known by and if his name is not known, it is permitted by law to describe him in a way that he will be identified.

106. A police magistrate or a stipendiary magistrate has and may exercise, with respect to matters arising under this Act, jurisdiction over the whole county, union of counties or judicial district in which the city, town or other place for which he is appointed or in which he has jurisdiction under provincial laws is situated. R.S., c. 149, s. 104.

106. Police magistrates and stipendiary magistrates no longer exist. They have been replaced by Justices of the Peace. A magistrate has the power to hear and decide cases under the *Indian Act* if they arise within the district that is within the jurisdiction that has been given to him by the provincial Government.

107. The Governor in Council may appoint persons to be, for the purposes of this Act, justices of the peace and those persons have and may exercise the powers and authority of two justices of the peace with regard to

(*a*) offences under this Act, and

(*b*) any offence against the provisions of the *Criminal Code* relating to cruelty to animals, common assault, breaking and entering and vagrancy, where the offence is committed by an Indian or relates to the person or property of an Indian. R.S., c. 149, s. 105; 1956, c. 40, s. 25.

107. Government may appoint people to be Justices of the Peace. For the purposes of the *Indian Act*, these Justices of the Peace have the same powers that are given to two Justices of the Peace sitting together (as provided by the *Criminal Code*) with regard to

(*a*) *Indian Act* offences, and

(*b*) *Criminal Code* offences involving cruelty to animals, common assault and breaking and entering (vagrancy is no longer an offence under the *Criminal Code*) where the offence was committed by an Indian or the victim was an Indian or the property belonged to an Indian.

108. For the purposes of this Act or any matter relating to Indian affairs

(*a*) persons appointed by the Minister for the purpose,

(*b*) superintendents, and

(*c*) the Minister, Deputy Minister and the chief officer in charge of the branch of the Department relating to Indian affairs,

are *ex officio* commissioners for the taking of oaths. R.S., c. 149, s. 107.

108. For the purposes of the *Indian Act* or any matter relating to Indian Affairs

(*a*) persons appointed by the Minister for the purpose,

(*b*) superintendents, and

(*c*) the Minister, Deputy Minister and the person in charge of a branch of the Department of Indian Affairs,

have the power to take statements under oath.

SECTION 109-113

ENFRANCHISEMENT

109. (1) On the report of the Minister that an Indian has applied for enfranchisement and that in his opinion the Indian

(*a*) is of the full age of twenty-one years,

(*b*) is capable of assuming the duties and responsibilities of citizenship, and

(*c*) when enfranchised, will be capable of supporting himself and his dependants,

the Governor in Council may by order declare that the Indian and his wife and minor unmarried children are enfranchised.

109. (1) Government has the power to declare than an Indian, his wife and minor (under 21) children who has applied to the Minister to give up his status as an Indian is no longer an Indian if the Minister has reported to Government that he believes that the Indian who has applied is

(*a*) 21 years old or more,

(*b*) able to take on the duties and responsibilities of citizenship, and

(*c*) will be able to support himself, and his dependants after enfranchising.

(2) On the report of the Minister that an Indian woman married a person who is not an Indian, the Governor in Council may by order declare that the

(2) When it is reported to Government by the Minister that an Indian woman has married a non-Indian man, Government may order that she is enfranchised

woman is enfranchised as of the date of her marriage and, on the recommendation of the Minister may by order declare that all or any of her children are enfranchised as of the date of the marriage or such other date as the order may specify.

as of the date she was married, and if recommended by the Minister, all her children may also be enfranchised with her.

(3) Where, in the opinion of the Minister, the wife of an Indian is living apart from her husband, the names of his wife and his minor children who are living with the wife shall not be included in an order under subsection (1) that enfranchises the Indian unless the wife has applied for enfranchisement, but where the Governor in Council is satisfied that such wife is no longer living apart from her husband, the Governor in Council may by order declare that the wife and the minor children are enfranchised.

(3) Where the Minister believes that an Indian man has applied for enfranchisement and that he and his wife are not living as man and wife, his wife and children will not be enfranchised along with him when an order is made under 109(1), unless his wife also applies for enfranchisement. If the Government believes that they are again living as man and wife, Government can then order the wife and children to be enfranchised.

(4) A person is not enfranchised unless his name appears in an order of enfranchisement made by the Governor in Council. R.S., c. 149, s. 108; 1956, c. 40, s. 26.

(4) A person is not enfranchised unless his name is on an enfranchisement order made by the Government.

110. A person with respect to whom an order for enfranchisement is made under this Act shall, from the date thereof, or from the date of enfranchisement provided for therein, be deemed not to be an Indian within the meaning of this Act or any other statute or law. 1956, c. 40, s. 27.

110. When an order of enfranchisement has named a person, that person is no longer an Indian within the meaning of the *Indian Act* or law from the date shown on the order.

111. (1) Upon the issue of an order of enfranchisement, any interest in land and improvements on an Indian reserve of which the enfranchised Indian was in lawful possession or over which he exercised rights of ownership, at the time of his enfranchisement, may be disposed of by him by gift or private sale to the band or another member of the band, but if not so disposed of within thirty days after the date of the order of enfranchisement such land and improvements shall be offered for sale by tender by the superintendent and sold to the highest bidder and the proceeds of such sale paid to him; and if no bid is received and the property remains unsold after six months from the date of such offering, the land, together with improvements, shall revert to the band free from any interest of the enfranchised person therein, subject to the payment, at the discretion of the Minister, to the enfranchised Indian, from the funds of the band, of such compensation for permanent improvements as the Minister may determine.

111. (1) Once he is enfranchised an Indian can sell or give away, any piece of reserve land which he owned, to the band or another band member.

If he has not disposed of it thirty days after the enfranchisement order then the superintendent shall offer the land for sale to the highest bidder and pay the money to the enfranchised Indian. If no bid is made and the land is still unsold six months after it was put up for sale then the land goes back to the band. In this case, the Department can pay the Indian for buildings and fences on the land as much as it thinks is proper. The money is paid out of the band funds.

(2) When an order of enfranchisement issues or has issued, the Governor in Council may, with the consent of the council of the band, by order declare that any lands within a reserve of which the enfranchised Indian had formerly been in lawful possession shall cease to be Indian reserve lands.

(2) If the band council agrees, the Government can order that the land in a reserve which the enfranchised Indian possessed shall cease to be reserve land.

(3) When an order has been made under subsection (2), the enfranchised Indian is entitled to occupy such lands for a period of ten years from the date of his enfranchisement, and the enfranchised Indian shall pay to the funds of the band, or there shall, out of any money payable to the enfranchised Indian under this Act, be transferred to the funds of the band, such amount per acre for the lands as the Minister considers to be the value of the common interest of the band in the lands.

(3) Where an order has been made under Section 110(2), the enfranchised Indian is entitled to occupy the lands for ten years from the date of his enfranchisement. He is also obligated to pay to the band fund the value of the communal share of the land. The money may be taken from the money that is given to him upon enfranchisement.

(4) At the end of the ten-year period referred to in subsection (3) the Minister shall cause a grant of the lands to be made to the enfranchised Indian or to his legal representatives. R.S., c. 149, s. 110.

(4) At the end of the 10 year period mentioned in 111(3) the Minister will cause title to be given to the enfranchised Indian or his representatives, of the land.

112. (1) Where the Minister reports that a band has applied for enfranchisement, and has submitted a plan for the disposal or division of the funds of the band and the lands in the reserve, and in his opinion the band is capable of managing its own affairs as a municipality or part of a municipality, the Governor in Council may by order approve the plan, declare that all the members of the band are enfranchised, either as of the date of the order or such later date as may be fixed in the order, and may make regulations for carrying the plan and the provisions of this section into effect.

112. (1) Where the Minister reports that a band has applied to be enfranchised, and has supplied the Minister with a plan for the disposal of the funds and lands of the band, and the Minister believes that the band is capable of managing its own affairs as a municipality or part of a municipality, Government may approve the plan, enfranchise all members of the band and make regulations to put the plan in place.

(2) An order for enfranchisement may not be made under subsection (1) unless more than fifty per cent of the electors of the band signify, at a meeting of the band called for the purpose, their willingness to become enfranchised under this section, and their approval of the plan.

(2) An order for enfranchisement under Section 112(1) will not be made unless a special meeting has been called to vote on the enfranchisement and more than half the electors of the band vote in favour of the enfranchisement and the plan mentioned in 112(1).

(3) The Governor in Council may, for the purpose of giving effect to this section, authorize the Minister to enter into an agreement with a province or a municipality, or both, upon such terms as may be agreed upon by the Minister and the province or municipality, or both.

(3) In order to carry out the enfranchisement, Government may give power to the Minister to enter agreements with a province or municipality or both.

(4) Without restricting the generality of subsection (3), an agreement made thereunder may provide for financial assistance to be given to the province or the municipality or both to assist in the support of indigent, infirm or aged persons to whom the agreement applies, and such financial assistance, or any part thereof, shall, if the Minister so directs, be paid out of moneys of the band, and any such financial assistance not paid out of moneys of the band shall be paid out of moneys appropriated by Parliament. R.S., c. 149, s. 111.

(4) Some of the terms of an agreement between the province, municipality and Minister, under Section 112(3) may include money given to the province or municipality to supply services to the old, the penniless and sick of the band. The funds for such services may be taken from band funds or from moneys appropriated by Government.

113. (1) Where a band has applied for enfranchisement within the meaning of this Act and has submitted a plan for the disposal or division of the funds of the band and the lands in the reserve, the Minister may appoint a committee to inquire into and report upon any or all of the following matters, namely:

(*a*) the desirability of enfranchising the band;
(*b*) the adequacy of the plan submitted by it; and
(*c*) any other matter relating to the application for enfranchisement or to the disposition thereof.

113. (1) When a band has applied to enfranchise and submits a plan of what is to happen to band lands and funds, the Minister can appoint a committee to report on:

(*a*) the wisdom of enfranchising the band;
(*b*) is the plan that was given to the Minister a good plan? and
(*c*) any other questions that may be connected with enfranchisement.

(2) A committee appointed under subsection (1) shall consist of

(2) A committee appointed under 113(1) will be made up of the following persons:

(*a*) a judge or retired judge of a superior, surrogate, district or county court,
(*b*) an officer of the Department, and
(*c*) a member of the band to be designated by the council of the band. 1960-61, c. 9, s. 1.

(*a*) a judge or retired judge,
(*b*) a Department employee, and
(*c*) a band member chosen by the band council.

SECTION 114-123

SCHOOLS

114. (1) The Governor in Council may authorize the Minister, in accordance with this Act, to enter into agreements on behalf of Her Majesty for the education in accordance with this Act of Indian children, with

(*a*) the government of a province,
(*b*) the Commissioner of the Northwest Territories,
(*c*) the Commissioner of the Yukon Territory,
(*d*) a public or separate school board, and
(*e*) a religious or charitable organization.

(2) The Minister may, in accordance with this Act, establish, operate and maintain schools for Indian children. 1956, c. 40, s. 28.

115. The Minister may

(*a*) provide for and make regulations with respect to standards for buildings, equipment, teaching, education, inspection and discipline in connection with schools;
(*b*) provide for the transportation of children to and from school;
(*c*) enter into agreements with religious organizations for the support and maintenance of children who are being educated in schools operated by those organizations; and
(*d*) apply the whole or any part of moneys that would otherwise be payable to or on behalf of a child who is attending a residential school to the maintenance of that child at that school. R.S., c. 149, s. 114.

116. (1) Subject to section 117, every Indian child who has attained the age of seven years shall attend school.

(2) The Minister may

(*a*) require an Indian who has attained the age of six years to attend school;
(*b*) require an Indian who becomes sixteen years of age during the school term to continue to attend school until the end of that term; and
(*c*) require an Indian who becomes sixteen years of age to attend school for such further period as the Minister considers advisable, but no Indian shall be required to attend school after he becomes eighteen years of age. R.S., c. 149, s. 115; 1956, c. 40, s. 29.

117. An Indian child is not required to attend school if the child

(*a*) is, by reason of sickness or other unavoidable cause that is reported promptly to the principal, unable to attend school;
(*b*) is, with the permission in writing of the superintendent, absent from school for a period not exceeding six weeks in each term for the purpose of assisting in husbandry or urgent and necessary household duties;

114. (1) This part of the *Indian Act* only applies to Indian children living on reserve. The Government can allow the Minister to make agreements for the education of Indian children with the following organizations:

(*a*) the government of a province,
(*b*) the Commissioner for the Northwest Territories,
(*c*) the Commissioner for the Yukon,
(*d*) a public or separate school board,
(*e*) a religious or charitable organization.

(2) The Department can set up and run schools for Indian children.

115. The Minister may

(*a*) make regulations about the standard of school buildings, equipment, teaching, education, inspection, and discipline;
(*b*) make arrangements for the transport of children to and from schools;
(*c*) make agreements with religious organizations for the support of children who are being educated in schools run by those organizations;
(*d*) apply moneys payable to a child who is going to a residential school for the maintenance of that child at the school.

116. (1) Every Indian child aged seven or more shall go to school.

(2) The Minister may

(*a*) make an Indian child aged six go to school;
(*b*) make an Indian who turns 16 during the school term stay at school until the end of the term; and
(*c*) make an Indian who turns 16 stay at school but he cannot be made to go to school after he turns 18.

117. An Indian child does not have to go to school if the child

(*a*) is sick or is stopped by some other unavoidable cause and this is reported promptly to the principal;
(*b*) is given permission in writing by the Department to stay away from school for not more than six weeks in order to help on the farm or around the house;

(*c*) is under efficient instruction at home or elsewhere, within one year after the written approval by the Minister of such instruction; or
(*d*) is unable to attend school because there is insufficient accommodation in the school that the child is entitled or directed to attend. R.S., c. 149, s. 116; 1956, c. 40, s. 30.

(*c*) is being taught well at home or elsewhere. The Minister must agree to this in writing once a year;
(*d*) cannot go to school because there is no room in the school.

118. Every Indian child who is required to attend school shall attend such school as the Minister may designate, but no child whose parent is a Protestant shall be assigned to a school conducted under Roman Catholic auspices and no child whose parent is a Roman Catholic shall be assigned to a school conducted under Protestant auspices, except by written direction of the parent. R.S., c. 149, s. 117.

118. Indian children shall go to the schools that the Department says they are to go to. However, no Protestant shall be sent to a Roman Catholic school and no Roman Catholic shall be sent to a Protestant school except with the written approval of the parent.

119. (1) The Minister may appoint persons, to be called truant officers, to enforce the attendance of Indian children at school, and for that purpose a truant officer has the powers of a peace officer.

119. (1) The Minister may appoint persons as "truant officers" to ensure that Indian children attend school. For that purpose truant officers have the powers of peace officers.

(2) Without restricting the generality of subsection (1), a truant officer may

(*a*) enter any place where he believes, on reasonable grounds, that there are Indian children who are between the ages of seven and sixteen years of age, or who are required by the Minister to attend school;
(*b*) investigate any case of truancy; and
(*c*) serve written notice upon the parent, guardian or other person having the care or legal custody of a child to cause the child to attend school regularly thereafter.

(2) In order to carry out his duties, a truant officer may do the following in addition to the powers he has under 119(1):

(*a*) enter any place where he believes there are Indian children between the ages of seven and 16 and who are required to be in school;
(*b*) look into any case where children are not in school;
(*c*) give a written notice to the parent or guardian of a child to make the child attend school regularly.

(3) Where a notice has been served in accordance with paragraph (2)(*c*) with respect to a child who is required by this Act to attend school, and the child does not within three days after the service of notice attend school and continue to attend school regularly thereafter, the person upon whom the notice was served is guilty of an offence and is liable on summary conviction to a fine of not more than five dollars or to imprisonment for a term not exceeding ten days, or to both.

(3) Where a person has been given a notice by a truant officer under Section 119(2)(*c*) and the child does not show up at school within three days of the notice and does not go to school regularly after that, the person is guilty of an offence and may be fined not more than $5.00 or given up to 10 days in jail, or both.

(4) Where a person has been served with a notice in accordance with paragraph (2)(*c*), it is not necessary within a period of twelve months thereafter to serve that person with any other notice in respect of further non-compliance with the provisions of this Act, and whenever such person within the period of twelve months fails to cause the child with respect to whom the notice was served or any other child of whom he has charge or control to attend school and continue in regular attendance as required by this Act, such person is guilty of an offence and liable to the penalties imposed by subsection (3) as if he had been served with the notice.

(4) When a person has been given a notice by a truant officer under Section 119(2)(*c*), that notice stays in effect for one year from the date it was given.

(5) A child who is habitually late for school shall be deemed to be absent from school.

(5) If a child is always late for school, legally, it is the same as not being at school.

(6) A truant officer may take into custody a child whom he believes on reasonable grounds to be absent

(6) A truant officer can take a child into his custody if he believes that child should be in school and can use

from school contrary to this Act and may convey the child to school, using as much force as the circumstances require. R.S., c. 149, s. 118.

120. An Indian child who

(*a*) is expelled or suspended from school, or

(*b*) refuses or fails to attend school regularly,

shall be deemed to be a juvenile delinquent within the meaning of the *Juvenile Delinquents Act*. R.S., c. 149, s. 119.

121. (1) Where the majority of the members of a band belongs to one religious denomination, the school established on the reserve that has been set apart for the use and benefit of that band shall be taught by a teacher of that denomination.

(2) Where the majority of the members of a band are not members of the same religious denomination and the band by a majority vote of those electors of the band who were present at a meeting called for the purpose requests that day schools on the reserve should be taught by a teacher belonging to a particular religious denomination, the school on that reserve shall be taught by a teacher of that denomination. R.S., c. 149, s. 120.

122. A Protestant or Roman Catholic minority of any band may, with the approval of and under regulations to be made by the Minister, have a separate day school or day school classroom established on the reserve unless, in the opinion of the Governor in Council, the number of children of school age does not so warrant. R.S., c. 149, s. 121.

123. In sections 114 to 122

"child" means an Indian who has attained the age of six years but has not attained the age of sixteen years, and a person who is required by the Minister to attend school;

"school" includes a day school, technical school, high school and residential school;

"truant officer" includes

(*a*) a member of the Royal Canadian Mounted Police,

(*b*) a special constable appointed for police duty on a reserve; and

(*c*) a school teacher and a chief of the band, when authorized by the superintendent. R.S., c. 149, s. 122.

as much force as is needed to take the child into custody.

121. (1) Where more than half of the band members belong to one religion then the school on the reserve shall be taught by a teacher of that religion.

(2) Where more than half of the band members do not belong to the same religion and at a band meeting the majority vote that the teacher at the reserve school shall belong to a certain religion then the teacher at the reserve school shall belong to the religion.

122. If the Government thinks there are enough children then the Protestant or Roman Catholic minority of a band can have a separate day school or day school classroom on the reserve.

PRIOR GRANTS

124. Where, prior to the 4th day of September 1951, a reserve or portion of a reserve was released or surrendered to the Crown pursuant to Part I of the *Indian Act*, chapter 98 of the Revised Statutes of Canada, 1927, or pursuant to the provisions of the statutes relating to the release or surrender of reserves in force at the time of the release or surrender, and

(*a*) prior to that date Letters Patent under the Great Seal were issued purporting to grant a reserve or portion of a reserve so released or surrendered, or any interest therein, to any person, and the Letters Patent have not been declared void or inoperative by any Court of competent jurisdiction, or

(*b*) prior to that date a reserve or portion of a reserve so released or surrendered, or any interest therein, was sold or agreed to be sold by the Crown to any person, and the sale or agreement for sale has not been cancelled or by any Court of competent jurisdiction declared void or inoperative,

the Letters Patent or the sale or agreement for sale, as the case may be, shall, for all purposes, be deemed to have been issued or made at the date thereof under the direction of the Governor in Council. 1952-53, c. 41, s. 6.

124. Where before September 4, 1951, a reserve or a portion of a reserve was surrendered to the Government under the *Indian Act* that was in effect before September 4, 1951, and title was granted to a person or an agreement to sell the land was made and the title has not been cancelled by the Court and the agreement for sale has not been cancelled, then the titles and agreements for sale will be treated as if they were made under this Act.

THE INDIAN ACT

INDEX

SECTION	SUBJECT
3	ADMINISTRATION OF ACT
	APPEALS
12(2), s.9	against illegitimate child being put on a Band List
9	against registration of Indian
9	against removal of Indian from Band List
47	to Exchequer Court
	APPLICATION OF ACT
36	applies to special reserves
4(2)	not to apply to some Bands
	BAND
13(a)	admission to Band
15(4)	compensation in some cases on loss of status
2(1)(2)	definition of a Band
2(3)	exercise of Band's powers
17	forming of new Bands
14	marriage of woman outside Band
15(1)(2)(3)	payments to persons who cease to be Band members
13(b)	transfer of Band membership
16(3)	transfer of Band membership of woman by marriage
16(1)	transfer of funds on transfer of Band membership
16(2)	transferred members interest in Band property
	BAND COUNCIL
2(1)	definition of
80(b)	notice of Band Council meeting
80	procedure at Band Council meetings
80(d)	quorum
	CERTIFICATE OF POSSESSION (see POSSESSION OF RESERVE LAND)
	CERTIFICATE OF OCCUPATION (see POSSESSION OF RESERVE LAND)
	CHILD
48(16)	definition for purposes of s.48
123	definition for education purposes
2(1)	includes legally adopted Indian child
	DEPARTMENT OF INDIAN AFFAIRS
2(1)	definition
	DESCENT OF PROPERTY ON DEATH
47	appeals to Exchequer Court
44(1)	courts have power to decide if Department of Indian Affairs agrees
44(3)	court orders relating to reserve land
42-50	generally
42	jurisdiction vested in Department of Indian Affairs
44(2)	question can be decided by court
	(see also: WILLS OF INDIANS DISTRIBUTION OF PROPERTY ON INTESTACY)

OFFENCES AND PENALTIES

107	appointment of justices of the peace
101	certificate of analysis that liquid is intoxicating
108	commissioners for taking oaths
103	confiscation of goods
105	description of Indians in court documents
96, 98	exception is case of liquor laws
108	Indian agent is a J.P. by virtue of his office
100	onus of proof that liquor was a medicine only
102	penalty where none specifically provided for
106	powers of magistrates to decide cases
73(2)	punishment for breaking regulations
93	removal of material from reserve
33	sale or barter of farm produce in prairies
91, 92	trading with Indians
30	trespass on reserves
104	use of money from fines

POSSESSION OF LANDS IN RESERVES

20(1)	basic rule on possession of reserve land
27	cancellation of certificates of possession or occupation
26	correction of certificates of possession or occupation
28(1)	grants of reserve land no good
22	improvements on lands afterwards included in reserves
20(3)	location tickets under 1880 Act
23	payments for improvements when land taken
28(2)	permits to use or live on reserves
21	reserve land register
20(4)	right to temporary possession of land
24, 25	transfer of possession

POWERS OF THE COUNCIL

82(1)	copies of by-laws to be sent to minister
82(2)	date on which by-law comes into force
81	general by-laws Band Councils can make
83(1), 85	money by-laws
84	payment of taxes out of moneys due to Indian
86	proof that by-law made
83(2)	restriction on spending tax money
85	revocation of authority to make money by-laws

PRIOR GRANTS OF RESERVES

124	deemed authorized

LANDS TAKEN FOR PUBLIC PURPOSES

35(3)	grant instead of compulsory taking
35(1)	local authorities power to take
35(4)	payment for lands taken
35(2)	procedure for taking land

LEGAL RIGHTS OF INDIANS

90(3)	destruction of property
88	general provincial laws apply to Indians
89(2)	instalment plan sales
90(1)	property said to be situated on reserve
87	property situated on reserve exempt from taxation
89(1)	property on reserve not subject to legal process
90(2)	restricted transfer of some property

LIQUOR

2(1)	definition
99	exception for medicine
95(*b*)	intoxicated off reserve
97(*b*)	intoxicated on reserve
94(*c*), 95(*c*)	manufacture
95(*a*), 96	possession off reserve
97(*a*)	possession on reserve
94(*a*)(*b*)	proclamation exempting sales

LOANS TO INDIANS

70(3)	accounting
70(1), 71	farming
70(2)	fishing
70(1)	handicraft
70(5)	limit of total amount
70(2)	power to make regulations
70(4)	repayment
70(6)	report to Parliament

MANAGEMENT OF INDIAN MONEYS

67	Bands to pay for cost of collecting Indian moneys
62	definition of capital and revenue moneys
63	direct payments to Indians
61(2)	interest on moneys
15(5)	lump sum for payments under old Act
68(3)	maintenance of illegitimate children
68(1)	maintenance of wife and children
69(1)	management of revenue money by Band
64, 65	purposes for which capital moneys can be spent
66	purposes for which revenue moneys can be spent
69(2)	regulations about Band management of revenue moneys
61(1)	used for benefit of Indians

MANAGEMENT OF RESERVES AND SURRENDERED LANDS

59	adjustment of contract moneys
56	certificate of registration of transfer of surrendered lands
53(3)	Department employee not allowed to acquire reserve land
60	grant of control to Band
58(3)	lease at request of person with Certificate of Possession
57(*c*)(*e*)	mining and mineral regulations
58(1)	power of Department to farm reserve land
58(4)	sale of grass, timber, and non-metallic substances
53(1)	sale or leasing of surrendered lands
53(2)	sale of surrendered land where original purchaser dead
55(1)	surrendered lands register
57(*a*)(*b*)	timber regulations

REGISTRATION OF INDIANS

6	Band lists and general lists
12(3)	certificate that Act no longer applies to an Indian
8	existing list in 1951
5	Indian register to be kept
11	persons entitled to be registered
12(1)	persons not entitled to be registered
12(2)	protest about illegitimate children
9	protest of addition or removal of names on lists
7	removal and addition of names on lists
10	wife and minor children

REGULATIONS

80	Band and Council meetings
73(1)(*l*)	boundary fences
73(1)(*k*)	clean and hygienic conditions
73(1)(*b*)	destruction of weeds and pests
74(3), 76(1)	elections of Chiefs and Band Councils
73(3)	general regulations
73(1)(*h*)	hospitalization and treatment
73(1)(*a*)	hunting, fishing and trapping
73(1)(*i*)	inspection of buildings and houses
69(2)	management of revenue by Band
57(*c*)	mines and minerals
73(1)(*e*)	operation of dance halls, pool rooms, etc.
73(2)	punishment for breaking regulations
73(1)(*f*)	prevention and control of disease
73(1)(*j*)	prevention of overcrowding
73(1)(*g*)	provision of medical treatment
115	schools
57	surrendered lands
73(1)(*d*)	taxation and control of dogs
57(*a*)	timber licences
73(1)(*c*)	traffic control

RESERVES

2(1)	definition
31(3)	existing legal remedies preserved
18(1)	held by Government for use of Indians
31(1)(2)	information by Attorney General
29	lands cannot be seized under legal process
30	penalty for trespass
93	removal of material from reserve
19	survey and subdivisions
18(2)	use for schools

ROADS AND BRIDGES

64(*b*)	at the expenditure of the Band
81(*b*)(*f*)	Band Council by-laws
19(*c*)	location and maintenance
34	maintenance

SALE OR BARTER OF PRODUCE

32(2)	exemption
33	offence
32(1)	prohibition without approval

SCHOOLS

116–118	attendance
123	definition of child
123	definition of school
121	religion of teacher
122	separate school for minority
114(2)	setting up and operation of schools